

104TH CONGRESS
1ST SESSION

S. 3

To control crime, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. DOLE (for himself, Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr. GRAMM, Mr. SANTORUM, Mr. ABRAHAM, Mr. DEWINE, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To control crime, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Violent Crime Control and Law Enforcement Improve-
6 ment Act of 1995”.

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

Sec. 1. Short title; table of contents.

TITLE I—INCARCERATION OF VIOLENT CRIMINALS

Sec. 101. Prison grants.

Sec. 102. Repeal.

- Sec. 103. Civil rights of institutionalized persons.
- Sec. 104. Report on prison work progress.
- Sec. 105. Drug treatment for prisoners.

TITLE II—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

- Sec. 201. Block grant program.

TITLE III—FEDERAL EMERGENCY LAW ENFORCEMENT ASSISTANCE ACT

- Sec. 301. Federal judiciary and Federal law enforcement.
- Sec. 302. Drug Enforcement Administration.

TITLE IV—CRIMINAL PENALTIES.

- Sec. 401. Serious juvenile drug offenses as armed career criminal act predicates.
- Sec. 402. Prosecution of juveniles as adults.
- Sec. 403. Availability of fines and supervised release for juvenile offenders.
- Sec. 404. Amendments concerning juvenile records.
- Sec. 405. Mandatory minimum prison sentences for persons who use minors in drug trafficking activities or sell drugs to minors.
- Sec. 406. Mandatory minimum sentencing reform.
- Sec. 407. Increased mandatory minimum sentences for criminals using firearms.
- Sec. 408. Penalties for arson.
- Sec. 409. Interstate travel or use of mails or a facility in interstate commerce to further kidnapping.

TITLE V—FEDERAL CRIMINAL PROCEDURE REFORM

- Sec. 501. Obstruction of justice.
- Sec. 502. Conduct of Federal prosecutors.
- Sec. 503. Fairness in jury selection.
- Sec. 504. Balance in the composition of rules committees.
- Sec. 505. Reimbursement of reasonable attorneys' fees.
- Sec. 506. Mandatory restitution to victims of violent crimes.
- Sec. 507. Admissibility of certain evidence.
- Sec. 508. General habeas corpus reform.
- Sec. 509. Technical amendment.
- Sec. 510. Death penalty litigation procedures.

TITLE VI—PREVENTION OF TERRORISM

- Sec. 601. Willful violation of Federal Aviation Administration regulations.
- Sec. 602. Assaults, murders, and threats against former Federal officials in performance of official duties.
- Sec. 603. Wiretap authority for alien smuggling and related offenses and inclusion of alien smuggling as a RICO predicate.
- Sec. 604. Authorization for interceptions of communications in certain terrorism-related offenses.
- Sec. 605. Participation of foreign and State government personnel in interceptions of communications.
- Sec. 606. Disclosure of intercepted communications to foreign law enforcement agencies.
- Sec. 607. Alien terrorist removal.

- Sec. 608. Territorial sea.
- Sec. 609. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
- Sec. 610. Federal Aviation Administration reporting responsibility.
- Sec. 611. Information transfer.
- Sec. 612. Extradition.
- Sec. 613. Federal Bureau of Investigation report.
- Sec. 614. Increased penalties for terrorism crimes.
- Sec. 615. Criminal offenses committed outside the United States by persons accompanying the armed forces.

TITLE VII—MISCELLANEOUS AND TECHNICAL PROVISIONS

Subtitle A—Elimination of Certain Programs

- Sec. 701. Elimination of certain programs.

Subtitle B—Amendments Relating to Violent Crime Control

- Sec. 711. Violent crime and drug emergency areas repeal.
- Sec. 712. Expansion of 18 U.S.C. 1959 to cover commission of all violent crimes in aid of racketeering activity and increased penalties.
- Sec. 713. Authority to investigate serial killings.
- Sec. 714. Firearms and explosives conspiracy.
- Sec. 715. Increased penalties for violence in the course of riot offenses.
- Sec. 716. Pretrial detention for possession of firearms or explosives by convicted felons.
- Sec. 717. Elimination of unjustified scienter element for carjacking.
- Sec. 718. Theft of vessels.
- Sec. 719. Clarification of agreement requirement for RICO conspiracy.
- Sec. 720. Addition of attempt coverage for interstate domestic violence offense.
- Sec. 721. Addition of foreign murder as a money laundering predicate.
- Sec. 722. Assaults or other crimes of violence for hire.
- Sec. 723. Threatening to use a weapon of mass destruction.
- Sec. 724. Technical amendments.

Subtitle C—Amendments Relating to Courts and Sentencing

- Sec. 731. Allowing a reduction of sentence for providing useful investigative information although not regarding a particular individual.
- Sec. 732. Appeals from certain dismissals.
- Sec. 733. Elimination of outmoded certification requirement from the government appeal statute.
- Sec. 734. Clarification of meaning of official detention for purposes of credit for prior custody.
- Sec. 735. Limitation on reduction of sentence for substantial assistance of defendant.
- Sec. 736. Improvement of hate crimes sentencing procedure.
- Sec. 737. Clarification of length of supervised release terms in controlled substance cases.
- Sec. 738. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases.
- Sec. 739. Extension of parole commission to deal with “old law” prisoners.
- Sec. 740. Conforming amendments relating to supervised release.
- Sec. 741. Repeal of outmoded provisions barring Federal prosecution of certain offenses.

Subtitle D—Miscellaneous Amendments

- Sec. 751. Conforming addition to obstruction of civil investigative demand statute.
- Sec. 752. Addition of attempted theft and counterfeiting offenses to eliminate gaps and inconsistencies in coverage.
- Sec. 753. Clarification of scienter requirement for receiving property stolen from an Indian tribal organization.
- Sec. 754. Larceny involving post office boxes and postal stamp vending machines.
- Sec. 755. Conforming amendment to law punishing obstruction of justice by notification of existence of a subpoena for records in certain types of investigations.
- Sec. 756. Closing loophole in offense of altering or removing motor vehicle identification numbers.
- Sec. 757. Application of various offenses to possessions and territories.
- Sec. 758. Adjusting and making uniform the dollar amounts used in title 18 to distinguish between grades of offenses.
- Sec. 759. Conforming amendment concerning marijuana plants.
- Sec. 760. Access to certain records.
- Sec. 761. Clarification of inapplicability of 18 U.S.C. 2515 to certain disclosures.
- Sec. 762. Clarifying or conforming amendments arising from the enactment of Public Law 103–322.
- Sec. 763. Technical amendments
- Sec. 764. Severability.

1 **TITLE I—INCARCERATION OF** 2 **VIOLENT CRIMINALS**

3 **SEC. 101. PRISON GRANTS.**

4 Subtitle A of title II of the Violent Crime Control
5 and Law Enforcement Act of 1994 and the amendments
6 made thereby are amended to read as follows:

7 **“Subtitle A—Violent Offender In-** 8 **carceration and Truth in Sen-** 9 **tencing Incentive Grants**

10 **“SEC. 20101. GRANTS FOR CORRECTIONAL FACILITIES.**

11 “(a) GRANT AUTHORIZATION.—The Attorney Gen-
12 eral may make grants to individual States and to States
13 organized as multi-State compacts to construct, develop,

1 expand, modify, operate, or improve conventional correc-
2 tional facilities, including prisons and jails, for the con-
3 finement of violent offenders, to ensure that prison cell
4 space is available for the confinement of violent offenders
5 and to implement truth in sentencing laws for sentencing
6 violent offenders.

7 “(b) ELIGIBILITY.—To be eligible to receive a grant
8 under this subtitle, a State or States organized as multi-
9 State compacts shall submit an application to the Attorney
10 General that includes—

11 “(1)(A) except as provided in subparagraph
12 (B), assurances that the State or States, have imple-
13 mented, or will implement, correctional policies and
14 programs, including truth in sentencing laws that
15 ensure that violent offenders serve a substantial por-
16 tion of the sentences imposed, that are designed to
17 provide sufficiently severe punishment for violent of-
18 fenders, including violent juvenile offenders, and
19 that the prison time served is appropriately related
20 to the determination that the inmate is a violent of-
21 fender and for a period of time deemed necessary to
22 protect the public;

23 “(B) in the case of a State that on the date of
24 enactment of the Violent Crime Control and Law
25 Enforcement Improvement Act of 1995 practices

1 indeterminant sentencing, a demonstration that av-
2 erage times served for the offenses of murder, rape,
3 robbery, and assault in the State exceed by at least
4 10 percent the national average of time served for
5 such offenses in all of the States;

6 “(2) assurances that the State or States have
7 implemented policies that provide for the recognition
8 of the rights and needs of crime victims;

9 “(3) assurances that funds received under this
10 section will be used to construct, develop, expand,
11 modify, operate, or improve conventional correctional
12 facilities;

13 “(4) assurances that the State or States have
14 involved counties and other units of local govern-
15 ment, when appropriate, in the construction, devel-
16 opment, expansion, modification, operation, or im-
17 provement of correctional facilities designed to en-
18 sure the incarceration of violent offenders, and that
19 the State or States will share funds received under
20 this section with counties and other units of local
21 government, taking into account the burden placed
22 on the units of local government when they are re-
23 quired to confine sentenced prisoners because of
24 overcrowding in State prison facilities;

1 “(5) assurances that funds received under this
2 section will be used to supplement, not supplant,
3 other Federal, State, and local funds;

4 “(6) assurances that the State or States have
5 implemented, or will implement not later than 18
6 months after the date of enactment of the Violent
7 Crime Control and Law Enforcement Improvement
8 Act of 1995, policies to determine the veteran status
9 of inmates and to ensure that incarcerated veterans
10 receive the veterans benefits to which they are enti-
11 tled; and

12 “(7) if applicable, documentation of the multi-
13 State compact agreement that specifies the construc-
14 tion, development, expansion, modification, oper-
15 ation, or improvement of correctional facilities.

16 **“SEC. 20102. TRUTH IN SENTENCING INCENTIVE GRANTS.**

17 “(a) TRUTH IN SENTENCING GRANT PROGRAM.—
18 Fifty percent of the total amount of funds appropriated
19 to carry out this subtitle for each of fiscal years 1996,
20 1997, 1998, 1999, and 2000 shall be made available for
21 truth in sentencing incentive grants. To be eligible to re-
22 ceive such a grant, a State must meet the requirements
23 of section 20101(b) and shall demonstrate that the
24 State—

1 “(1) has in effect laws that require that persons
2 convicted of violent crimes serve not less than 85
3 percent of the sentence imposed;

4 “(2) since 1993—

5 “(A) has increased the percentage of con-
6 victed violent offenders sentenced to prison;

7 “(B) has increased the average prison time
8 that will be served in prison by convicted violent
9 offenders sentenced to prison; and

10 “(C) has in effect at the time of applica-
11 tion laws requiring that a person who is con-
12 victed of a violent crime shall serve not less
13 than 85 percent of the sentence imposed if—

14 “(i) the person has been convicted on
15 1 or more prior occasions in a court of the
16 United States or of a State of a violent
17 crime or a serious drug offense; and

18 “(ii) each violent crime or serious
19 drug offense was committed after the de-
20 fendant’s conviction of the preceding vio-
21 lent crime or serious drug offense; or

22 “(3) in the case of a State that on the date of
23 enactment of the Violent Crime Control and Law
24 Enforcement Improvement Act of 1995 practices
25 indeterminant sentencing, a demonstration that av-

1 erage times served for the offenses of murder, rape,
2 robbery, and assault in the State exceed by at least
3 10 percent the national average of time served for
4 such offenses in all of the States.

5 “(b) ALLOCATION OF TRUTH IN SENTENCING IN-
6 CENTIVE FUNDS.—The amount available to carry out this
7 section for any fiscal year shall be allocated to each eligible
8 State in the ratio that the number of part 1 violent crimes
9 reported by such State to the Federal Bureau of Investiga-
10 tion for the previous year bears to the number of part
11 1 violent crimes reported by all States to the Federal Bu-
12 reau of Investigation for the previous year.

13 **“SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS.**

14 “(a) VIOLENT OFFENDER INCARCERATION GRANT
15 PROGRAM.—Fifty percent of the total amount of funds ap-
16 propriated to carry out this subtitle for each of fiscal years
17 1996, 1997, 1998, 1999, and 2000 shall be made available
18 for violent offender incarceration grants. To be eligible to
19 receive such a grant, a State or States must meet the re-
20 quirements of section 20101(b).

21 “(b) ALLOCATION OF VIOLENT OFFENDER INCAR-
22 CERATION FUNDS.—Funds made available to carry out
23 this section shall be allocated as follows:

24 “(1) 0.6 percent shall be allocated to each eligi-
25 ble State, except that the United States Virgin Is-

1 lands, American Samoa, Guam, and the Northern
2 Mariana Islands each shall be allocated 0.05 per-
3 cent.

4 “(2) The amount remaining after application of
5 paragraph (1) shall be allocated to each eligible
6 State in the ratio that the number of part 1 violent
7 crimes reported by such State to the Federal Bureau
8 of Investigation for the previous year bears to the
9 number of part 1 violent crimes reported by all
10 States to the Federal Bureau of Investigation for
11 the previous year.

12 **“SEC. 20104. RULES AND REGULATIONS.**

13 “(a) IN GENERAL.—Not later than 90 days after the
14 date of enactment of the Violent Crime Control and Law
15 Enforcement Improvement Act of 1995, the Attorney Gen-
16 eral shall issue rules and regulations regarding the uses
17 of grant funds received under this subtitle.

18 “(b) BEST AVAILABLE DATA.—If data regarding
19 part 1 violent crimes in any State for the previous year
20 is unavailable or substantially inaccurate, the Attorney
21 General shall utilize the best available comparable data re-
22 garding the number of violent crimes for the previous year
23 for the State for the purposes of allocation of funds under
24 this subtitle.

1 **“SEC. 20105. DEFINITIONS.**

2 “In this subtitle—

3 “(1) the term ‘part 1 violent crimes’ means
4 murder and non-negligent manslaughter, forcible
5 rape, robbery, and aggravated assault as reported to
6 the Federal Bureau of Investigation for purposes of
7 the Uniform Crime Reports;

8 “(2) the term ‘State’ or ‘States’ means a State,
9 the District of Columbia, the Commonwealth of
10 Puerto Rico, the United States Virgin Islands,
11 American Samoa, Guam, and the Northern Mariana
12 Islands; and

13 “(3) the term ‘indeterminate sentencing’ means
14 a system by which the court has discretion in impos-
15 ing the actual length of the sentence, up to the stat-
16 utory maximum, and an administrative agency, or
17 the court, controls release between court-ordered
18 minimum and maximum sentence.

19 **“SEC. 20106. AUTHORIZATION OF APPROPRIATIONS.**

20 “There are authorized to be appropriated to carry out
21 this subtitle—

22 “(1) \$1,000,000,000 for fiscal year 1996;

23 “(2) \$1,150,000,000 for fiscal year 1997;

24 “(3) \$2,100,000,000 for fiscal year 1998;

25 “(4) \$2,200,000,000 for fiscal year 1999; and

26 “(5) \$2,270,000,000 for fiscal year 2000.”.

1 **SEC. 102. REPEAL.**

2 Subtitle B of title II of the Violent Crime and Law
3 Enforcement Act of 1994 is repealed.

4 **SEC. 103. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS.**

5 (a) REPEAL.—Section 20416 of the Violent Crime
6 Control and Law Enforcement Act of 1994, and the
7 amendments made by that section, are repealed.

8 (b) EXHAUSTION REQUIREMENT.—Section 7(a) of
9 the Civil Rights of Institutionalized Persons Act (42
10 U.S.C. 1997e) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “in any action brought”
13 and inserting “no action shall be brought”;

14 (B) by striking “the court shall” and all
15 that follows through “require exhaustion of”
16 and insert “until”; and

17 (C) by inserting “and exhausted” after
18 “available”; and

19 (2) in paragraph (2) by inserting “or are other-
20 wise fair and effective” before the period at the end.

21 (c) FRIVOLOUS ACTIONS.—Section 7(a) of the Civil
22 Rights of Institutionalized Persons Act (42 U.S.C.
23 1997e(a)) is amended by adding at the end the following:

24 “(3) The court shall on its own motion or on
25 motion of a party dismiss any action brought pursu-
26 ant to section 1979 of the Revised Statutes of the

1 United States by an adult convicted of a crime and
2 confined in any jail, prison, or other correctional fa-
3 cility if the court is satisfied that the action fails to
4 state a claim upon which relief can be granted or is
5 frivolous or malicious.”.

6 (d) MODIFICATION OF REQUIRED MINIMUM STAND-
7 ARDS.—Section 7(b)(2) of the Civil Rights of Institu-
8 tionalized Persons Act (42 U.S.C. 1997e(b)(2)) is amend-
9 ed—

10 (1) by striking subparagraph (A); and
11 (2) by redesignating subparagraphs (B)
12 through (E) as subparagraphs (A) through (D), re-
13 spectively.

14 (e) REVIEW AND CERTIFICATION PROCEDURE
15 CHANGES.—Section 7(c) of the Civil Rights of Institu-
16 tionalized Persons Act (42 U.S.C. 1997e(c)) is amended—

17 (1) in paragraph (1), by inserting “or are oth-
18 erwise fair and effective” before the period at the
19 end; and

20 (2) in paragraph (2), by inserting “or is no
21 longer fair and effective” before the period at the
22 end.

23 (f) PROCEEDINGS IN FORMA PAUPERIS.—

24 (1) DISMISSAL.—Section 1915(d) of title 28,
25 United States Code, is amended—

1 (A) by inserting “at any time” after
2 “counsel and may”;

3 (B) by striking “and may” and inserting
4 “and shall”;

5 (C) by inserting “fails to state a claim
6 upon which relief may be granted or” after
7 “that the action”; and

8 (D) by inserting “, even if partial filing
9 fees have been imposed by the court” before the
10 period.

11 (2) PRISONER’S STATEMENT OF ASSETS.—Sec-
12 tion 1915 of title 28, United States Code, is amend-
13 ed by adding at the end the following:

14 “(f) If a prisoner in a correctional institution files
15 an affidavit in accordance with subsection (a), such pris-
16 oner shall include in the affidavit a statement of all assets
17 the prisoner possesses. The court shall make inquiry of
18 the correctional institution in which the prisoner is incar-
19 cerated for information available to such institution relat-
20 ing to the extent of the prisoner’s assets. The court shall
21 require full or partial payment of filing fees according to
22 the prisoner’s ability to pay.”.

23 **SEC. 104. REPORT ON PRISON WORK PROGRESS.**

24 (a) FINDINGS.—The Senate finds that—

1 (1) Federal Prison Industries was created by
2 Congress in 1934 as a wholly owned, nonprofit gov-
3 ernment corporation directed to train and employ
4 Federal prisoners;

5 (2) traditionally, one-half of the Federal prison
6 inmates had meaningful prison jobs; now, with the
7 increasing prison population, less than one-quarter
8 are employed in prison industry positions;

9 (3) expansion of the product lines and services
10 of Federal Prison Industries beyond its traditional
11 lines of business will enable more Federal prison in-
12 mates to work, and such expansion must occur so as
13 to minimize any adverse impact on the private sector
14 and labor; and

15 (4) all able-bodied Federal prison inmates
16 should work.

17 (b) REPORT.—

18 (1) IN GENERAL.—In an effort to achieve the
19 goal of full Federal prison inmate employment, the
20 Attorney General, in consultation with the Director
21 of the Bureau of Prisons, the Secretary of Labor,
22 the Secretary of Defense, the Administrator of the
23 General Services Administration, and the private
24 sector and labor, shall submit a report to Congress

1 not later than September 1, 1996, that describes a
2 strategy for employing more Federal prison inmates;

3 (2) CONTENTS.—The report shall—

4 (A) contain a review of existing lines of
5 business of Federal Prison Industries;

6 (B) consider the findings and recommenda-
7 tions of the final report of the Summit on Fed-
8 eral Prison Industries (June 1992–July 1993);

9 (C) make recommendations for legislation
10 and changes in existing law that may be nec-
11 essary for the Federal Prison Industries to em-
12 ploy more Federal prison inmates; and

13 (D) focus on—

14 (i) the creation of new job opportuni-
15 ties for Federal prison inmates;

16 (ii) the degree to which any expansion
17 of lines of business of Federal Prison In-
18 dustries may adversely affect the private
19 sector or displace domestic labor; and

20 (iii) the degree to which opportunities
21 for partnership between Federal Prison In-
22 dustries and small business can be fos-
23 tered.

1 **SEC. 105. DRUG TREATMENT FOR PRISONERS.**

2 Section 3621(e) of title 18, United States Code (as
3 added by section 32001 of the Violent Crime Control and
4 Law Enforcement Act of 1994) is amended—

5 (1) by striking paragraph (2);

6 (2) by redesignating paragraphs (3), (4), (5),
7 and (6) as paragraphs (2), (3), (4), and (5), respec-
8 tively; and

9 (3) in paragraph (2), as redesignated by para-
10 graph (2)—

11 (A) by striking “and” at the end of sub-
12 paragraph (B);

13 (B) by striking the period at the end of
14 subparagraph (C) and inserting “; and”; and

15 (C) by adding at the end the following new
16 subparagraph:

17 “(D) a full examination and evaluation of
18 the effectiveness of the treatment in reducing
19 drug use among prisoners.”.

20 **TITLE II—STATE AND LOCAL**
21 **LAW ENFORCEMENT ASSIST-**
22 **ANCE**

23 **SEC. 201. BLOCK GRANT PROGRAM.**

24 Title I of the Violent Crime Control and Law En-
25 forcement Act of 1994 is amended to read as follows:

1 **“TITLE I—STATE AND LOCAL**
2 **LAW ENFORCEMENT ASSIST-**
3 **ANCE**

4 **“SEC. 10001. BLOCK GRANTS TO STATES.**

5 “(a) IN GENERAL.—The Attorney General shall
6 make grants under this title to States for use by State
7 and local governments to—

8 “(1) hire, train, and employ on a continuing
9 basis, new law enforcement officers and necessary
10 support personnel;

11 “(2) pay overtime to currently employed law en-
12 forcement officers and necessary support personnel;

13 “(3) procure equipment, technology, and other
14 material that is directly related to basic law enforce-
15 ment functions, such as the detection or investiga-
16 tion of crime, or the prosecution of criminals; and

17 “(4) establish and operate cooperative programs
18 between community residents and law enforcement
19 agencies for the control, detection, or investigation
20 of crime, or the prosecution of criminals.

21 “(b) LAW ENFORCEMENT TRUST FUNDS.—Funds
22 received by a State or unit of local government under this
23 title may be reserved in a trust fund established by the
24 State or unit of local government to fund the future needs
25 of programs authorized under subsection (a).

1 “(c) ALLOCATION AND DISTRIBUTION OF FUNDS.—

2 “(1) ALLOCATION.—The amount made avail-
3 able pursuant to section 10003 shall be allocated as
4 follows:

5 “(A) 0.6 percent shall be allocated to each
6 of the participating States.

7 “(B) After the allocation under subpara-
8 graph (A), the remainder shall be allocated on
9 the basis of the population of each State as de-
10 termined by the 1990 decennial census as ad-
11 justed annually, by allocating to each State an
12 amount bearing the same ratio to the total
13 amount to be allocated under this subparagraph
14 as the population of the State bears to the pop-
15 ulation of all States.

16 “(2) DISTRIBUTION TO LOCAL GOVERN-
17 MENTS.—

18 “(A) IN GENERAL.—A State receiving a
19 grant under this title shall ensure that not less
20 than 85 percent of the funds received are dis-
21 tributed to units of local government.

22 “(B) LIMITATION.—Not more than 2.5
23 percent of funds received by a State in any
24 grant year shall be used for costs associated

1 with the administration and distribution of
2 grant money.

3 “(d) DISBURSEMENT.—

4 “(1) IN GENERAL.—The Attorney General shall
5 issue regulations establishing procedures under
6 which a State may receive assistance under this title.

7 “(2) GENERAL REQUIREMENTS FOR QUALIFICA-
8 TION.—A State qualifies for a payment under this
9 title for a payment period only if the State estab-
10 lishes that—

11 “(A) the State will establish a segregated
12 account in which the government will deposit all
13 payments received under this title;

14 “(B) the State will expend the payments in
15 accordance with the laws and procedures that
16 are applicable to the expenditure of revenues of
17 the State;

18 “(C) the State will use accounting, audit,
19 and fiscal procedures that conform to guidelines
20 that shall be prescribed by the Attorney Gen-
21 eral after consultation with the Comptroller
22 General of the United States and, as applicable,
23 amounts received under this title shall be au-
24 dited in compliance with the Single Audit Act
25 of 1984;

1 “(D) after reasonable notice to a State, the
2 State will make available to the Attorney Gen-
3 eral and the Comptroller General of the United
4 States, with the right to inspect, records that
5 the Attorney General or Comptroller General of
6 the United States reasonably requires to review
7 compliance with this title;

8 “(E) the State will make such reports as
9 the Attorney General reasonably requires, in
10 addition to the annual reports required under
11 this title; and

12 “(F) the State will expend the funds only
13 for the purposes set forth in subsection (a).

14 “(3) SANCTIONS FOR NONCOMPLIANCE.—

15 “(A) IN GENERAL.—If the Attorney Gen-
16 eral finds that a State has not complied sub-
17 stantially with paragraph (2) or regulations
18 prescribed under such paragraph, the Attorney
19 General shall notify the State. The notice shall
20 provide that if the State does not initiate cor-
21 rective action within 30 days after the date on
22 which the State receives the notice, the Attor-
23 ney General will withhold additional payments
24 to the State for the current payment period and
25 later payment periods. Payments shall be with-

1 held until such time as the Attorney General
2 determines that the State—

3 “(i) has taken the appropriate correc-
4 tive action; and

5 “(ii) will comply with paragraph (2)
6 and the regulations prescribed under such
7 paragraph.

8 “(B) NOTICE.—Before giving notice under
9 subparagraph (A), the Attorney General shall
10 give the chief executive officer of the State rea-
11 sonable notice and an opportunity for comment.

12 “(C) PAYMENT CONDITIONS.—The Attor-
13 ney General shall make a payment to a State
14 under subparagraph (A) only if the Attorney
15 General determines that the State—

16 “(i) has taken the appropriate correc-
17 tive action; and

18 “(ii) will comply with paragraph (2)
19 and regulations prescribed under such
20 paragraph.

21 **“SEC. 10002. APPLICATIONS.**

22 “(a) The Attorney General shall make grants under
23 this title only if a State has submitted an application to
24 the Attorney General in such form, and containing such

1 information, as is the Attorney General may reasonably
2 require.

3 **“SEC. 10003. AUTHORIZATION OF APPROPRIATIONS.**

4 “There are authorized to be appropriated to carry out
5 this title—

6 “(1) \$2,050,000,000 for fiscal year 1996;

7 “(2) \$2,150,000,000 for fiscal year 1997;

8 “(3) \$1,900,000,000 for fiscal year 1998;

9 “(4) \$1,900,000,000 for fiscal year 1999; and

10 “(5) \$468,000,000 for fiscal year 2000.

11 **“SEC. 10004. LIMITATION ON USE OF FUNDS.**

12 “Funds made available to States under this title shall
13 not be used to supplant State or local funds, but shall
14 be used to increase the amount of funds that would, in
15 the absence of Federal funds received under this title, be
16 made available from State or local sources.”.

17 **TITLE III—FEDERAL EMER-**
18 **GENCY LAW ENFORCEMENT**
19 **ASSISTANCE ACT**

20 **SEC. 301. FEDERAL JUDICIARY AND FEDERAL LAW EN-**
21 **FORCEMENT.**

22 Title XIX of the Violent Crime Control and Law En-
23 forcement Act of 1994 is amended to read as follows:

1 **“SEC. 190001. FEDERAL JUDICIARY AND FEDERAL LAW EN-**
2 **FORCEMENT.**

3 “(a) AUTHORIZATION OF ADDITIONAL APPROPRIA-
4 TIONS FOR THE FEDERAL JUDICIARY.— There are au-
5 thorized to be appropriated for the activities of the Fed-
6 eral Judiciary to help meet the increased demands for ju-
7 dicial activities, including supervised release, and pretrial
8 and probation services, that will result from this Act—

9 “(1) \$30,000,000 for fiscal year 1996;

10 “(2) \$35,000,000 for fiscal year 1997;

11 “(3) \$40,000,000 for fiscal year 1998;

12 “(4) \$40,000,000 for fiscal year 1999; and

13 “(5) \$55,000,000 for fiscal year 2000.

14 “(b) AUTHORIZATION OF ADDITIONAL APPROPRIA-
15 TIONS FOR THE DEPARTMENT OF JUSTICE.—There are
16 authorized to be appropriated for the activities and agen-
17 cies of the Department of Justice, in addition to sums au-
18 thorized elsewhere in this section, to help meet the in-
19 creased demands for Department of Justice activities that
20 will result from this Act—

21 “(1) \$40,000,000 for fiscal year 1996;

22 “(2) \$40,000,000 for fiscal year 1997;

23 “(3) \$40,000,000 for fiscal year 1998;

24 “(4) \$40,000,000 for fiscal year 1999; and

25 “(5) \$39,000,000 for fiscal year 2000.

1 “(c) AUTHORIZATION OF ADDITIONAL APPROPRIA-
2 TIONS FOR THE FEDERAL BUREAU OF INVESTIGATION.—
3 There are authorized to be appropriated for the activities
4 of the Federal Bureau of Investigation, to help meet the
5 increased demands for Federal Bureau of Investigation
6 activities that will result from this Act—

7 “(1) \$203,150,000 for fiscal year 1996;

8 “(2) \$184,500,000 for fiscal year 1997;

9 “(3) \$284,000,000 for fiscal year 1998;

10 “(4) \$147,500,000 for fiscal year 1999; and

11 “(5) \$125,850,000 for fiscal year 2000.

12 “(d) AUTHORIZATION OF ADDITIONAL APPROPRIA-
13 TIONS FOR UNITED STATES ATTORNEYS.—There are au-
14 thorized to be appropriated for the account Department
15 of Justice, Legal Activities, Salaries and Expenses, United
16 States Attorneys, to help meet the increased demands for
17 litigation and related activities that will result from this
18 Act—

19 “(1) \$15,000,000 for fiscal year 1996;

20 “(2) \$23,000,000 for fiscal year 1997;

21 “(3) \$30,000,000 for fiscal year 1998;

22 “(4) \$37,000,000 for fiscal year 1999; and

23 “(5) \$45,000,000 for fiscal year 2000.

24 “(e) AUTHORIZATION OF ADDITIONAL APPROPRIA-
25 TIONS FOR THE DEPARTMENT OF THE TREASURY.—

1 There are authorized to be appropriated for the activities
 2 of the Bureau of Alcohol, Tobacco, and Firearms, the
 3 United States Custom Service, the Financial Crimes En-
 4 forcement Network, the Federal Law Enforcement Train-
 5 ing Center, the Criminal Investigation Division of the In-
 6 ternal Revenue Service, and the United States Secret
 7 Service to help meet the increased demands for Depart-
 8 ment of the Treasury activities that will result from this
 9 Act—

10 “(1) \$30,000,000 for fiscal year 1995;

11 “(2) \$70,000,000 for fiscal year 1996;

12 “(3) \$90,000,000 for fiscal year 1997;

13 “(4) \$110,000,000 for fiscal year 1998;

14 “(5) \$125,000,000 for fiscal year 1999; and

15 “(6) \$125,000,000 for fiscal year 2000.”.

16 **SEC. 302. DRUG ENFORCEMENT ADMINISTRATION.**

17 Section 180104 of the Violent Crime Control and
 18 Law Enforcement Act of 1994 is amended to read as
 19 follows:

20 **“SEC. 180104. AUTHORIZATION OF ADDITIONAL APPRO-**
 21 **PRIATIONS FOR THE DRUG ENFORCEMENT**
 22 **ADMINISTRATION.**

23 “There are authorized to be appropriated for the ac-
 24 tivities of the Drug Enforcement Administration, to help

1 meet the increased demands for Drug Enforcement
2 Adminsitration activities that will result from this Act—

3 “(1) \$42,000,000 for fiscal year 1996;

4 “(2) \$55,000,000 for fiscal year 1997;

5 “(3) \$70,000,000 for fiscal year 1998;

6 “(4) \$85,000,000 for fiscal year 1999; and

7 “(5) \$98,000,000 for fiscal year 2000.”.

8 **TITLE IV—CRIMINAL**
9 **PENALTIES.**

10 **SEC. 401. SERIOUS JUVENILE DRUG OFFENSES AS ARMED**
11 **CAREER CRIMINAL ACT PREDICATES.**

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

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

15 (2) in clause (ii), by striking the semicolon and
16 inserting “or which, if it had been prosecuted as a
17 violation of the Controlled Substances Act (21
18 U.S.C. 801 et seq.) at the time of the offense, and
19 because of the type and quantity of the controlled
20 substance involved, would have been punishable by a
21 maximum term of imprisonment of ten years or
22 more; or”; and

23 (3) by adding at the end the following new
24 clause:

“(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph;”.

SEC. 402. PROSECUTION OF JUVENILES AS ADULTS.

(a) SERIOUS JUVENILE OFFENDERS.—

(1) REPEAL.—Section 150002 of the Violent Crime Control and Law Enforcement Act of 1994, and the amendments made by that section, are repealed.

(2) ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.—Section 5032 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph—

(i) by striking “an offense described in section 401 of the Controlled Substances Act (21 U.S.C 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3)),” and inserting “an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5

1 grams of a mixture or substance which
2 contains cocaine base), of the Controlled
3 Substances Act (21 U.S.C. 841, 844, or
4 846), section 1002(a), 1003, 1005, 1009,
5 1010(b) (1), (2), or (3), of the Controlled
6 Substances Import and Export Act (21
7 U.S.C. 952(a), 953, 955, 959, 960(b) (1),
8 (2), or (3), or 963),”; and

9 (ii) by striking “922(p)” and inserting
10 “924 (b), (g), or (h)”;

11 (B) in the fourth undesignated para-
12 graph—

13 (i) by striking “an offense described
14 in section 401 of the Controlled Sub-
15 stances Act (21 U.S.C. 841), or section
16 1002(a), 1005, or 1009 of the Controlled
17 Substances Import and Export Act (21
18 U.S.C. 952(a), 955, 959)” and inserting
19 “an offense (or a conspiracy or attempt to
20 commit an offense) described in section
21 401, or 404 (insofar as the violation in-
22 volves more than 5 grams of a mixture or
23 substance which contains cocaine base), of
24 the Controlled Substances Act (21 U.S.C.
25 841, 844, or 846), section 1002(a), 1005,

1 1009, 1010(b) (1), (2), or (3), of the Con-
2 trolled Substances Import and Export Act
3 (21 U.S.C. 952(a), 955, 959, 960(b) (1),
4 (2), or (3), or 963), or section 924(b), (g),
5 or (h) of this title,”; and

6 (ii) by striking “subsection (b)(1) (A),
7 (B), or (C), (d), or (e) of section 401 of
8 the Controlled Substances Act, or section
9 1002(a), 1003, 1009, or 1010(b) (1), (2),
10 or (3) of the Controlled Substances Import
11 and Export Act (21 U.S.C. 952(a), 953,
12 959, 960(b) (1), (2), (3))” and inserting
13 “or an offense (or conspiracy or attempt to
14 commit an offense) described in section
15 401(b)(1) (A), (B), or (C), (d), or (e), or
16 404 (insofar as the violation involves more
17 than 5 grams of a mixture or substance
18 which contains cocaine base), of the Con-
19 trolled Substances Act (21 U.S.C.
20 841(b)(1) (A), (B), or (C), (d), or (e), 844,
21 or 846) or section 1002(a), 1003, 1009,
22 1010(b) (1), (2), or (3) of the Controlled
23 Substances Import and Export Act (21
24 U.S.C. 952(a), 953, 959, 960(b) (1), (2),
25 or (3), or 963)”; and

1 (C) in the fifth undesignated paragraph by
2 adding at the end the following: “In considering
3 the nature of the offense, as required by this
4 paragraph, the court shall consider the extent
5 to which the juvenile played a leadership role in
6 an organization, or otherwise influenced other
7 persons to take part in criminal activities, in-
8 volving the use or distribution of controlled sub-
9 stances or firearms. Such a factor, if found to
10 exist, shall weigh heavily in favor of a transfer
11 to adult status, but the absence of this factor
12 shall not preclude such a transfer.”.

13 (b) CRIMES OF VIOLENCE.—

14 (1) REPEAL.—Section 140001 of the Violent
15 Crime Control and Law Enforcement Act of 1994,
16 and the amendments made by that section, are re-
17 pealed.

18 (2) PROSECUTION AS ADULTS OF VIOLENT JU-
19 VENILE OFFENDERS.—Section 5032 of title 18,
20 United States Code, is amended by adding at the
21 end the following new paragraphs:

22 “Notwithstanding any other provision of this section
23 or any other law, a juvenile who was 13 years of age or
24 older on the date of the commission of an offense under
25 section 113 (a), (b), or (c), 1111, 1113, 2111, 2113, or

1 2241 (a) or (c), shall be prosecuted as an adult in Federal
2 court. No juvenile prosecuted as an adult under this para-
3 graph shall be incarcerated in an adult prison.

4 “If a juvenile prosecuted under this paragraph is con-
5 victed, the juvenile shall be entitled to file a petition for
6 resentencing pursuant to applicable sentencing guidelines
7 when the juvenile reaches the age of 16.

8 “The United States Sentencing Commission shall
9 promulgate guidelines, or amend existing guidelines, if
10 necessary, to carry out this section. For resentencing de-
11 terminations pursuant to the preceding paragraph, the
12 Commission may promulgate guidelines, if necessary to
13 permit sentencing adjustments that may include adjust-
14 ments that provide for supervised release for defendants
15 who have clearly demonstrated—

16 “(A) an exceptional degree of responsibility for
17 the offense; and

18 “(B) a willingness and ability to refrain from
19 further criminal conduct.”.

20 **SEC. 403. AVAILABILITY OF FINES AND SUPERVISED RE-**
21 **LEASE FOR JUVENILE OFFENDERS.**

22 Section 5037 of title 18, United States Code, is
23 amended—

24 (1) in subsection (a)—

1 (A) in the first sentence by striking “sub-
2 section (d)” and inserting “subsection (e)”; and

3 (B) in the second sentence, by striking
4 “place him on probation, or commit him to offi-
5 cial detention” and inserting “place the juvenile
6 on probation, commit the juvenile to official de-
7 tention (including the possibility of a term of
8 supervised release), or impose any fine that
9 would be authorized if the juvenile had been
10 convicted as an adult”;

11 (2) by redesignating subsection (d) as sub-
12 section (e); and

13 (3) by adding after subsection (c) the following
14 new subsection:

15 “(d) The term for which supervised release may be
16 ordered for a juvenile found to be a juvenile delinquent
17 may not extend—

18 “(1) in the case of a juvenile who is less than
19 18 years old, beyond the earlier of—

20 “(A) five years after the date on which the
21 juvenile becomes 21 years old; or

22 “(B) the maximum supervised release term
23 that would be authorized by section 3583(b) if
24 the juvenile had been tried and convicted as an
25 adult; or

1 “(2) in the case of a juvenile who is between 18
2 and 21 years old—

3 “(A) who if convicted as an adult would be
4 convicted of a Class A, B, or C felony, beyond
5 5 years after the juvenile’s release from official
6 detention; or

7 “(B) in any other case beyond the lesser
8 of—

9 “(i) 3 years; or

10 “(ii) the maximum term of supervised
11 release that would be authorized if the ju-
12 venile had been tried and convicted as an
13 adult.”.

14 **SEC. 404. AMENDMENTS CONCERNING JUVENILE RECORDS.**

15 (a) Section 5038 of title 18, United States Code, is
16 amended—

17 (1) by striking subsections (d) and (f);

18 (2) by redesignating subsection (e) as sub-
19 section (d); and

20 (3) by adding at the end the following new sub-
21 section (e):

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

1 photographed, and the fingerprints and photograph shall
 2 be sent to the Federal Bureau of Investigation, Identifica-
 3 tion Division. The court shall also transmit to the Federal
 4 Bureau of Investigation, Identification Division, the infor-
 5 mation concerning the adjudication, including name, date
 6 of adjudication, court, offenses, and sentence, along with
 7 the notation that the matter was a juvenile adjudication.
 8 The fingerprints, photograph, and other records and infor-
 9 mation relating to a juvenile described in this subsection,
 10 or to a juvenile who is prosecuted as an adult, shall be
 11 made available in the manner applicable to adult defend-
 12 ants.”.

13 **SEC. 405. MANDATORY MINIMUM PRISON SENTENCES FOR**
 14 **PERSONS WHO USE MINORS IN DRUG TRAF-**
 15 **FICKING ACTIVITIES OR SELL DRUGS TO MI-**
 16 **NORS.**

17 (a) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF
 18 AGE.—Section 420 of the Controlled Substances Act (21
 19 U.S.C. 861) is amended—

20 (1) in subsection (b), by adding at the end the
 21 following: “Except to the extent a greater minimum
 22 sentence is otherwise provided, a term of imprison-
 23 ment of a person 21 or more years of age convicted
 24 of drug trafficking under this subsection shall be not
 25 less than 10 years. Notwithstanding any other law,

1 the court shall not place on probation or suspend the
 2 sentence of any person sentenced under the preced-
 3 ing sentence.”; and

4 (2) in subsection (c) by inserting after the sec-
 5 ond sentence the following: “Except to the extent a
 6 greater minimum sentence is otherwise provided, a
 7 term of imprisonment of a person 21 or more years
 8 of age convicted of drug trafficking under this sub-
 9 section shall be a mandatory term of life imprison-
 10 ment. Notwithstanding any other law, the court shall
 11 not place on probation or suspend the sentence of
 12 any person sentenced under the preceding sen-
 13 tence.”.

14 (b) MANDATORY MINIMUM PRISON SENTENCES FOR
 15 PERSONS CONVICTED OF DISTRIBUTION OF DRUGS TO
 16 MINORS.—

17 (1) IN GENERAL.—Section 418 of the Con-
 18 trolled Substances Act (21 U.S.C. 859) is amend-
 19 ed—

20 (A) in subsection (a)—

21 (i) by striking “twenty-one” and in-
 22 serting “eighteen”;

23 (ii) by striking “eighteen” and insert-
 24 ing “twenty-one”;

1 (iii) by striking “not less than one
2 year” and inserting “not less than ten
3 years”; and

4 (iv) by striking the last sentence;

5 (B) in subsection (b)—

6 (i) by striking “twenty-one” and in-
7 serting “eighteen”;

8 (ii) by striking “eighteen” and insert-
9 ing “twenty-one”;

10 (iii) by striking “not less than one
11 year” and inserting “a mandatory term of
12 life imprisonment”;

13 (iv) by striking the last sentence; and

14 (C) by adding at the end the following new
15 subsection:

16 “(c) OFFENSES INVOLVING SMALL QUANTITIES OF
17 MARIJUANA.—The mandatory minimum sentencing provi-
18 sions of this section shall not apply to offenses involving
19 five grams or less of marijuana.”; and

20 (D) in the section heading by striking
21 “twenty-one” and inserting “eighteen”.

22 (2) TECHNICAL AMENDMENT.—The chapter
23 analysis for chapter 13 of title 21, United States
24 Code, is amended in the item relating to section 859,
25 by striking “twenty-one” and inserting “eighteen”.

1 (c) PENALTIES FOR DRUG OFFENSES IN DRUG-
2 FREE ZONES.—

3 (1) REPEAL.—Section 90102 of the Violent
4 Crime Control and Law Enforcement Act of 1994 is
5 repealed.

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

9 (A) in subsection (a)—

10 (i) by striking “not less than one
11 year” and inserting “not less than five
12 years”; and

13 (ii) by striking the last sentence;

14 (B) in subsection (b), by striking “not less
15 than three years” and inserting “not less than
16 ten years”;

17 (C) by redesignating subsections (c), (d),
18 and (e) as subsections (d), (e), and (f), respec-
19 tively; and

20 (D) by inserting after subsection (b) the
21 following new subsection:

22 “(c) OFFENSES INVOLVING SMALL QUANTITIES OF
23 MARIJUANA.—The mandatory minimum sentencing provi-
24 sions of this section shall not apply to offenses involving
25 five grams or less of marijuana.”.

1 **SEC. 406. MANDATORY MINIMUM SENTENCING REFORM.**

2 (a) REPEAL.—Title VIII of the Violent Crime Con-
3 trol and Law Enforcement Act of 1994, and the amend-
4 ments made by that title, is repealed.

5 (b) FLEXIBILITY IN APPLICATION OF MANDATORY
6 MINIMUM SENTENCE PROVISIONS IN CERTAIN CIR-
7 CUMSTANCES.—

8 (1) AMENDMENT OF TITLE 18, UNITED STATES
9 CODE.—Section 3553 of title 18, United States
10 Code, is amended by adding at the end the following
11 new subsection:

12 “(f) MANDATORY MINIMUM SENTENCE PROVI-
13 SIONS.—

14 “(1) SENTENCING UNDER THIS SECTION.—In
15 the case of an offense described in paragraph (2),
16 the court shall, notwithstanding the requirement of
17 a mandatory minimum sentence in that section, im-
18 pose a sentence in accordance with this section and
19 the sentencing guidelines and any pertinent policy
20 statement issued by the United States Sentencing
21 Commission.

22 “(2) OFFENSES.—An offense is described in
23 this paragraph if—

24 “(A) the defendant is subject to a manda-
25 tory minimum term of imprisonment under sec-
26 tion 401 or 402 of the Controlled Substances

1 Act (21 U.S.C. 841 and 844) or section 1010
2 of the Controlled Substances Import and Ex-
3 port Act (21 U.S.C. 960);

4 “(B) the defendant does not have—

5 “(i) any criminal history points under
6 the sentencing guidelines; or

7 “(ii) any prior conviction, foreign or
8 domestic, for a crime of violence against a
9 person or a drug trafficking offense that
10 resulted in a sentence of imprisonment (or
11 an adjudication as a juvenile delinquent for
12 an act that, if committed by an adult,
13 would constitute a crime of violence
14 against a person or a drug trafficking
15 offense);

16 “(C) the offense did not result in death or
17 serious bodily injury (as defined in section
18 1365) to any person—

19 “(i) as a result of the act of any per-
20 son during the course of the offense; or

21 “(ii) as a result of the use by any per-
22 son of a controlled substance that was in-
23 volved in the offense;

24 “(D) the defendant did not carry or other-
25 wise have possession of a firearm (as defined in

1 section 921) or other dangerous weapon during
2 the course of the offense and did not direct an-
3 other person to carry a firearm and the defend-
4 ant had no knowledge of any other conspirator
5 involved in the offense possessing a firearm;

6 “(E) the defendant was not an organizer,
7 leader, manager, or supervisor of others (as de-
8 fined or determined under the sentencing guide-
9 lines) in the offense;

10 “(F) the defendant did not use, attempt to
11 use, or make a credible threat to use physical
12 force against the person of another during the
13 course of the offense;

14 “(G) the defendant did not own the drugs,
15 finance any part of the offense or sell the
16 drugs; and

17 “(H) the Government certifies that the de-
18 fendant has timely and truthfully provided to
19 the Government all information and evidence
20 the defendant has concerning the offense or of-
21 fenses that were part of the same course of con-
22 duct or of a common scheme or plan.”.

23 (2) HARMONIZATION.—

24 (A) IN GENERAL.—The United States Sen-
25 tencing Commission—

1 (i) may make such amendments as it
2 deems necessary and appropriate to har-
3 monize the sentencing guidelines and pol-
4 icy statements with section 3553(f) of title
5 18, United States Code, as added by para-
6 graph (1), and promulgate policy state-
7 ments to assist the courts in interpreting
8 that provision; and

9 (ii) shall amend the sentencing guide-
10 lines, if necessary, to assign to an offense
11 under section 401 or 402 of the Controlled
12 Substances Act (21 U.S.C. 841 and 844)
13 or section 1010 of the Controlled Sub-
14 stances Import and Export Act (21 U.S.C.
15 960) to which a mandatory minimum term
16 of imprisonment applies, a guideline level
17 that will result in the imposition of a term
18 of imprisonment at least equal to the man-
19 datory term of imprisonment that is cur-
20 rently applicable, unless a downward ad-
21 justment is authorized under section
22 3553(f) of title 18, United States Code, as
23 added by subsection (a).

24 (B) EMERGENCY AMENDMENTS.—If the
25 Commission determines that an expedited pro-

cedure is necessary for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (101 Stat. 1271), as though the authority under that section had not expired.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to paragraph (2) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act.

**SEC. 407. INCREASED MANDATORY MINIMUM SENTENCES
FOR CRIMINALS USING FIREARMS.**

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: “Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence

1 or drug trafficking crime which provides for an enhanced
2 punishment if committed by the use of a deadly or dan-
3 gerous weapon or device) for which a person may be pros-
4 ecuted in a court of the United States, uses or carries a
5 firearm shall, in addition to the punishment provided for
6 such crime of violence or drug trafficking crime—

7 “(A) be punished by imprisonment for not less
8 than 10 years;

9 “(B) if the firearm is discharged, be punished
10 by imprisonment for not less than 20 years; and

11 “(C) if the death of a person results, be pun-
12 ished by death or by imprisonment for not less than
13 life.

14 Notwithstanding any other law, the court shall not place
15 on probation or suspend the sentence of any person con-
16 victed of a violation of this subsection, nor shall the term
17 of imprisonment imposed under this subsection run con-
18 currently with any other term of imprisonment including
19 that imposed for the crime of violence or drug trafficking
20 crime in which the firearm was used or carried. No person
21 sentenced under this subsection shall be eligible for parole
22 during the term of imprisonment imposed under this sub-
23 section.”.

1 **SEC. 408. PENALTIES FOR ARSON.**

2 (a) REPEAL.—Section 320106 of the Violent Crime
3 Control and Law Enforcement Act of 1994 is repealed.

4 (b) INCREASED PENALTIES.—Section 844 of title 18,
5 United States Code, is amended—

6 (1) in subsection (f)—

7 (A) by striking “not more than ten years,
8 or fined not more than \$10,000” and inserting
9 “not less than five years and not more than 20
10 years, fined the greater of \$100,000 or the cost
11 of repairing or replacing any property that is
12 damaged or destroyed”; and

13 (B) by striking “not more than twenty
14 years, or fined not more than \$10,000” and in-
15 serting “not less than five years and not more
16 than 40 years, fined the greater of \$200,000 or
17 the cost of repairing or replacing any property
18 that is damaged or destroyed”;

19 (2) in subsection (h)—

20 (A) in the first sentence by striking “five
21 years” and inserting “10 years”; and

22 (B) in the second sentence by striking “ten
23 years” and inserting “20 years”; and

24 (3) in subsection (i)—

25 (A) by striking “not more than ten years
26 or fined not more than \$10,000” and inserting

1 “not less than five years and not more than 20
2 years, fined the greater of \$100,000 or the cost
3 of repairing or replacing any property that is
4 damaged or destroyed”; and

5 (B) by striking “not more than twenty
6 years or fined not more than \$10,000” and in-
7 serting “not less than five years and not more
8 than 40 years, fined the greater of \$200,000 or
9 the cost of repairing or replacing any property
10 that is damaged or destroyed”.

11 (c) STATUTE OF LIMITATIONS FOR ARSON.—Section
12 320917(a) of the Violent Crime Control and Law Enforce-
13 ment Act of 1994 is amended by striking “7” and insert-
14 ing “10”.

15 **SEC. 409. INTERSTATE TRAVEL OR USE OF MAILS OR A FA-**
16 **CILITY IN INTERSTATE COMMERCE TO FUR-**
17 **THER KIDNAPPING.**

18 Section 1201(a) of title 18, United States Code, is
19 amended—

20 (1) in paragraph (3) by striking “or” at the
21 end of the paragraph;

22 (2) in paragraph (5) by striking “duties,” and
23 inserting “duties; or”; and

24 (3) by inserting after paragraph (5) the follow-
25 ing new paragraphs:

1 “(6) an individual travels in interstate or for-
2 eign commerce in furtherance of the offense; or

3 “(7) the mails or a facility in interstate or for-
4 eign commerce is used in furtherance of the of-
5 fense.”.

6 **TITLE V—FEDERAL CRIMINAL** 7 **PROCEDURE REFORM**

8 **SEC. 501. OBSTRUCTION OF JUSTICE.**

9 (a) IN GENERAL.—Chapter 73 of title 18, United
10 States Code, is amended by adding at the end the follow-
11 ing new section:

12 **“§ 1518. False pleadings**

13 “In a criminal proceeding, any attorney who files in
14 a court of the United States a brief, motion, answer,
15 pleading, or other signed document that the attorney
16 knows to contain a false statement of material fact or a
17 false statement of law, shall be found guilty of obstruction
18 of justice.”.

19 (b) TECHNICAL AMENDMENT.—The analysis for
20 chapter 73 of title 18, United States Code, is amended
21 by adding the following new item:

“1518. False pleadings.”.

22 **SEC. 502. CONDUCT OF FEDERAL PROSECUTORS.**

23 Notwithstanding the ethical rules or the rules of the
24 court of any State, Federal rules of conduct adopted by

1 the Attorney General shall govern the conduct of prosecu-
2 tions in the courts of the United States.

3 **SEC. 503. FAIRNESS IN JURY SELECTION.**

4 Rule 24(b) of the Federal Rules of Criminal Proce-
5 dure is amended by striking “the Government is also enti-
6 tled to 6 peremptory challenges and the defendant or de-
7 fendants jointly to 10 peremptory challenges” and insert-
8 ing “the Government is also entitled to 6 peremptory chal-
9 lenges. A defendant tried alone is entitled to 6 peremptory
10 challenges, but defendants tried jointly are entitled to 10
11 peremptory challenges”.

12 **SEC. 504. BALANCE IN THE COMPOSITION OF RULES COM-**
13 **MITTEES.**

14 Section 2073 of title 28, United States Code, is
15 amended—

16 (1) in subsection (a)(2), by adding at the end
17 the following: “On each such committee that makes
18 recommendations concerning rules that affect crimi-
19 nal cases, including the Federal Rules of Criminal
20 Procedure, the Federal Rules of Evidence, the Fed-
21 eral Rules of Appellate Procedure, the Rules Govern-
22 ing Section 2254 Cases, and the Rules Governing
23 Section 2255 Cases, the number of members who
24 represent or supervise the representation of defend-
25 ants in the trial, direct review, or collateral review

1 of criminal cases shall not exceed the number of
2 members who represent or supervise the representa-
3 tion of the Government or a State in the trial, direct
4 review, or collateral review of criminal cases.”; and

5 (2) in subsection (b), by adding at the end the
6 following: “The number of members of the standing
7 committees who represent or supervise the represen-
8 tation of defendants in the trial, direct review, or
9 collateral review of criminal cases shall not exceed
10 the number of members who represent or supervise
11 the representation of the Government or a State in
12 the trial, direct review, or collateral review of crimi-
13 nal cases.”.

14 **SEC. 505. REIMBURSEMENT OF REASONABLE ATTORNEYS’**
15 **FEES.**

16 Section 526 of title 28, United States Code, is
17 amended by adding at the end the following new sub-
18 section:

19 “(c)(1)(A) A current or former Department of Jus-
20 tice attorney, agent, or employee who supervises an agent
21 who is the subject of a criminal or disciplinary investiga-
22 tion, instituted on or after the date of enactment of this
23 subsection, arising out of acts performed in the discharge
24 of his or her duties in prosecuting or investigating a crimi-
25 nal matter, who is not provided representation under De-

1 partment of Justice regulations, shall be entitled to reim-
2 bursement of reasonable attorneys' fees incurred during
3 and as a result of the investigation if the investigation
4 does not result in adverse action against the attorney,
5 agent, or employee.

6 “(B) A current or former attorney, agent, or em-
7 ployee who supervises an agent employed as or by a Fed-
8 eral public defender who is the subject of a criminal or
9 disciplinary investigation instituted on or after the date
10 of enactment of this subsection, arising out of acts per-
11 formed in the discharge of his or her duties in defending
12 or investigating a criminal matter in connection with the
13 public defender program, who is not provided representa-
14 tion by a Federal public defender or the Administrative
15 Office of the United States Courts, is entitled to reim-
16 bursement of reasonable attorneys' fees incurred during
17 and as a result of the investigation if the investigation
18 does not result in adverse action against the attorney,
19 agent, or employee.

20 “(2) For purposes of paragraph (1), an investigation
21 shall be considered not to result in adverse action against
22 an attorney, agent, or employee if—

23 “(A) in the case of a criminal investigation, the
24 investigation does not result in indictment of, the fil-
25 ing of a criminal complaint against, or the entry of

1 a plea of guilty by the attorney, agent, or super-
2 vising employee; and

3 “(B) in the case of a disciplinary investigation,
4 the investigation does not result in discipline or re-
5 sults in only discipline less serious than a formal let-
6 ter of reprimand finding actual and specific wrong-
7 doing.

8 “(3) The Attorney General shall provide notice in
9 writing of the conclusion and result of an investigation de-
10 scribed in paragraph (1).

11 “(4) An attorney, agent, or supervising employee who
12 was the subject of an investigation described in paragraph
13 (1) may waive his or her entitlement to reimbursement
14 of attorneys’ fees under paragraph (1) as part of a resolu-
15 tion of a criminal or disciplinary investigation.

16 “(5) An application for attorney fee reimbursement
17 under this subsection shall be made not later than 180
18 days after the attorney, agent, or employee is notified in
19 writing of the conclusion and result of the investigation.

20 “(6) Upon receipt of a proper application under this
21 subsection for reimbursement of attorneys’ fees, the Attor-
22 ney General and the Director of the Administrative Office
23 of the United States Courts shall award reimbursement
24 for the amount of attorneys’ fees that are found to have

1 been reasonably incurred by the applicant as a result of
2 an investigation.

3 “(7) The official making an award under this sub-
4 section shall make inquiry into the reasonableness of the
5 amount requested, and shall consider—

6 “(A) the sufficiency of the documentation ac-
7 companying the request;

8 “(B) the need or justification for the underlying
9 item;

10 “(C) the reasonableness of the sum requested in
11 light of the nature of the investigation; and

12 “(D) current rates for equal services in the
13 community in which the investigation took place.

14 “(8)(A) Reimbursements of attorneys’ fees ordered
15 under this subsection by the Attorney General shall be
16 paid from the appropriation made by section 1304 of title
17 31, United States Code.

18 “(B) Reimbursements of attorneys’ fees ordered
19 under this section by the Director of the Administrative
20 Office of the United States Courts shall be paid from ap-
21 propriations authorized by section 3006A(i) of title 18,
22 United States Code.

23 “(9) The Attorney General and the Director of the
24 Administrative Office of the United States Courts may

1 delegate their powers and duties under this subsection to
2 an appropriate subordinate.”.

3 **SEC. 506. MANDATORY RESTITUTION TO VICTIMS OF VIO-**
4 **LENT CRIMES.**

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

7 (1) in subsection (a)—

8 (A) by striking “may order” and inserting
9 “shall order”; and

10 (B) by adding at the end the following new
11 paragraph:

12 “(4) In addition to ordering restitution of the victim
13 of the offense of which a defendant is convicted, a court
14 may order restitution of any person who, as shown by a
15 preponderance of evidence, was harmed physically or pecu-
16 niarily by unlawful conduct of the defendant during—

17 “(A) the criminal episode during which the of-
18 fense occurred; or

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

21 (2) in subsection (b)(1)(A) by striking “imprac-
22 tical” and inserting “impracticable”;

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

1 (4) in subsection (c) by striking “If the Court
2 decides to order restitution under this section, the”
3 and inserting “The”;

4 (5) by striking subsections (d), (e), (f), (g), and
5 (h); and

6 (6) by adding at the end the following new sub-
7 sections:

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

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

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

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

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

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

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

1 “(3) A restoration order may direct the offender to
2 make a single, lump-sum payment, partial payment at
3 specified intervals, or such in-kind payments as may be
4 agreeable to the victim and the offender.

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

7 “(A) return of property;

8 “(B) replacement of property; or

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

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

17 “(f) When the court finds that more than 1 victim
18 has sustained a loss requiring restitution by an offender,
19 the court shall order full restitution of each victim but may
20 provide for different payment schedules to reflect the eco-
21 nomic circumstances of each victim.

22 “(g)(1) If the victim has received or is entitled to re-
23 ceive compensation with respect to a loss from insurance
24 or any other source, the court shall order that restitution
25 be paid to the person who provided or is obligated to pro-

1 vide the compensation, but the restitution order shall pro-
2 vide that all restitution of victims required by the order
3 be paid to the victims before any restitution is paid to
4 such a provider of compensation.

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

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

16 “(A) any Federal civil proceeding; and

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

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

20 “(1) all fines, penalties, costs, restitution pay-
21 ments and other forms of transfers of money or
22 property made pursuant to the sentence of the court
23 shall be made by the offender to an entity des-
24 ignated by the Director of the Administrative Office
25 of the United States Courts for accounting and pay-

1 ment by the entity in accordance with this sub-
2 section;

3 “(2) the entity designated by the Director of
4 the Administrative Office of the United States
5 Courts shall—

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

14 “(B) notify the court and the interested
15 parties when an offender is 90 days in arrears
16 in meeting those obligations; and

17 “(3) the offender shall advise the entity des-
18 ignated by the Director of the Administrative Office
19 of the United States Courts of any change in the of-
20 fender’s address during the term of the restitution
21 order.

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

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

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

19 “(1) by the United States—

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

23 “(B) in the same manner as a judgment in
24 a civil action; and

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

4 “(l) A victim or the offender may petition the court
5 at any time to modify a restitution order as appropriate
6 in view of a change in the economic circumstances of the
7 offender.”.

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

11 (1) by striking subsection (a);

12 (2) by redesignating subsections (b), (c), (d),
13 and (e) as subsections (a), (b), (c), and (d);

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

16 “(a) The court may order the probation service of the
17 court to obtain information pertaining to the amount of
18 loss sustained by any victim as a result of the offense,
19 the financial resources of the defendant, the financial
20 needs and earning ability of the defendant and the defend-
21 ant’s dependents, and such other factors as the court
22 deems appropriate. The probation service of the court
23 shall include the information collected in the report of
24 presentence investigation or in a separate report, as the
25 court directs.”; and

1 (4) by adding at the end thereof the following
2 new subsection:

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

8 **SEC. 507. ADMISSIBILITY OF CERTAIN EVIDENCE.**

9 (a) CONFESSIONS.—Section 3501 of title 18, United
10 States Code, is amended—

11 (1) in subsection (a), by inserting after the first
12 sentence the following new sentence: “The defendant
13 shall have the burden of proving by a preponderance
14 of the evidence that a confession was not vol-
15 untary.”; and

16 (2) in subsection (c) by striking “and if such
17 confession” and all that follows through the end of
18 the subsection.

19 (b) REASONABLE SEARCH OR SEIZURE.—

20 (1) IN GENERAL.—Chapter 223 of title 18,
21 United States Code, is amended by inserting after
22 section 3502 the following new section:

1 **“§ 3502A. Admissibility of evidence obtained by**
 2 **search or seizure**

3 “(a) EVIDENCE OBTAINED BY OBJECTIVELY REA-
 4 SONABLE SEARCH OR SEIZURE.—Evidence obtained as a
 5 result of a search or seizure that is otherwise admissible
 6 in a Federal criminal proceeding shall not be excluded in
 7 a proceeding in a court of the United States on the ground
 8 that the search or seizure was in violation of the fourth
 9 amendment to the Constitution.

10 “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR
 11 RULE.—Evidence shall not be excluded in a proceeding
 12 in a court of the United States on the ground that it was
 13 obtained in violation of a statute, an administrative rule,
 14 or a rule of court procedure unless exclusion is expressly
 15 authorized by statute or by a rule prescribed by the Su-
 16 preme Court pursuant to chapter 131 of title 28.

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

20 (2) TECHNICAL AMENDMENT.—The chapter
 21 analysis for chapter 223 of title 18, United States
 22 Code, is amended by inserting after the item for sec-
 23 tion 3502 the following new item:

“3502A. Admissibility of evidence obtained by search or seizure.”.

24 (c) ILLEGAL SEARCH AND SEIZURE.—

1 (1) IN GENERAL.—Title 28, United States
 2 Code, is amended by inserting after chapter 171, the
 3 following new chapter:

4 **“CHAPTER 172—ILLEGAL SEARCH AND SEIZURE**

 “Sec.

 “2691. Definitions.

 “2692. Tort claims; illegal search and seizure.

 “2693. Sanctions against investigative or law enforcement officers.

 “2694. Judgment as bar.

 “2695. Attorneys’ fees and costs.

 “2696. Applicability of other tort claims procedures.

5 **“§ 2691. Definitions**

6 “‘In this chapter—

7 “(1) the term ‘Federal agency’ includes an ex-
 8 ecutive department, military department, independ-
 9 ent establishment of the United States, and a cor-
 10 poration acting primarily as an instrumentality or
 11 agency of the United States, but does not include a
 12 contractor with the United States; and

13 “(2) the term ‘investigative or law enforcement
 14 officer’ means—

15 “(A) an officer of the United States who is
 16 empowered by law to execute searches, to seize
 17 evidence, or to make arrests for any violation of
 18 Federal law;

19 “(B) a person acting under or at the re-
 20 quest of such an officer; or

1 “(C) a State or local law enforcement offi-
2 cer, if the case is prosecuted in a court of the
3 United States.

4 **“§ 2692. Tort claims; illegal search and seizure**

5 “(a) IN GENERAL.—The United States shall be liable
6 for damages resulting from a search or seizure conducted
7 by an investigative or law enforcement officer, acting with-
8 in the scope of the officer’s office or employment, in viola-
9 tion of the fourth amendment to the Constitution.

10 “(b) ACTUAL AND PUNITIVE DAMAGES.—A person
11 who is aggrieved by a violation described in subsection (a)
12 may recover actual damages and such punitive damages
13 as the court may award under subsection (c).

14 “(c) AWARD OF PUNITIVE DAMAGES.—Punitive dam-
15 ages may be awarded by the court in an amount not ex-
16 ceeding \$10,000, upon consideration of all of the cir-
17 cumstances of the case, including—

18 “(1) the extent of the investigative or law en-
19 forcement officer’s deviation from permissible con-
20 duct;

21 “(2) the extent to which the violation was will-
22 ful, reckless, or grossly negligent;

23 “(3) the extent to which the aggrieved person’s
24 privacy was invaded;

1 “(4) the extent of the aggrieved person’s phys-
2 ical, mental, and emotional injury;

3 “(5) the extent of any property damage; and

4 “(6) the effect that making an award of puni-
5 tive damages would have in preventing future viola-
6 tions of the fourth amendment to the Constitution.

7 “(d) LIMITATION ON AWARD TO OFFENDER.—An
8 award of nonpunitive damages under this section to a per-
9 son who is convicted of an offense for which evidence of
10 the offense was seized in violation of the fourth amend-
11 ment to the Constitution shall be limited to damages for
12 actual physical personal injury and actual property dam-
13 age sustained as a result of the unconstitutional search
14 and seizure.

15 “(e) AMOUNT OF AWARD.—

16 “(1) IN GENERAL.—Except as provided in para-
17 graph (2), in an action brought pursuant to this sec-
18 tion, a judgment, award, compromise, or settlement
19 shall be in an amount that is not more than
20 \$30,000, including actual and punitive damages.

21 “(2) EXCEPTION.—The limitation provided in
22 paragraph (1) shall not apply to a judgment, award,
23 compromise, or settlement if the actual damages are
24 in an amount that is greater than \$30,000.

1 “(3) PREJUDGMENT INTEREST.—The United
2 States shall not be liable for interest prior to judg-
3 ment.

4 “(f) PERIOD OF LIMITATION.—An action under this
5 section shall be brought within the period of limitation
6 provided in section 2401(b).

7 **“§ 2693. Sanctions against investigative or law en-**
8 **forcement officers**

9 “An investigative or law enforcement officer who con-
10 ducts a search or seizure in violation of the fourth amend-
11 ment to the Constitution shall be subject to appropriate
12 discipline in the discretion of the Federal agency employ-
13 ing the officer, if that agency determines, after notice and
14 hearing, that the officer conducted the search or seizure
15 lacking a good faith belief that the search or seizure was
16 constitutional.

17 **“§ 2694. Judgment as bar**

18 “The remedy against the United States provided
19 under this chapter shall be the exclusive civil remedy for
20 a violation of the fourth amendment to the Constitution
21 by any investigative or law enforcement officer acting
22 within the scope of the officer’s office or employment.

23 **“§ 2695. Attorneys’ fees and costs**

24 “In an action brought under this chapter, the court
25 may award any claimant who prevails in the action, other

1 than the United States, reasonable attorney’s fees and
 2 other litigation costs reasonably incurred in prosecuting
 3 the claim.

4 **“§ 2696. Applicability of other tort claims procedures**

5 “(a) IN GENERAL.—The procedures provided in sec-
 6 tions 2672, 2675, 2677, 2678, 2679, and 2680 apply to
 7 an action brought under this chapter.

8 “(b) TREATMENT AS EMPLOYEE OF THE UNITED
 9 STATES.—For the purposes of the sections referred to in
 10 subsection (a), an investigative or law enforcement officer
 11 who conducts a search or seizure in violation of the fourth
 12 amendment to the Constitution shall be treated as if the
 13 officer were an ‘employee of the United States’.

14 “(c) TREATMENT OF STATE OR LOCAL OFFICERS.—
 15 A State or local officer who violates the fourth amendment
 16 to the Constitution in a case that is later prosecuted in
 17 a court of the United States shall, for purposes of this
 18 section, be an employee of the United States.’’.

19 (2) TECHNICAL AMENDMENT.—The part analy-
 20 sis for part VI of title 28, United States Code, is
 21 amended by inserting after the item relating to
 22 chapter 171 the following new item:

“172. Illegal search and seizure 2691”.

23 (d) JURISDICTION.—Section 1346 of title 28, United
 24 States Code, is amended by inserting after subsection (f)
 25 the following new subsection:

1 “(g) The district courts, together with the United
 2 States District for the Territory of Guam, the District
 3 Court for the Northern Mariana Islands, and the District
 4 Court of the Virgin Islands, shall have exclusive original
 5 jurisdiction of any civil action on a claim against the Unit-
 6 ed States, for money damages, brought under chapter
 7 172.”.

8 (e) TECHNICAL AMENDMENT.—Section 1402(b) of
 9 title 28, United States Code, is amended by inserting “or
 10 subsection (g)” after “subsection (b)”.

11 (f) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply only to claims arising on or after
 13 the date of enactment of this Act.

14 **SEC. 508. GENERAL HABEAS CORPUS REFORM.**

15 (a) PERIOD OF LIMITATION.—Section 2244 of title
 16 28, United States Code, is amended by adding at the end
 17 the following new subsection:

18 “(d) A one-year period of limitation shall apply to an
 19 application for a writ of habeas corpus by a person in cus-
 20 tody pursuant to the judgment of a State court. The limi-
 21 tation period shall run from the latest of—

22 “(1) the date on which State remedies are ex-
 23 hausted;

24 “(2) the date on which the impediment to filing
 25 an application created by State action in violation of

1 the Constitution or laws of the United States is re-
2 moved, where the applicant was prevented from fil-
3 ing by such State action;

4 “(3) the date on which the Federal constitu-
5 tional right asserted was initially recognized by the
6 Supreme Court, where the right has been newly rec-
7 ognized by the Court and is made retroactively ap-
8 plicable; or

9 “(4) the date on which the factual predicate of
10 the claim or claims presented could have been dis-
11 covered through the exercise of due diligence.”.

12 (b) APPEAL.—Section 2253 of title 28, United States
13 Code, is amended to read as follows:

14 **“§ 2253. Appeal**

15 “(a) IN GENERAL.—In a habeas corpus proceeding
16 or a proceeding under section 2255 before a circuit or dis-
17 trict judge, the final order shall be subject to review, on
18 appeal, by the court of appeals for the circuit where the
19 proceeding is held.

20 “(b) VALIDITY OF WARRANT OR DETENTION.—
21 There shall be no right of appeal from such an order in
22 a proceeding to test the validity of a warrant to remove,
23 to another district or place for commitment or trial, a per-
24 son charged with a criminal offense against the United

1 States, or to test the validity of the detention of such per-
 2 son pending removal proceedings.

3 “(c) REQUIREMENT FOR CERTIFICATE OF PROBABLE
 4 CAUSE.—

5 “(1) REQUIREMENT.—Unless a circuit justice
 6 or judge issues a certificate of probable cause, an
 7 appeal may not be taken to the court of appeals
 8 from—

9 “(A) the final order in a habeas corpus
 10 proceeding in which the detention complained of
 11 arises out of process issued by a State court; or

12 “(B) the final order in a proceeding under
 13 section 2255.

14 “(2) SUBSTANTIAL SHOWING.—A certificate of
 15 probable cause may issue under paragraph (1) only
 16 if the petitioner has made a substantial showing of
 17 the denial of a Federal constitutional right.

18 “(3) SPECIFICATION OF ISSUES.—The certifi-
 19 cate of probable cause under paragraph (1) shall in-
 20 dicate which specific issue or issues satisfy the show-
 21 ing required by paragraph (2).”.

22 (c) AMENDMENT OF FEDERAL RULES OF APPEL-
 23 LATE PROCEDURE.—Rule 22 of the Federal Rules of Ap-
 24 pellate Procedure is amended to read as follows:

25 “Rule 22. Habeas corpus and section 2255 proceedings

1 “(a) *Application for an Original Writ of Habeas Cor-*
2 *pus.*—An application for a writ of habeas corpus shall be
3 made to the appropriate district court. If application is
4 made to a circuit judge, the application shall be trans-
5 ferred to the appropriate district court. If an application
6 is made to or transferred to the district court and denied,
7 renewal of the application before a circuit judge shall not
8 be permitted. The petitioner may, pursuant to section
9 2253, appeal to the appropriate court of appeals from the
10 order of the district court denying the writ.

11 “(b) *Necessity of Certificate of Probable Cause for Ap-*
12 *peal.*—In a habeas corpus proceeding in which the deten-
13 tion complained of arises out of process issued by a State
14 court, and in a motion proceeding pursuant to section
15 2255 of title 28, United States Code, an appeal by the
16 applicant may not proceed unless the Court of Appeals
17 issues a certificate of probable cause. If a request for a
18 certificate of probable cause is addressed to the court of
19 appeals, it shall be deemed addressed to the judges thereof
20 and shall be considered by a panel of the Court of Appeals.
21 If no express request for a certificate is filed, the notice
22 of appeal shall be deemed to constitute a request ad-
23 dressed to the judges of the Court of Appeals. If an appeal
24 is taken by a State or the Government or its representa-
25 tive, a certificate of probable cause is not required.”.

1 (d) SECTION 2254 AMENDMENT.—Section 2254 of
2 title 28, United States Code, is amended—

3 (1) by amending subsection (b) to read as fol-
4 lows:

5 “(b)(1) An application for a writ of habeas corpus
6 on behalf of a person in custody pursuant to the judgment
7 of a State court shall not be granted unless it appears
8 that—

9 “(A) the applicant has exhausted the remedies
10 available in the courts of the State; or

11 “(B)(i) there is an absence of available State
12 corrective process; or

13 “(ii) circumstances exist that render such proc-
14 ess ineffective to protect the rights of the applicant.

15 “(2) An application may be denied if the court is sat-
16 isfied that the application is frivolous or malicious, not-
17 withstanding the failure of the applicant to exhaust the
18 remedies available in the courts of the State.

19 “(3) A State shall not be deemed to have waived the
20 exhaustion requirement or be estopped from reliance upon
21 the requirement unless the State, through counsel, ex-
22 pressly waives the requirement.”;

23 (2) by redesignating subsections (d), (e), and
24 (f) as subsections (e), (f), and (g), respectively;

1 (3) by inserting after subsection (c) the follow-
2 ing new subsection:

3 “(d) An application for a writ of habeas corpus on
4 behalf of a person in custody pursuant to the judgment
5 of a State court shall not be granted with respect to any
6 claim that has been fully and fairly adjudicated in State
7 proceedings.”;

8 (4) by amending subsection (e), as redesignated
9 by paragraph (2), to read as follows:

10 “(e)(1) In a proceeding instituted by an application
11 for a writ of habeas corpus by a person in custody pursu-
12 ant to the judgment of a State court, a determination of
13 a factual issue made in the case by a State court after
14 any procedure sufficient to develop an adequate record
15 shall be presumed to be correct. The applicant shall have
16 the burden of rebutting this presumption by clear and con-
17 vincing evidence.

18 “(2) If the applicant has failed to develop the factual
19 basis of a claim in State court proceedings, the Federal
20 court shall not hold an evidentiary hearing on the claim
21 unless the applicant shows that—

22 “(A) the claim relies on (i) a new rule of con-
23 stitutional law, made retroactive by the Supreme
24 Court, that was previously unavailable; or (ii) a fac-

1 tual predicate that could not have been previously
2 discovered through the exercise of due diligence; and

3 “(B) the facts underlying the claim would be
4 sufficient to establish by clear and convincing evi-
5 dence that, but for constitutional error, no reason-
6 able factfinder would have found the petitioner
7 guilty of the underlying offense or eligible for the
8 death penalty under State law.”; and

9 (5) by adding at the end the following new sub-
10 section:

11 “(h) In all proceedings brought under this section,
12 and any subsequent proceedings on review, appointment
13 of counsel for a petitioner who is or becomes financially
14 unable to afford counsel shall be in the discretion of the
15 court, except as provided by a rule promulgated by the
16 Supreme Court pursuant to statutory authority. Appoint-
17 ment of counsel under this section shall be governed by
18 section 3006A of title 18, United States Code.”.

19 (e) SECTION 2255 AMENDMENTS.—Section 2255 of
20 title 28, United States Code, is amended—

21 (1) by striking the second and the fifth para-
22 graphs; and

23 (2) by adding at the end the following new
24 paragraphs:

1 “A one-year period of limitation shall apply to a mo-
2 tion under this section. The limitation period shall run
3 from the latest of—

4 “(1) the date on which the judgment of convic-
5 tion becomes final;

6 “(2) the date on which the impediment to mak-
7 ing a motion created by governmental action in vio-
8 lation of the Constitution or laws of the United
9 States is removed, where the movant was prevented
10 from making a motion by such governmental action;

11 “(3) the date on which the right asserted was
12 initially recognized by the Supreme Court, if that
13 right has been newly recognized by the Court and is
14 made retroactively applicable; or

15 “(4) the date on which the factual predicate of
16 the claim or claims presented could have been dis-
17 covered through the exercise of due diligence.

18 “In all proceedings brought under this section, and
19 any subsequent proceedings on review, appointment of
20 counsel for a movant who is or becomes financially unable
21 to afford counsel shall be in the discretion of the court,
22 except as provided by a rule promulgated by the Supreme
23 Court pursuant to statutory authority. Appointment of
24 counsel under this section shall be governed by section
25 3006A of title 18, United States Code.”.

1 (f) SECOND OR SUCCESSIVE PETITIONS.—

2 (1) CERTIFICATION.—A second or successive
3 motion must be certified by a panel of the appro-
4 priate Federal Court of Appeals to contain—

5 (A) newly discovered evidence sufficient to
6 undermine the court’s confidence in the
7 factfinder’s determination of the prisoner’s guilt
8 of the offense or offenses for which the sentence
9 was imposed; or

10 (B) a new rule of constitutional law, made
11 retroactive by the Supreme Court, that was pre-
12 viously unavailable.

13 (2) CONFORMING AMENDMENT TO SECTION
14 2244(a).—Section 2244(a) of title 28, United States
15 Code, is amended by striking “and the petition” and
16 all that follows through “by such inquiry.” and in-
17 serting “except as provided in section 2255.”.

18 (3) LIMITATIONS ON SECOND OR SUCCESSIVE
19 PETITIONS.—Section 2244(b) of title 28, United
20 States Code, is amended to read as follows:

21 “(b)(1) A claim presented in a second or successive
22 habeas corpus petition that was not presented in a prior
23 petition shall be dismissed unless—

24 “(A) the petitioner shows that—

1 “(i) the claim relies on a new rule of con-
2 stitutional law, made retroactive by the Su-
3 preme Court, that was previously unavailable;
4 or

5 “(ii) the factual predicate for the claim
6 could not have been discovered previously
7 through the exercise of due diligence; and

8 “(B) the facts underlying the claim, if proven
9 and viewed in light of the evidence as a whole, would
10 be sufficient to undermine the court’s confidence in
11 the factfinder’s determination of the applicant’s guilt
12 of the offense or offenses for which the sentence was
13 imposed.

14 “(2)(A) Before a second or successive petition is filed
15 in the district court, the petitioner must move in the ap-
16 propriate court of appeals for an order authorizing the dis-
17 trict court to consider the petition.

18 “(B) A motion in the court of appeals for an order
19 authorizing the district court to consider a successive peti-
20 tion shall be determined by a three-judge panel of the
21 court of appeals.

22 “(C) The court of appeals may authorize the filing
23 of a successive petition only if it determines that the peti-
24 tioner has made a prima facie showing that the petition
25 satisfies the requirements of this section.

1 “(D) The grant or denial of an authorization by the
2 court of appeals to file a second or successive petition shall
3 not be appealable.

4 “(3) A district court shall dismiss any claim pre-
5 sented in a second or successive petition that the court
6 of appeals has authorized to be filed unless the applicant
7 shows that the claim satisfies the requirements of this
8 section.”.

9 **SEC. 509. TECHNICAL AMENDMENT.**

10 Section 848(q) of title 21, United States Code, is
11 amended by striking all references to section 2254.

12 **SEC. 510. DEATH PENALTY LITIGATION PROCEDURES.**

13 (a) ADDITION OF CHAPTER.—Title 28, United States
14 Code, is amended by inserting after chapter 153 the fol-
15 lowing new chapter:

16 **“CHAPTER 154—SPECIAL HABEAS CORPUS**
17 **PROCEDURES IN CAPITAL CASES**

“Sec.

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

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

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

“2259. Evidentiary hearings; scope of Federal review; district court adjudica-
tion.

“2260. Certificate of probable cause inapplicable.

“2261. Application to state unitary review procedures.

“2262. Limitation periods for determining petitions.

“2263. Rule of construction.

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

5 “(a) APPLICATION OF CHAPTER.—This chapter shall
 6 apply to cases arising under section 2254 brought by pris-
 7 oners in State custody who are subject to a capital sen-
 8 tence. It shall apply only if the provisions of subsections
 9 (b) and (c) are satisfied.

10 “(b) ESTABLISHMENT OF APPOINTMENT MECHA-
 11 NISM.—This chapter is applicable if a State establishes by
 12 rule of its court of last resort or by statute a mechanism
 13 for the appointment, compensation and payment of rea-
 14 sonable litigation expenses of competent counsel in State
 15 postconviction proceedings brought by indigent prisoners
 16 whose capital convictions and sentences have been upheld
 17 on direct appeal to the court of last resort in the State
 18 or have otherwise become final for State law purposes. The
 19 rule of court or statute must provide standards of com-
 20 petency for the appointment of such counsel.

21 “(c) OFFER OF COUNSEL.—Any mechanism for the
 22 appointment, compensation and reimbursement of counsel
 23 as provided in subsection (b) must offer counsel to all
 24 State prisoners under capital sentence and must provide
 25 for the entry of an order by a court of record—

1 “(1) appointing 1 or more counsel to represent
2 the prisoner upon a finding that the prisoner is indi-
3 gent and accepted the offer or is unable competently
4 to decide whether to accept or reject the offer;

5 “(2) finding, after a hearing if necessary, that
6 the prisoner rejected the offer of counsel and made
7 the decision with an understanding of its legal con-
8 sequences; or

9 “(3) denying the appointment of counsel upon
10 a finding that the prisoner is not indigent.

11 “(d) PREVIOUS REPRESENTATION.—No counsel ap-
12 pointed pursuant to subsections (b) and (c) to represent
13 a State prisoner under capital sentence shall have pre-
14 viously represented the prisoner at trial or on direct appeal
15 in the case for which the appointment is made unless the
16 prisoner and counsel expressly request continued represen-
17 tation.

18 “(e) NO GROUND FOR RELIEF.—The ineffectiveness
19 or incompetence of counsel during Federal or State collat-
20 eral postconviction proceedings in a capital case shall not
21 be a ground for relief in a proceeding arising under section
22 2254. This limitation shall not preclude the appointment
23 of different counsel, on the court’s own motion or at the
24 request of the prisoner, at any phase of State or Federal

1 postconviction proceedings on the basis of the ineffective-
 2 ness or incompetence of counsel in such proceedings.

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

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

15 “(b) EXPIRATION OF STAY.—A stay of execution
 16 granted pursuant to subsection (a) shall expire if—

17 “(1) a State prisoner fails to file a habeas cor-
 18 pus petition under section 2254 within the time re-
 19 quired in section 2258, or fails to make a timely ap-
 20 plication for court of appeals review following the de-
 21 nial of such a petition by a district court;

22 “(2) upon completion of district court and court
 23 of appeals review under section 2254 the petition for
 24 relief is denied and—

1 “(A) the time for filing a petition for cer-
2 tiorari has expired and no petition has been
3 filed;

4 “(B) a timely petition for certiorari was
5 filed and the Supreme Court denied the peti-
6 tion; or

7 “(C) a timely petition for certiorari was
8 filed and upon consideration of the case, the
9 Supreme Court disposed of it in a manner that
10 left the capital sentence undisturbed; or

11 “(3) before a court of competent jurisdiction, in
12 the presence of counsel and after having been ad-
13 vised of the consequences of his decision, a State
14 prisoner under capital sentence waives the right to
15 pursue habeas corpus review under section 2254.

16 “(c) LIMITATION ON FURTHER STAY.—If one of the
17 conditions in subsection (b) has occurred, no Federal court
18 thereafter shall have the authority to enter a stay of execu-
19 tion or grant relief in a capital case unless—

20 “(1) the basis for the stay and request for relief
21 is a claim not previously presented in the State or
22 Federal courts;

23 “(2) the failure to raise the claim is—

1 “(A) the result of State action in violation
2 of the Constitution or laws of the United
3 States;

4 “(B) the result of the Supreme Court rec-
5 ognition of a new Federal right that is made
6 retroactively applicable; or

7 “(C) based on a factual predicate that
8 could not have been discovered through the ex-
9 ercise of due diligence in time to present the
10 claim for State or Federal postconviction
11 review;

12 “(3) the facts underlying the claim if proven
13 and viewed in light of the evidence as a whole, would
14 be sufficient to establish by clear and convincing evi-
15 dence that but for constitutional error, no reasonable
16 factfinder would have found the petitioner guilty of
17 the underlying offense or eligible for the death pen-
18 alty under State law;

19 “(4) the court of appeals approves the filing of
20 a second or successive petition that—

21 “(A) is the result of the Supreme Court
22 recognition of a new Federal right that is made
23 retroactively applicable; or

24 “(B) is based on a factual predicate that
25 could not have been discovered through the ex-

1 ercise of due diligence in time to present the
 2 claim for State or Federal postconviction re-
 3 view; and

4 “(5) the facts underlying the claim if proven
 5 and viewed in light of the evidence as a whole, would
 6 be sufficient to establish by clear and convincing evi-
 7 dence that but for constitutional error, no reasonable
 8 factfinder would have found the petitioner guilty of
 9 the underlying offense or eligible for the death pen-
 10 alty under State law.

11 **“§ 2258. Filing of habeas corpus petition; time**
 12 **requirements; tolling rules**

13 “(a) FILING.—A petition for habeas corpus relief
 14 under section 2254 must be filed in the appropriate dis-
 15 trict court within 180 days from the filing in the appro-
 16 priate State court of record of an order under section
 17 2256(c).

18 “(b) TOLLING.—The time requirements established
 19 by this section shall be tolled—

20 “(1) from the date that a petition for certiorari
 21 is filed in the Supreme Court until the date of final
 22 disposition of the petition if a State prisoner files
 23 the petition to secure review by the Supreme Court
 24 of the affirmance of a capital sentence on direct re-

1 view by the court of last resort of the State or other
2 final State court decision on direct review;

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

15 “(3) during an additional period not to exceed
16 30 days, if—

17 “(A) a motion for an extension of time is
18 filed in the Federal district court that would
19 have proper jurisdiction over the case upon the
20 filing of a habeas corpus petition under section
21 2254; and

22 “(B) a showing of good cause is made for
23 the failure to file the habeas corpus petition
24 within the time period established by this
25 section.

1 **“§ 2259. Evidentiary hearings; scope of Federal re-**
2 **view; district court adjudication**

3 “(a) REVIEW OF RECORD; HEARING.—Whenever a
4 State prisoner under a capital sentence files a petition for
5 habeas corpus relief to which this chapter applies, the dis-
6 trict court shall, within the time limits required by section
7 2267—

8 “(1) determine the sufficiency of the record for
9 habeas corpus review based on the claims actually
10 presented and litigated in the State courts except
11 when the prisoner can show that the failure to raise
12 or develop a claim in the State courts is—

13 “(A) the result of State action in violation
14 of the Constitution or laws of the United
15 States;

16 “(B) the result of the Supreme Court rec-
17 ognition of a new Federal right that is made
18 retroactively applicable; or

19 “(C) based on a factual predicate that
20 could not have been discovered through the ex-
21 ercise of due diligence in time to present the
22 claim for State postconviction review; and

23 “(2) conduct any requested evidentiary hearing
24 necessary to complete the record for habeas corpus
25 review.

1 “(b) ADJUDICATION.—Upon the development of a
2 complete evidentiary record, the district court shall rule
3 on the claims that are properly before it, but the court
4 shall not grant relief from a judgment of conviction or sen-
5 tence on the basis of any claim that was fully and fairly
6 adjudicated in State proceedings.

7 **“§ 2260. Certificate of probable cause inapplicable**

8 “The requirement of a certificate of probable cause
9 in order to appeal from the district court to the court of
10 appeals does not apply to habeas corpus cases subject to
11 this chapter except when a second or successive petition
12 is filed.

13 **“§ 2261. Application to State unitary review proce-**
14 **dure**

15 “(a) IN GENERAL.—

16 “(1) DEFINITION.—For purposes of this sec-
17 tion, the term ‘unitary review procedure’ means a
18 State procedure that authorizes a person under sen-
19 tence of death to raise, in the course of direct review
20 of the judgment, such claims as could be raised on
21 collateral attack.

22 “(2) APPLICATION OF CHAPTER.—This chapter
23 shall apply, as provided in this section, in relation to
24 a State unitary review procedure if the State estab-
25 lishes by rule of its court of last resort or by statute

1 a mechanism for the appointment, compensation,
2 and payment of reasonable litigation expenses of
3 competent counsel in the unitary review proceedings,
4 including expenses relating to the litigation of collat-
5 eral claims in the proceedings.

6 “(3) STANDARDS OF COMPETENCY.—A rule of
7 court or statute described in paragraph (2) must
8 provide standards of competency for the appoint-
9 ment of counsel.

10 “(b) OFFER OF COUNSEL.—

11 “(1) IN GENERAL.—To qualify under this sec-
12 tion, a unitary review procedure, to qualify under
13 this section, must include an offer of counsel follow-
14 ing trial for the purpose of representation on unitary
15 review, and entry of an order, as provided in section
16 2256(c), concerning appointment of counsel or waiv-
17 er or denial of appointment of counsel for that pur-
18 pose.

19 “(2) NO PREVIOUS REPRESENTATION.—No
20 counsel appointed to represent the prisoner in the
21 unitary review proceedings shall have previously rep-
22 resented the prisoner at trial in the case for which
23 the appointment is made unless the prisoner and
24 counsel expressly request continued representation.

25 “(c) APPLICATION OF OTHER SECTIONS.—

1 “(1) IN GENERAL.—Sections 2257, 2258, 2259,
2 2260, and 2262 shall apply in relation to cases in-
3 volving a sentence of death from any State having
4 a unitary review procedure that qualifies under this
5 section.

6 “(2) REFERENCES.—References to State ‘post-
7 conviction review’ and ‘direct review’ in those sec-
8 tions shall be understood as referring to unitary re-
9 view under the State procedure. The references in
10 sections 2257(a) and 2258 to ‘an order under sec-
11 tion 2256(c)’ shall be understood as referring to the
12 post-trial order under subsection (b) concerning rep-
13 resentation in the unitary review proceedings, but if
14 a transcript of the trial proceedings is unavailable at
15 the time of the filing of such an order in the appro-
16 priate State court, the start of the 180-day limita-
17 tion period under section 2258 shall be deferred
18 until a transcript is made available to the prisoner
19 or the prisoner’s counsel.

20 **“§ 2262. Limitation periods for determining petitions**

21 “(a) IN GENERAL.—The adjudication of any petition
22 under section 2254 that is subject to this chapter, and
23 the adjudication of any motion under section 2255 by a
24 person under sentence of death, shall be given priority by

1 the district court and by the court of appeals over all
2 noncapital matters.

3 “(b) TIME LIMITATIONS FOR CONSIDERATION BY
4 THE DISTRICT COURTS OF HABEAS CORPUS PETITIONS
5 IN CAPITAL CASES.—

6 “(1) IN GENERAL.—

7 “(A) FINAL DETERMINATION WITHIN 180
8 DAYS.—Except to the extent that a longer pe-
9 riod of time is required in order that each of
10 the parties will have been accorded at least as
11 many days as provided in the rules in which to
12 complete all actions, including preparation of
13 briefs and, if necessary, a hearing prior to the
14 submission of the case for decision, a district
15 court shall render a final determination of any
16 petition for a writ of habeas corpus brought
17 under this chapter in a capital case not later
18 than 180 days after the date on which the peti-
19 tion is filed.

20 “(B) DELAY.—(i) A district court may
21 delay for not more than one additional 180-day
22 period beyond the period specified in subpara-
23 graph (A), the rendering of a determination of
24 a petition for a writ of habeas corpus if the
25 court issues a written order making a finding,

1 and stating the reasons for the finding, that the
2 ends of justice that would be served by allowing
3 the delay outweigh the best interests of the
4 public and the petitioner in a speedy disposition
5 of the petition.

6 “(ii) The factors, among others, that a
7 court shall consider in determining whether a
8 delay in the disposition of a petition is war-
9 ranted are as follows:

10 “(I) Whether the failure to allow the
11 delay would be likely to result in a mis-
12 carriage of justice.

13 “(II) Whether the case is so unusual
14 or so complex, due to the number of de-
15 fendants, the nature of the prosecution, or
16 the existence of novel questions of fact or
17 law, that it is unreasonable to expect ade-
18 quate briefing within the time limit estab-
19 lished by subparagraph (A).

20 “(III) Whether the failure to allow a
21 delay in a case, that taken as a whole, is
22 not so unusual or so complex as described
23 in clause (ii), would deny the petitioner
24 reasonable time to obtain counsel, would
25 unreasonably deny the petitioner or the

1 government continuity of counsel, or would
2 deny counsel for the petitioner or the gov-
3 ernment the reasonable time necessary for
4 effective preparation, taking into account
5 the exercise of due diligence.

6 “(iii) No delay in disposition shall be per-
7 missible because of general congestion of the
8 court’s calendar.

9 “(iv) The court shall transmit a copy of
10 any order issued under clause (i) to the Direc-
11 tor of the Administrative Office of the United
12 States Courts for inclusion in the report under
13 paragraph (5).

14 “(2) APPLICATION.—The time limitations under
15 paragraph (1) shall apply to—

16 “(A) an initial petition for a writ of habeas
17 corpus;

18 “(B) any second or successive petition for
19 a writ of habeas corpus; and

20 “(C) any redetermination of a petition for
21 a writ of habeas corpus following a remand by
22 the court of appeals or the Supreme Court for
23 further proceedings, in which case the limita-
24 tion period shall run from the date the remand
25 is ordered.

1 “(3) RULE OF CONSTRUCTION.—The time limi-
2 tations under this section shall not be construed to
3 entitle a petitioner to a stay of execution, to which
4 the petitioner would otherwise not be entitled, for
5 the purpose of litigating any petition or appeal.

6 “(4) FAILURE TO RENDER TIMELY DETERMINA-
7 TION.—

8 “(A) NO GROUND FOR RELIEF.—The fail-
9 ure of a court to meet or comply with a time
10 limitation under this section shall not be a
11 ground for granting relief from a judgment of
12 conviction or sentence.

13 “(B) ENFORCEMENT.—The government
14 may enforce a time limitation under this section
15 by petitioning for a writ of mandamus to the
16 court of appeals. The Court of Appeals shall act
17 on the petition for a writ or mandamus not
18 later than 30 days after the filing of the peti-
19 tion.

20 “(5) REPORT.—

21 “(A) IN GENERAL.—The Administrative
22 Office of United States Courts shall submit to
23 Congress an annual report on the compliance
24 by the district courts with the time limitations
25 under this section.

1 “(B) CONTENTS.—The report described in
 2 subparagraph (A) shall include copies of the or-
 3 ders submitted by the district courts under
 4 paragraph (1)(B)(iv).

5 “(c) TIME LIMITATIONS FOR CONSIDERATION OF
 6 DISTRICT COURT DETERMINATIONS OF HABEAS CORPUS
 7 PETITIONS IN CAPITAL CASES.—

8 “(1) IN GENERAL.—

9 “(A) FINAL DETERMINATION WITHIN 120
 10 DAYS.—A court of appeals shall hear and
 11 render a final determination of any appeal of an
 12 order granting or denying, in whole or in part,
 13 a petition brought under this chapter in a cap-
 14 ital case not later than 120 days after the date
 15 on which the reply brief is filed, or if no reply
 16 brief is filed, not later than 120 days after the
 17 date on which the answering brief is filed.

18 “(B) HEARING EN BANC.—(i) A court of
 19 appeals shall decide whether to grant a petition
 20 for rehearing or other request for rehearing en
 21 banc not later than 30 days after the date on
 22 which the petition for rehearing is filed unless
 23 a responsive pleading is required, in which case
 24 the court shall decide whether to grant the peti-

1 tion not later than 30 days after the date on
2 which the responsive pleading is filed.

3 “(ii) If a petition for rehearing or rehear-
4 ing en banc is granted, the court of appeals
5 shall hear and render a final determination of
6 the appeal not later than 120 days after the
7 date on which the order granting rehearing or
8 rehearing en banc is entered.

9 “(2) APPLICATION.—The time limitations under
10 paragraph (1) shall apply to—

11 “(A) an initial petition for a writ of habeas
12 corpus;

13 “(B) any second or successive petition for
14 a writ of habeas corpus; and

15 “(C) any redetermination of a petition for
16 a writ of habeas corpus or related appeal follow-
17 ing a remand by the court of appeals or the Su-
18 preme Court for further proceedings, in which
19 case the limitation period shall run from the
20 date the remand is ordered.

21 “(3) RULE OF CONSTRUCTION.—The time limi-
22 tations under this section shall not be construed to
23 entitle a petitioner to a stay of execution, to which
24 the petitioner would otherwise not be entitled, for
25 the purpose of litigating any petition or appeal.

1 “(4) FAILURE TO RENDER TIMELY DETERMINA-
2 TION.—

3 “(A) NO GROUND FOR RELIEF.—The fail-
4 ure of a court to meet or comply with a time
5 limitation under this section shall not be a
6 ground for granting relief from a judgment of
7 conviction or sentence.

8 “(B) ENFORCEMENT.—The government
9 may enforce a time limitation under this section
10 by applying for a writ of mandamus to the Su-
11 preme Court.

12 “(5) REPORT.—The Administrative Office of
13 United States Courts shall submit to Congress an
14 annual report on the compliance by the district
15 courts and courts of appeals with the time limita-
16 tions under this section.”.

17 (b) TECHNICAL AMENDMENT.—The part analysis for
18 part IV of title 28, United States Code, is amended by
19 adding after the item relating to chapter 153 the following
20 new item:

**“154. Special habeas corpus procedures in capital
 cases 2261.”.**

1 **TITLE VI—PREVENTION OF**
 2 **TERRORISM**

3 **SEC. 601. WILLFUL VIOLATION OF FEDERAL AVIATION AD-**
 4 **MINISTRATION REGULATIONS.**

5 (a) IN GENERAL.—Chapter 2 of title 18, United
 6 States Code, as amended by section 60021(a) of the Vio-
 7 lent Crime Control and Safe Streets Act of 1968, is
 8 amended by adding at the end the following new section:

9 **“§ 38. Violations of Federal aviation security regula-**
 10 **tions**

11 “A person who willfully violates a security regulation
 12 under part 107 or 108 of title 14, Code of Federal Regula-
 13 tions (relating to airport and airline security) issued pur-
 14 suant to section 44901 or 44903 of title 49, United States
 15 Code, or a successor part, shall be fined under this title,
 16 imprisoned not more than 1 year, or both.”.

17 (b) TECHNICAL AMENDMENT.—The chapter analysis
 18 for chapter 2 of title 18, United States Code, as amended
 19 by section 719(b), is amended by adding at the end the
 20 following new item:

“38. Violations of Federal aviation security regulations.”.

1 **SEC. 602. ASSAULTS, MURDERS, AND THREATS AGAINST**
 2 **FORMER FEDERAL OFFICIALS IN PERFORM-**
 3 **ANCE OF OFFICIAL DUTIES.**

4 Section 115(a)(2) of title 18, United States Code, is
 5 amended by inserting “, or threatens to assault, kidnap,
 6 or murder, any person who formerly served as a person
 7 designated in paragraph (1), or” after “assaults, kidnaps,
 8 or murders, or attempts to kidnap or murder”.

9 **SEC. 603. WIRETAP AUTHORITY FOR ALIEN SMUGGLING**
 10 **AND RELATED OFFENSES AND INCLUSION OF**
 11 **ALIEN SMUGGLING AS A RICO PREDICATE.**

12 (a) IN GENERAL.—Section 2516(1) of title 18, Unit-
 13 ed States Code, is amended—

14 (1) in paragraph (c) by inserting after “section
 15 175 (relating to biological weapons),” the following:
 16 “or a felony violation under section 1028 (relating to
 17 production of false identification documentation),
 18 section 1542 (relating to false statements in pass-
 19 port applications), section 1546 (relating to fraud
 20 and misuse of visas, permits, and other docu-
 21 ments),”;

22 (2) by redesignating paragraphs (m), (n), and
 23 (o) as paragraphs (n), (o), and (p), respectively; and

24 (3) by inserting after paragraph (l) the follow-
 25 ing new paragraph:

1 “(m) a violation of (i) section 274 of the Immigration
2 and Nationality Act (8 U.S.C. 1324) (relating to alien
3 smuggling), (ii) section 277 of the Immigration and Na-
4 tionality Act (8 U.S.C. 1327) (relating to the smuggling
5 of aliens convicted of aggravated felonies or of aliens sub-
6 ject to exclusion on grounds of national security), or (iii)
7 section 278 of the Immigration and Nationality Act (8
8 U.S.C. 1328) (relating to smuggling of aliens for the pur-
9 pose of prostitution);”.

10 (b) DEFINITION OF RACKETEERING.—Section
11 1961(1) of title 18, United States Code, is amended—

12 (1) by striking “or” before “(E) any Act”; and

13 (2) by inserting after “Currency and Foreign
14 Transactions Reporting Act” the following: “, or (F)
15 any act (or conspiracy to commit any act) which is
16 indictable under section 274(a) (1) of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1324(a) (1))
18 (dealing with prohibitions on bringing in and harbor-
19 ing certain aliens)”.

20 **SEC. 604. AUTHORIZATION FOR INTERCEPTIONS OF COM-**
21 **MUNICATIONS IN CERTAIN TERRORISM-RE-**
22 **LATED OFFENSES.**

23 Section 2516(1)(c) of title 18, United States Code,
24 as amended by section 703, is further amended—

1 (1) in subsection (c), by inserting before “or
 2 section 1992 (relating to wrecking trains)” the fol-
 3 lowing: “section 2332 (relating to terrorist acts
 4 abroad), section 2332a (relating to weapons of mass
 5 destruction), section 2339A (relating to providing
 6 material support to terrorists), section 37 (relating
 7 to violence at airports),”; and

8 (2) by redesignating subparagraph (p) as sub-
 9 paragraph (q) and adding the following new sub-
 10 paragraph (p):

11 “(p) any violation of section 956 or section 960 of
 12 title 18, United States Code (relating to certain actions
 13 against foreign nations);”.

14 **SEC. 605. PARTICIPATION OF FOREIGN AND STATE GOV-**
 15 **ERNMENT PERSONNEL IN INTERCEPTIONS**
 16 **OF COMMUNICATIONS.**

17 Section 2518(5) of title 18, United States Code, is
 18 amended by inserting “(including personnel of a foreign
 19 government or of a State or subdivision of a State)” after
 20 “Government personnel”.

21 **SEC. 606. DISCLOSURE OF INTERCEPTED COMMUNICA-**
 22 **TIONS TO FOREIGN LAW ENFORCEMENT**
 23 **AGENCIES.**

24 Section 2510(7) of title 18, United States Code, is
 25 amended by inserting before the semicolon the following:

1 “and, for purposes of section 2517(1)–(2), any person au-
 2 thorized to perform investigative, law enforcement, or
 3 prosecutorial functions by a foreign government”.

4 **SEC. 607. ALIEN TERRORIST REMOVAL.**

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

7 “REMOVAL OF ALIEN TERRORISTS

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

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

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

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

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

21 “(5) the ‘special removal hearing’ means the
 22 hearing described in subsection (e) of this section.

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

1 “(1) the Attorney General or Deputy Attorney
2 General has approved of the proceeding under this
3 section;

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

6 “(3) removal of such alien terrorist by deporta-
7 tion proceedings described in sections 242, 242A, or
8 242B would pose a risk to the national security of
9 the United States because such proceedings would
10 disclose classified information.

11 “(c) SPECIAL COURT.—(1) The Chief Justice of the
12 United States shall publicly designate up to 7 judges from
13 up to 7 United States judicial districts to hear and decide
14 cases arising under this section, in a manner consistent
15 with the designation of judges described in section 103(a)
16 of the Foreign Intelligence Surveillance Act (50 U.S.C.
17 1803(a)).

18 “(2) The Chief Justice may, in the Chief Justice’s
19 discretion, designate the same judges under this section
20 as are designated pursuant to section 1803(a) of title 50,
21 United States Code.

22 “(d) INVOCATION OF SPECIAL COURT PROCE-
23 DURE.—(1) When the Attorney General makes the appli-
24 cation described in subsection (b), a single judge of the

1 special court shall consider the application in camera and
2 ex parte.

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

6 “(A) the alien who is the subject of the applica-
7 tion has been correctly identified;

8 “(B) a deportation proceeding described in sec-
9 tion 242, 242A, or 242B would pose a risk to the
10 national security of the United States because such
11 proceedings would disclose classified information;
12 and

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

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

20 “(2) The alien shall have a right to be present at such
21 hearing and to be represented by counsel. Any alien finan-
22 cially unable to obtain counsel shall be entitled to have
23 counsel assigned to represent such alien. Counsel may be
24 appointed as described in section 3006A of title 18, United
25 States Code.

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

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

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

14 “(A)(i) the substitution for such evidence of a
15 statement admitting relevant facts that the specific
16 evidence would tend to prove, or (ii) the substitution
17 for such evidence of a summary of the specific evi-
18 dence; or

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

24 “(6) If the judge determines—

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

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

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

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

18 “(2) If the determination in subsection (e)(6)(B) has
19 been made, the judge shall, considering the evidence re-
20 ceived (in camera and otherwise), require that the alien
21 be deported if the Attorney General proves, by clear, con-
22 vincing, and unequivocal evidence, that the alien is subject
23 to deportation because he is an alien as described in sec-
24 tion 241(a)(4)(B).

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

6 “(2) The Attorney General may appeal a determina-
7 tion under subsection (d), (e), or (f) to the court of appeals
8 for the Federal Circuit, by filing a notice of appeal with
9 such court within 20 days of the determination under any
10 one of such subsections.

11 “(3) When requested by the Attorney General, the
12 entire record of the proceeding under this section shall be
13 transmitted to the court of appeals under seal. The court
14 of appeals shall consider such appeal in camera and ex
15 parte.”.

16 **SEC. 608. TERRITORIAL SEA.**

17 (a) TERRITORIAL SEA EXTENDING TO TWELVE
18 MILES INCLUDED IN SPECIAL MARITIME AND TERRI-
19 TORIAL JURISDICTION.—The Congress declares that all
20 the territorial sea of the United States, as defined by Pres-
21 idential Proclamation 5928 of December 27, 1988, is part
22 of the United States, subject to its sovereignty, and, for
23 purposes of Federal criminal jurisdiction, is within the
24 special maritime and territorial jurisdiction of the United

1 States wherever that term is used in title 18, United
2 States Code.

3 (b) ASSIMILATED CRIMES IN EXTENDED TERRI-
4 TORIAL SEA.—Section 13 of title 18, United States Code
5 (relating to the adoption of State laws for areas within
6 Federal jurisdiction), is amended—

7 (1) in subsection (a), by inserting after “title”
8 the following: “or on, above, or below any portion of
9 the territorial sea of the United States not within
10 the territory of any State, Territory, Possession, or
11 District”; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(c) Whenever any waters of the territorial sea of the
15 United States lie outside the territory of any State, Terri-
16 tory, Possession, or District, such waters (including the
17 airspace above and the seabed and subsoil below, and arti-
18 ficial islands and fixed structures erected thereon) shall
19 be deemed for purposes of subsection (a) to lie within the
20 area of that State, Territory, Possession, or District it
21 would lie within if the boundaries of such State, Territory,
22 Possession, or District were extended seaward to the outer
23 limit of the territorial sea of the United States.”.

1 **SEC. 609. CLARIFICATION AND EXTENSION OF CRIMINAL**
2 **JURISDICTION OVER CERTAIN TERRORISM**
3 **OFFENSES OVERSEAS.**

4 (a) Section 46502(b) of title 49, United States Code
5 is amended—

6 (1) in paragraph (b)(1), by striking “, and later
7 found in the United States”;

8 (2) by amending paragraph (b)(2) to read as
9 follows:

10 “(2) The courts of the United States shall have juris-
11 diction over the offense in paragraph (1) if—

12 “(A) a national of the United States was
13 aboard the aircraft at the time of the offense;

14 “(B) an offender is a national of the United
15 States; or

16 “(C) an offender is later found in the United
17 States.”; and

18 (3) by adding at the end the following new
19 paragraph:

20 “(3) For purposes of this subsection, the term ‘na-
21 tional of the United States’ has the meaning prescribed
22 in section 101(a)(22) of the Immigration and Nationality
23 Act (8 U.S.C. 1101(a)(22)).”.

24 (b) Section 32(b) of title 18, United States Code, is
25 amended—

1 (1) by striking “, if the offender is later found
2 in the United States,”; and

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

5 “(5) The courts of the United States shall have juris-
6 diction over an offense in this subsection if—

7 “(A) a national of the United States was on
8 board, or would have been on board, the aircraft at
9 the time of the offense;

10 “(B) an offender is a national of the United
11 States; or

12 “(C) an offender is afterwards found in the
13 United States.

14 “(6) For purposes of this subsection, the term ‘na-
15 tional of the United States’ has the meaning prescribed
16 in section 101(a)(22) of the Immigration and Nationality
17 Act (8 U.S.C. 1101(a)(22)).”.

18 (c) Section 1116 of title 18, United States Code, is
19 amended—

20 (1) in subsection (b), by adding at the end the
21 following new paragraph:

22 “(7) ‘national of the United States’ has the
23 meaning prescribed in section 101(a)(22) of the Im-
24 migration and Nationality Act (8 U.S.C.
25 1101(a)(22)).”; and

1 (2) in subsection (c), by striking the first sen-
2 tence and inserting the following:

3 “If the victim of an offense under sub-
4 section (a) is an internationally protected per-
5 son outside the United States, the United
6 States may exercise jurisdiction over the offense
7 if (1) the victim is a representative, officer, em-
8 ployee, or agent of the United States, (2) an of-
9 fender is a national of the United States, or (3)
10 an offender is afterwards found in the United
11 States.”.

12 (d) Section 112 of title 18, United States Code, is
13 amended—

14 (1) in subsection (c), by inserting “, ‘national
15 of the United States,’ ” before “and”; and

16 (2) in subsection (e), by striking the first sen-
17 tence and inserting the following:

18 “If the victim of an offense under sub-
19 section (a) is an internationally protected per-
20 son outside the United States, the United
21 States may exercise jurisdiction over the offense
22 if (1) the victim is a representative, officer, em-
23 ployee, or agent of the United States, (2) an of-
24 fender is a national of the United States, or (3)

1 an offender is afterwards found in the United
2 States.”.

3 (e) Section 878 of title 18, United States Code, is
4 amended—

5 (1) in subsection (c), by inserting “, ‘national
6 of the United States,’ ” before “and”; and

7 (2) in subsection (d), by striking the first sen-
8 tence and inserting the following:

9 “If the victim of an offense under sub-
10 section (a) is an internationally protected per-
11 son outside the United States, the United
12 States may exercise jurisdiction over the offense
13 if (1) the victim is a representative, officer, em-
14 ployee, or agent of the United States, (2) an of-
15 fender is a national of the United States, or (3)
16 an offender is afterwards found in the United
17 States.”.

18 (f) Section 1201(e) of title 18, United States Code,
19 is amended—

20 (1) by striking the first sentence and inserting
21 the following:

22 “If the victim of an offense under sub-
23 section (a) is an internationally protected per-
24 son outside the United States, the United
25 States may exercise jurisdiction over the offense

1 if (1) the victim is a representative, officer, em-
2 ployee, or agent of the United States, (2) an of-
3 fender is a national of the United States, or (3)
4 an offender is afterwards found in the United
5 States.”; and

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

7 “For purposes of this subsection, the term
8 ‘national of the United States’ has the meaning
9 prescribed in section 101(a)(22) of the Immi-
10 gration and Nationality Act (8 U.S.C.
11 1101(a)(22)).”.

12 (g) Section 37(b)(2) of title 18, United States Code,
13 is amended—

14 (1) by inserting “(A)” before “the offender is
15 later found in the States”; and

16 (2) by inserting “or (B) an offender or a victim
17 is a national of the United States (as defined in sec-
18 tion 101(a)(22) of the Immigration and Nationality
19 Act, 8 U.S.C. 1101(a)(22))” after “the offender is
20 later found in the United States”.

21 (h) Section 831(c)(2) of title 18, United States Code,
22 is amended by striking “the defendant is a national of the
23 United States, as defined” and inserting “an offender or
24 a victim is a national of the United States, as defined”.

1 (i) Section 175(a) of title 18, United States Code,
2 is amended by inserting “(as defined in section 101(a)(22)
3 of the Immigration and Nationality Act, 8 U.S.C.
4 1101(a)(22))” after “national of the United States”.

5 **SEC. 610. FEDERAL AVIATION ADMINISTRATION REPORT-**
6 **ING RESPONSIBILITY.**

7 (a) IN GENERAL.—Chapter 449 of title 49, United
8 States Code, is amended by inserting after section 44901
9 the following new section:

10 **“§44901A. Discoveries of controlled substances or**
11 **cash in excess of \$10,000**

12 “Not later than 90 days after the date of the enact-
13 ment of this section, the Administrator shall issue regula-
14 tions requiring employees and agents referred to in sub-
15 section (a) to report to appropriate Federal and State law
16 enforcement officers any incident in which the employee
17 or agent, in the course of conducting screening procedures
18 pursuant to subsection (a), discovers a controlled sub-
19 stance the possession of which may be a violation of Fed-
20 eral or State law, or any sizable sums of cash in excess
21 of \$10,000 the possession of which may be a violation of
22 Federal or State law.”.

23 (b) TECHNICAL AMENDMENT.—The analysis for
24 chapter 449 of title 49, United States Code, is amended

1 by inserting after the item relating to section 44901 the
 2 following new item:

“44901A. Discoveries of controlled substances or cash in excess of \$10,000.”.

3 **SEC. 611. INFORMATION TRANSFER.**

4 Section 245A(c)(5)(C) of the Immigration and Na-
 5 tionality Act (8 U.S.C. 1255a(c)(5)(C)) is amended by
 6 striking “except that the Attorney General” and all that
 7 follows through “section 8 of title 13, United States
 8 Code.” and inserting “except that the Attorney General—

9 “(i) may authorize an application to a
 10 Federal court of competent jurisdiction for,
 11 and a judge of such court may grant, an
 12 order authorizing disclosure of information
 13 contained in the application of the alien
 14 (as a result of an investigation of the alien
 15 by an investigative officer or law enforce-
 16 ment officer) that is necessary to locate
 17 and identify the alien if—

18 “(I) such disclosure may result in
 19 the discovery of information leading
 20 the location and identity of the alien;
 21 and

22 “(II) such disclosure (and the in-
 23 formation discovered as a result of
 24 such disclosure) will be used only for
 25 criminal law enforcement purposes as

1 against the alien whose file is being
2 accessed;

3 “(ii) may furnish information under
4 this section with respect to an alien to an
5 official coroner (upon the written request
6 of the coroner) for the purposes of permit-
7 ting the coroner to identify a deceased in-
8 dividual; and

9 “(iii) may provide, in the Attorney
10 General’s discretion, for the furnishing of
11 information furnished under this section in
12 the same manner and circumstances as
13 census information may be disclosed to the
14 Secretary of Commerce under section 8 of
15 title 13, United States Code.”.

16 **SEC. 612. EXTRADITION.**

17 (a) SCOPE.—Section 3181 of title 18, United States
18 Code, is amended—

19 (1) by inserting “(a)” before “The provisions of
20 this chapter”; and

21 (2) by adding at the end the following new sub-
22 sections:

23 “(b) The provisions of this chapter shall be construed
24 to permit, in the exercise of comity, the surrender of per-
25 sons, other than citizens, nationals, or permanent resi-

1 dents of the United States, who have committed crimes
2 of violence against nationals of the United States in for-
3 eign countries without regard to the existence of any trea-
4 ty of extradition with such foreign government if the At-
5 torney General certifies, in writing, that—

6 “(1) evidence has been presented by the foreign
7 government that indicates that had the offenses been
8 committed in the United States, they would con-
9 stitute crimes of violence as defined under section 16
10 of this title; and

11 “(2) the offenses charged are not of a political
12 nature.

13 “(c) As used in this section, the term ‘national of the
14 United States’ has the meaning stated in section
15 101(a)(22) of the Immigration and Nationality Act (8
16 U.S.C. 1101(a)(22)).”.

17 (b) FUGITIVES.—Section 3184 of title 18, United
18 States Code, is amended—

19 (1) in the first sentence by inserting after
20 “United States and any foreign government,” the
21 following: “or in cases arising under section
22 3181(b),”;

23 (2) in the first sentence by inserting after
24 “treaty or convention,” the following: “or provided
25 for under section 3181(b),”;

1 (3) in the third sentence by inserting after
2 “treaty or convention,” the following: “or under sec-
3 tion 3181(b),”.

4 **SEC. 613. FEDERAL BUREAU OF INVESTIGATION REPORT.**

5 Not later than January 31, 1997, the Director of the
6 Federal Bureau of Investigations shall report to Congress
7 on the effectiveness of section 2339A of title 18, United
8 States Code (as added by section 120005(a) of the Violent
9 Crime Control and Law Enforcement Act of 1994). The
10 report shall include any recommendations of the Director
11 for changes in existing law that are needed to improve the
12 effectiveness of such section.

13 **SEC. 614. INCREASED PENALTIES FOR TERRORISM CRIMES.**

14 (a) Title 18, United States Code, is amended—

15 (1) in section 114, by striking “maim or dis-
16 figure” and inserting “torture, maim, or disfigure”;
17 and

18 (2) in section 371, by striking “\$10,000 or im-
19 prisoned not more than five years” and inserting
20 “\$10,000 in excess of the monetary gain from the
21 conspiracy, or imprisoned not more than twenty
22 years”;

23 (3) in section 755—

24 (A) by striking “\$2,000” and inserting
25 “\$5,000”;

1 (B) by striking “two years” and inserting
2 “five years”; and

3 (C) by striking “\$500” and inserting
4 “\$1,000”;

5 (4) in section 756, by striking “\$1,000 or im-
6 prisoned not more than one year” and inserting
7 “\$5,000 or imprisoned not more than five years”;

8 (5) in section 878(a), by striking “by killing,
9 kidnapping, or assaulting a foreign official, official
10 guest, or internationally protected person”;

11 (6) in section 1113, by striking “three years or
12 fined” and inserting “seven years”;

13 (7) in section 1114, by inserting “any member
14 of the United States Armed Forces who is engaged
15 in noncombat related official activities,” after “such
16 marshal or deputy marshal”;

17 (8) in section 1116(a), by inserting “or to
18 death,” after “imprisonment for life,”; and

19 (9) in section 2332(c), by striking “five” and
20 inserting “ten”.

21 (b) Section 1472(l)(1) of title 49 App., United States
22 Code is amended by striking “one” and inserting “ten”.

1 **SEC. 615. CRIMINAL OFFENSES COMMITTED OUTSIDE THE**
2 **UNITED STATES BY PERSONS ACCOMPANY-**
3 **ING THE ARMED FORCES.**

4 (a) Title 18, United States Code, is amended by in-
5 serting after chapter 211 the following:

6 **“CHAPTER 212—CRIMINAL OFFENSES**
7 **COMMITTED OUTSIDE THE UNITED**
8 **STATES**

9 **“§ 3261. Criminal offenses committed by persons for-**
10 **merly serving with, or presently em-**
11 **ployed by or accompanying, the Armed**
12 **Forces outside the United States**

13 “(a) Whoever, while serving with, employed by, or ac-
14 companying the Armed Forces outside the United States,
15 engages in conduct which would constitute an offense pun-
16 ishable by imprisonment for more than one year if the con-
17 duct had been engaged in within the special maritime and
18 territorial jurisdiction of the United States, shall be guilty
19 of a like offense and subject to a like punishment.

20 “(b) Nothing contained in this chapter deprives
21 courts-martial, military commissions, provost courts, or
22 other military tribunals of concurrent jurisdiction with re-
23 spect of offenders or offenses that by statute or by the
24 law of war may be tried by courts-martial, military com-
25 missions, provost courts, or other military tribunals.

1 “(c) No prosecution may be commenced under this
2 section if a foreign government, in accordance with juris-
3 diction recognized by the United States, has prosecuted
4 or is prosecuting such person for the conduct constituting
5 such offense, except upon the approval of the Attorney
6 General of the United States or the Deputy Attorney Gen-
7 eral of the United States (or a person acting in either such
8 capacity), which function of approval may not be dele-
9 gated.

10 “(d)(1) The Secretary of Defense may designate and
11 authorize any person serving in a law enforcement position
12 in the Department of Defense to arrest outside the United
13 States any person described in subsection (a) of this sec-
14 tion who there is probable cause to believe engaged in con-
15 duct which constitutes a criminal offense under such
16 section.

17 “(2) A person arrested under paragraph (1) of this
18 section shall be released to the custody of civilian law en-
19 forcement authorities of the United States for removal to
20 the United States for judicial proceedings in relation to
21 conduct referred to in such paragraph unless—

22 “(A) such person is delivered to authorities of
23 a foreign country under section 3262 of this title; or

1 “(B) such person has had charges preferred
2 against him under chapter 47 of title 10 for such
3 conduct.

4 **“§ 3262. Delivery to authorities of foreign countries**

5 “(a) Any person designated and authorized under
6 section 3261(d) of this title may deliver a person described
7 in section 3261(a) of this title to the appropriate authori-
8 ties of a foreign country in which such person is alleged
9 to have engaged in conduct described in such subsection
10 (a) of this section if—

11 “(1) the appropriate authorities of that country
12 request the delivery of the person to such country
13 for trial for such conduct as an offense under the
14 laws of that country; and

15 “(2) the delivery of such person to that country
16 is authorized by a treaty or other international
17 agreement to which the United States is a party.

18 “(b) The Secretary of Defense shall determine what
19 officials of a foreign country constitute appropriate au-
20 thorities for the purpose of this section.

21 **“§ 3263. Regulations**

22 ““The Secretary of Defense shall issue regulations
23 governing the apprehension, detention, and removal of
24 persons under this chapter. Such regulations shall be uni-
25 form throughout the Department of Defense.

1 **“§ 3264. Definitions for chapter**

2 “As used in this chapter—

3 “(1) a person is ‘employed by the armed forces
4 outside the United States’ if he or she is employed
5 as a civilian employee of a military department, as
6 a Department of Defense contractor, or as an em-
7 ployee of a Department of Defense contractor, is
8 present or residing outside the United States in con-
9 nection with such employment, and is not a national
10 of the host nation.

11 “(2) a person is ‘accompanying the armed
12 forces outside the United States’ if he or she is a
13 dependent of a member of the armed forces and is
14 residing with the member outside the United
15 States.”.

16 (b) The table of chapters at the beginning of part
17 II of title 18, United States Code, is amended by inserting
18 after the item relating to chapter 211 the following:

**“212. Criminal Offenses Committed Outside the United
States 3261”.**

1 **TITLE VII—MISCELLANEOUS**
 2 **AND TECHNICAL PROVISIONS**
 3 **Subtitle A—Elimination of Certain**
 4 **Programs**

5 **SEC. 701. ELIMINATION OF INEFFECTIVE PROGRAMS.**

6 Subtitles A through S and subtitles U and X of title
 7 III, title V, and title XXVII of the Violent Crime Control
 8 and Law Enforcement Act of 1994, and the amendments
 9 made thereby, are repealed.

10 **Subtitle B—Amendments Relating**
 11 **to Violent Crime Control**

12 **SEC. 711. VIOLENT CRIME AND DRUG EMERGENCY AREAS**
 13 **REPEAL.**

14 Section 90107 of the Violent Crime Control and Law
 15 Enforcement Act of 1994 is repealed.

16 **SEC. 712. EXPANSION OF 18 U.S.C. 1959 TO COVER COMMIS-**
 17 **SION OF ALL VIOLENT CRIMES IN AID OF**
 18 **RACKETEERING ACTIVITY AND INCREASED**
 19 **PENALTIES.**

20 Section 1959(a) of title 18, United States Code, is
 21 amended—

22 (1) by inserting “or commits any other crime of
 23 violence” before “or threatens to commit a crime of
 24 violence against”;

1 (2) in paragraph (4) by inserting “committing
2 any other crime of violence or for” before “threaten-
3 ing to commit a crime of violence”, and by striking
4 “five” and inserting “ten”;

5 (3) in paragraph (5) by striking “ten” and in-
6 serting “twenty”;

7 (4) in paragraph (6) by striking “or” before
8 “assault resulting in serious bodily injury,” by in-
9 serting “or any other crime of violence” after those
10 same words, and by striking “three” and inserting
11 “ten”; and

12 (5) by inserting “(as defined in section 1365 of
13 this title)” after “serious bodily injury” the first
14 place it appears.

15 **SEC. 713. AUTHORITY TO INVESTIGATE SERIAL KILLINGS.**

16 (a) Chapter 33 of title 28, United States Code, is
17 amended by adding after section 537 the following new
18 section:

19 **“§ 538. Investigation of serial killings**

20 “The Attorney General and the Federal Bureau of
21 Investigation may investigate serial killings in violation of
22 the laws of a State or political subdivision, when such in-
23 vestigation is requested by the head of a law enforcement
24 agency with investigative or prosecutive jurisdiction over
25 the offense. For purposes of this section—

1 “(1) the term ‘serial killings’ means a series of
2 three or more killings, at least one of which was
3 committed within the United States, having common
4 characteristics such as to suggest the reasonable
5 possibility that the crimes were committed by the
6 same actor or actors;

7 “(2) ‘killing’ means conduct that would con-
8 stitute an offense under section 1111 of title 18,
9 United States Code, if Federal jurisdiction existed;

10 “(3) and section 540, ‘State’ means a State of
11 the United States, the District of Columbia, and any
12 commonwealth, territory, or possession of the United
13 States.”.

14 (b) The table of contents for chapter 33 of title 28,
15 United States Code, is amended by inserting after the
16 item for section 537 the following:

 “538. Investigation of serial killings.”.

17 **SEC. 714. FIREARMS AND EXPLOSIVES CONSPIRACY.**

18 (a) Section 924 of title 18, United States Codes, is
19 amended by adding at the end the following new sub-
20 section:

21 “(o) Except as otherwise provided in this section, a
22 person who conspires to commit any offense defined in this
23 chapter shall be subject to the same penalties (other than
24 the penalty of death) as those prescribed for the offense

1 the commission of which was the object of the conspir-
2 acy.”.

3 (b) Section 844 of title 18, United States Code, is
4 amended by adding at the end the following new sub-
5 section:

6 “(n) Except as otherwise provided in this section, a
7 person who conspires to commit any offense defined in this
8 chapter shall be subject to the same penalties (other than
9 the penalty of death) as those prescribed for the offense
10 the commission of which was the object of the conspir-
11 acy.”.

12 **SEC. 715. INCREASED PENALTIES FOR VIOLENCE IN THE**
13 **COURSE OF RIOT OFFENSES.**

14 Section 2101(a) of title 18, United States Code, is
15 amended by striking “Shall be fined under this title, or
16 imprisoned not more than five years, or both” and insert-
17 ing “Shall be fined under this title or (i) if death results
18 from such act, be imprisoned for any term of years or for
19 life, or both; (ii) if serious bodily injury (as defined in sec-
20 tion 1365 of this title) results from such act, be impris-
21 oned for not more than twenty years, or both; or (iii) in
22 any other case, be imprisoned for not more than five years,
23 or both”.

1 **SEC. 716. PRETRIAL DETENTION FOR POSSESSION OF FIRE-**
2 **ARMS OR EXPLOSIVES BY CONVICTED FEL-**
3 **ONS.**

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

6 (1) by striking “or” at the end of subparagraph
7 (B);

8 (2) by striking the period at the end of sub-
9 paragraph (C) and inserting “; or”; and

10 (3) by adding after subparagraph (C) the fol-
11 lowing new subparagraph:

12 “(D) an offense that is a violation of sec-
13 tion 842(i) or 922(g) of this title (relating to
14 possession of explosives or firearms by convicted
15 felons).”.

16 **SEC. 717. ELIMINATION OF UNJUSTIFIED SCIENTER ELE-**
17 **MENT FOR CARJACKING.**

18 Section 2119 of title 18, United States Code, is
19 amended by striking “, with the intent to cause death or
20 serious bodily harm”.

21 **SEC. 718. THEFT OF VESSELS.**

22 (a) Section 2311 of title 18, United States Code, is
23 amended by adding at the end the following:

24 “‘Vessel’ means any watercraft or other contrivance
25 used or designed for transportation or navigation on,
26 under, or immediately above, water.”;

1 (b) Sections 2312 and 2313 of title 18, United States
2 Code, are each amended by striking “motor vehicle or air-
3 craft” and inserting “motor vehicle, vessel, or aircraft”.

4 **SEC. 719. CLARIFICATION OF AGREEMENT REQUIREMENT**
5 **FOR RICO CONSPIRACY.**

6 Section 1962(d) of title 18, United States Code, is
7 amended by adding at the end “For purposes of this sub-
8 section, it is not necessary to establish that the defendant
9 agreed personally to commit any acts of racketeering
10 activity.”

11 **SEC. 720. ADDITION OF ATTEMPT COVERAGE FOR INTER-**
12 **STATE DOMESTIC VIOLENCE OFFENSE.**

13 Section 2261(a) of title 18, United States Code, is
14 amended—

15 (1) in subsection (a)(1) by inserting “or at-
16 tempts to do so,” after “thereby causes bodily injury
17 to such spouse or intimate partner,”; and

18 (2) in subsection (a)(2) by inserting “or at-
19 tempts to do so,” after “thereby causes bodily injury
20 to the person’s spouse or intimate partner,”.

21 **SEC. 721. ADDITION OF FOREIGN MURDER AS A MONEY**
22 **LAUNDERING PREDICATE.**

23 Section 1956(c)(7)(B)(ii) of title 18, United States
24 Code, is amended by inserting “murder,” before “kidnap-
25 ping”.

1 **SEC. 722. ASSAULTS OR OTHER CRIMES OF VIOLENCE FOR**
2 **HIRE.**

3 Section 1958(a) of title 18, United States Code, is
4 amended by inserting “or other felony crime of violence
5 against the person” after “murder”.

6 **SEC. 723. THREATENING TO USE A WEAPON OF MASS DE-**
7 **STRUCTION.**

8 Section 2332a(a) of title 18, United States Code, is
9 amended by inserting “or threatens” before “or attempts
10 or conspires to use, a weapon of mass destruction”.

11 **SEC. 724. TECHNICAL AMENDMENTS.**

12 Section 60002 of the Violent Crime Control and Law
13 Enforcement Act of 1994 is amended—

14 (1) by striking the words “pursuant to this
15 chapter” in section 3596 of title 18; and

16 (2) by striking section 3597(a) of title 18 and
17 replacing it with:

18 “(a) IN GENERAL.—A United States marshal
19 charged with supervising the implementation of a sentence
20 of death shall use appropriate Federal facilities for the
21 purpose.”.

1 **Subtitle C—Amendments Relating**
2 **to Courts and Sentencing**

3 **SEC. 731. ALLOWING A REDUCTION OF SENTENCE FOR**
4 **PROVIDING USEFUL INVESTIGATIVE INFOR-**
5 **MATION ALTHOUGH NOT REGARDING A PAR-**
6 **TICULAR INDIVIDUAL.**

7 Section 3553(e) of title 18, United States Code, sec-
8 tion 994(n) of title 28, United States Code, and Rule
9 35(b) of the Federal Rules of Criminal Procedure are each
10 amended by striking “substantial assistance in the inves-
11 tigation or prosecution of another person who has commit-
12 ted an offense” and inserting “substantial assistance in
13 an investigation of any offense or the prosecution of an-
14 other person who has committed an offense”.

15 **SEC. 732. APPEALS FROM CERTAIN DISMISSALS.**

16 Section 3731 of title 18, United States Code, is
17 amended by inserting “or any part thereof” after “as to
18 any one or more counts”.

19 **SEC. 733. ELIMINATION OF OUTMODED CERTIFICATION RE-**
20 **QUIREMENT FROM THE GOVERNMENT AP-**
21 **PEAL STATUTE.**

22 Section 3731 of title 18, United States Code, is
23 amended in the second paragraph by striking “, if the
24 United States attorney certifies to the district court that
25 the appeal is not taken for purpose of delay and that the

1 evidence is a substantial proof of a fact material in the
2 proceeding”.

3 **SEC. 734. CLARIFICATION OF MEANING OF OFFICIAL DE-**
4 **TENTION FOR PURPOSES OF CREDIT FOR**
5 **PRIOR CUSTODY.**

6 Section 3585(b) of title 18, United States Code, is
7 amended by adding at the end: “For purposes of this sub-
8 section, ‘official detention’ does not include detention at
9 a community-based treatment or correctional facility.”.

10 **SEC. 735. LIMITATION ON REDUCTION OF SENTENCE FOR**
11 **SUBSTANTIAL ASSISTANCE OF DEFENDANT.**

12 (a) Section 994(n) of title 18, United States Code,
13 is amended by adding the following at the end thereof:
14 “The power to reduce a sentence under this section au-
15 thorizes a court to impose a sentence that is below a level
16 established by statute as a minimum sentence only on mo-
17 tion of the government specifically seeking reduction below
18 such level.”.

19 (b) Rule 35(b) of the Federal Rules of Criminal Pro-
20 cedure is amended by adding “only if the motion of the
21 government specifically seeks reduction below such level”
22 after “minimum sentence”.

1 **SEC. 736. IMPROVEMENT OF HATE CRIMES SENTENCING**
2 **PROCEDURE.**

3 Section 280003(b) of Public Law 103–322 is amend-
4 ed by striking “the finder of fact at trial” and inserting
5 “the court at sentencing”.

6 **SEC. 737. CLARIFICATION OF LENGTH OF SUPERVISED RE-**
7 **LEASE TERMS IN CONTROLLED SUBSTANCE**
8 **CASES.**

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

14 **SEC. 738. AUTHORITY OF COURT TO IMPOSE A SENTENCE**
15 **OF PROBATION OR SUPERVISED RELEASE**
16 **WHEN REDUCING A SENTENCE OF IMPRISON-**
17 **MENT IN CERTAIN CASES.**

18 Section 3582(c)(1)(A) of title 18, United States
19 Code, is amended by inserting “(and may impose a sen-
20 tence of probation or supervised release with or without
21 conditions)” after “may reduce the term of imprison-
22 ment”.

23 **SEC. 739. EXTENSION OF PAROLE COMMISSION TO DEAL**
24 **WITH “OLD LAW” PRISONERS.**

25 For the purposes of section 235(b) of Public Law 98–
26 473 as it relates to chapter 311 of title 18, United States

1 Code, and the United States Parole Commission, each ref-
 2 erence in such section to “ten years” or a “ten-year pe-
 3 riod” shall be deemed a reference to “fifteen years” or
 4 a “fifteen-year period”, respectively. Notwithstanding the
 5 provisions of section 4203 of title 18, United States Code,
 6 the United States Parole Commission is authorized to per-
 7 form its functions with any quorum of Commissioners, or
 8 Commissioner, currently holding office, as the Commission
 9 may prescribe by regulation.

10 **SEC. 740. CONFORMING AMENDMENTS RELATING TO SU-**
 11 **PERVISED RELEASE.**

12 (a) Sections 1512(a)(1)(C), 1512(b)(3), 1512(c)(2),
 13 1513(a)(1)(B), and 1513(b)(2) are each amended by
 14 striking “violation of conditions of probation, parole or re-
 15 lease pending judicial proceedings” and inserting “viola-
 16 tion of conditions of probation, supervised release, parole,
 17 or release pending judicial proceedings”.

18 (b) Section 3142 of title 18, United States Code, is
 19 amended—

20 (1) in subsection (d)(1), by inserting “, super-
 21 vided release,” after “probation”; and

22 (2) in subsection (g)(3), by inserting “or super-
 23 vided release” after “probation”.

1 **SEC. 741. REPEAL OF OUTMODED PROVISIONS BARRING**
2 **FEDERAL PROSECUTION OF CERTAIN OF-**
3 **FENSES.**

4 (a) Sections 659 and 2117 of title 18, United States
5 Code, are each amended by striking the first sentence of
6 the last undesignated paragraph;

7 (b) Sections 660 and 1992 of title 18, United States
8 Code, are each amended by striking the last undesignated
9 paragraph;

10 (c) Section 2101 of title 18, United States Code, is
11 amended by striking subsection (c) and by redesignating
12 subsections (d), (e), and (f) as subsections (c), (d), and
13 (e), respectively;

14 (d) Section 80a–36 of title 15, United States Code,
15 is amended by striking the last sentence;

16 (e) Section 1282 of title 15, United States Code, is
17 repealed.

18 **Subtitle D—Miscellaneous**
19 **Amendments**

20 **SEC. 751. CONFORMING ADDITION TO OBSTRUCTION OF**
21 **CIVIL INVESTIGATIVE DEMAND STATUTE.**

22 Section 1505 of title 18, United States Code, is
23 amended by inserting “section 1968 of this title or” before
24 “the Antitrust Civil Process Act”.

1 **SEC. 752. ADDITION OF ATTEMPTED THEFT AND COUNTER-**
2 **FEITING OFFENSES TO ELIMINATE GAPS AND**
3 **INCONSISTENCIES IN COVERAGE.**

4 (a)(1) Section 153 of title 18, United States Code,
5 is amended by inserting “, or attempts so to appropriate,
6 embezzle, spend or transfer,” before “any property”.

7 (2) Section 641 of title 18, United States Code, is
8 amended by striking “or” at the end of the first paragraph
9 and by inserting after such paragraph the following:
10 “Whoever attempts to commit an offense described in the
11 preceding paragraph; or”.

12 (3) Section 655 of title 18, United States Code, is
13 amended by inserting “or attempts to steal or so take,”
14 after “unlawfully takes,”.

15 (4) Sections 656 and 657 of title 18, United States
16 Code, are each amended—

17 (A) by inserting “, or attempts to embezzle, ab-
18 stract, purloin, or willfully misapply,” after “willfully
19 misapplies”; and

20 (B) by inserting “or attempted to be embezzled,
21 abstracted, purloined, or misapplied” after “mis-
22 applied”.

23 (5) Section 658 of title 18, United States Code, is
24 amended by inserting “or attempts so to remove, dispose
25 of, or convert,” before “any property”.

1 (6) Section 659 of title 18, United States Code, is
2 amended—

3 (A) in the first and third paragraphs by insert-
4 ing “or attempts to embezzle, steal, or so take or
5 carry away,” after “carries away,”; and

6 (B) in the fourth paragraph by inserting “or at-
7 tempts to embezzle, steal, or so take,” before “from
8 any railroad car”.

9 (7) Section 661 of title 18, United States Code, is
10 amended—

11 (A) by inserting “or attempts so to take and
12 carry away,” before “any personal property”; and

13 (B) by inserting “or attempted to be taken”
14 after “taken” each place it appears;

15 (8) Section 664 of title 18, United States Code, is
16 amended by inserting “or attempts to embezzle, steal, or
17 so abstract or convert,” before “any of the moneys”.

18 (9) Section 665(a) of title 18, United States Code,
19 is amended—

20 (A) by inserting “, or attempts to embezzle, so
21 misapply, steal, or obtain by fraud,” before “any of
22 the moneys”; and

23 (B) by inserting “or attempted to be embezzled,
24 misapplied, stolen, or obtained by fraud” after “ob-
25 tained by fraud”.

1 (10) Section 666(a) (1) (A) of title 18, United States
2 Code, is amended by inserting “or attempts to embezzle,
3 steal, obtain by fraud, or so convert or misapply,” before
4 “property”.

5 (11) Section 1025 of title 18, United States Code,
6 is amended—

7 (A) by inserting “or attempts to obtain” after
8 “obtains”; and

9 (B) by inserting “or attempted to be obtained”
10 after “obtained”.

11 (12) Section 1163 of title 18, United States Code,
12 is amended by inserting “attempts so to embezzle, steal,
13 convert, or misapply,” after “willfully misapplies,”.

14 (13) Sections 1167 (a) and (b) of title 18, United
15 States Code, are each amended by inserting “or attempts
16 so to abstract, purloin, misapply, or take and carry away,”
17 before “any money”.

18 (14) Sections 1168 (a) and (b) of title 18, United
19 States Code, are each amended by inserting “or attempts
20 so to embezzle, abstract, purloin, misapply, or take and
21 carry away,” before “any moneys,”.

22 (15) Section 1707 of title 18, United States Code,
23 is amended by inserting “, or attempts to steal, purloin,
24 or embezzle,” before “any property” and by inserting “or
25 attempts to appropriate” after “appropriates”.

1 (16) Section 1708 of title 18, United States Code,
2 is amended in the second paragraph by inserting “or at-
3 tempts to steal, take, or abstract,” after “abstracts,” and
4 by inserting “, or attempts so to obtain,” after “obtains”.

5 (17) Section 1709 of title 18, United States Code,
6 is amended—

7 (A) by inserting “or attempts to embezzle”
8 after “embezzles”; and

9 (B) by inserting “, or attempts to steal, ab-
10 stract, or remove,” after “removes”.

11 (18) Section 2113(b) of title 18, United States Code,
12 is amended by inserting “or attempts so to take and carry
13 away,” before “any property” each place it appears.

14 (b)(1) Section 477 of title 18, United States Code,
15 is amended by inserting “, or attempts so to sell, give,
16 or deliver,” before “any such imprint”.

17 (2) Section 479 of title 18, United States Code, is
18 amended by inserting “or attempts to utter or pass,” after
19 “passes,”.

20 (3) Section 490 of title 18, United States Code, is
21 amended by inserting “attempts to pass, utter, or sell,”
22 before “or possesses”.

23 (4) Section 513(a) of title 18, United States Code,
24 is amended by inserting “or attempts to utter,” after
25 “utters”.

1 **SEC. 753. CLARIFICATION OF SCIENTER REQUIREMENT**
2 **FOR RECEIVING PROPERTY STOLEN FROM**
3 **AN INDIAN TRIBAL ORGANIZATION.**

4 Section 1163 of title 18, United States Code, is
5 amended in the second paragraph by striking “so”.

6 **SEC. 754. LARCENY INVOLVING POST OFFICE BOXES AND**
7 **POSTAL STAMP VENDING MACHINES.**

8 Section 2115 of title 18, United States Code, is
9 amended—

10 (1) by striking “or” before “any building”;

11 (2) by inserting “or any post office box or post-
12 al stamp vending machine within such a building,”
13 after “used in whole or in part as a post office,”;
14 and

15 (3) by inserting “or in such box or machine,”
16 after “so used”.

17 **SEC. 755. CONFORMING AMENDMENT TO LAW PUNISHING**
18 **OBSTRUCTION OF JUSTICE BY NOTIFICATION**
19 **OF EXISTENCE OF A SUBPOENA FOR**
20 **RECORDS IN CERTAIN TYPES OF INVESTIGA-**
21 **TIONS.**

22 Section 1510(b)(3)(B) of title 18, United States
23 Code, is amended—

24 (1) by striking “or” at the end of subparagraph
25 (i);

1 (2) by striking the period and inserting “; or”
2 at the end of subparagraph (ii); and

3 (3) by adding the following new subparagraph:

4 “(iii) the Controlled Substances Act,
5 the Controlled Substances Import and Ex-
6 port Act, or section 60501 of the Internal
7 Revenue Code of 1986.”.

8 **SEC. 756. CLOSING LOOPHOLE IN OFFENSE OF ALTERING**
9 **OR REMOVING MOTOR VEHICLE IDENTIFICA-**
10 **TION NUMBERS.**

11 Section 511(c)(1) of title 18, United States Code, is
12 amended —

13 (1) by inserting “(i)” after “for purposes of
14 identification”; and

15 (2) by inserting before the semicolon “or
16 “(ii) which can be correlated to a par-
17 ticular motor vehicle or part”.

18 **SEC. 757. APPLICATION OF VARIOUS OFFENSES TO POSSES-**
19 **SIONS AND TERRITORIES.**

20 (a) Sections 241 and 242 of title 18, United States
21 Code, are each amended by striking “any State, Territory,
22 or District” and inserting “any State, Territory, Common-
23 wealth, Possession, or District”.

24 (b) Sections 793(h)(1) and 794(d)(1) of title 18,
25 United States Code, are each amended by adding at the

1 end the following: “For the purposes of this subsection,
2 the term ‘State’ includes a State of the United States, the
3 District of Columbia, and any commonwealth, territory,
4 or possession of the United States.”.

5 (c) Section 925(a)(5) of title 18, United States Code,
6 is amended by striking “For the purpose of paragraphs
7 (3) and (4)” and inserting “For the purpose of paragraph
8 (3)”.

9 (d) Sections 1014 and 2113(g) of title 18, United
10 States Code, are each amended by adding at the end the
11 following: “The term ‘State-chartered credit union’ in-
12 cludes a credit union chartered under the laws of a State
13 of the United States, the District of Columbia, or any
14 commonwealth, territory, or possession of the United
15 States.”.

16 (e) Section 1073 of title 18, United States Code, is
17 amended by adding at the end of the first paragraph the
18 following: “For the purposes of clause (3) of this para-
19 graph, the term ‘State’ includes a State of the United
20 States, the District of Columbia, and any commonwealth,
21 territory, or possession of the United States.”.

22 (f) Section 1715 of title 18, United States Code, is
23 amended by striking “State, Territory, or District” each
24 place those words appear and inserting “State, Territory,
25 Commonwealth, Possession, or District”.

1 (g) Section 1716 of title 18, United States Code, is
2 amended—

3 (1) in subsection (g)(2) by striking “State, Ter-
4 ritory, or the District of Columbia” and inserting
5 “State”;

6 (2) in subsection (g)(3) by striking “the munici-
7 pal government of the District of Columbia or of the
8 government of any State or territory, or any county,
9 city or other political subdivision of a State” and in-
10 serting “any State, or any political subdivision of a
11 State”; and

12 (3) by inserting a new subsection (j), as follows:

13 “(j) For purposes of this section, the term ‘State’ in-
14 cludes a State of the United States, the District of Colum-
15 bia, and any commonwealth, territory, or possession of the
16 United States.”.

17 (h) Section 1761 of title 18, United States Code, is
18 amended by adding at the end a new subsection, as
19 follows:

20 “(d) For the purposes of this section, the term ‘State’
21 means a State of the United States and any common-
22 wealth, territory, or possession of the United States.”.

23 (i) Section 3156(a) of title 18, United States Code,
24 is amended—

1 (1) by striking “and” at the end of paragraph
2 (3);

3 (2) by striking the period and inserting “; and”
4 at the end of paragraph (4); and

5 (3) by adding a new paragraph (5), as follows:

6 “(5) the term ‘State’ includes a State of the
7 United States, the District of Columbia, and any
8 commonwealth, territory, or possession of the United
9 States.”.

10 (j) Section 102(26) of the Controlled Substances Act
11 (21 U.S.C. 802(26)) is amended to read as follows:

12 “(26) the term ‘State’ means a State of the
13 United States, the District of Columbia and any
14 commonwealth, territory, or possession of the United
15 States.”.

16 (k) Section 1121 of title 18, United States Code, is
17 amended by inserting at the end a new subsection (c) as
18 follows:

19 “(c) For the purposes of this section, the term ‘State’
20 means a State of the United States, the District of Colum-
21 bia, and any commonwealth, territory, or possession of the
22 United States.”.

23 (l) Section 228(d)(2) of title 18, United States Code,
24 is amended by inserting “commonwealth,” before “posses-
25 sion or territory of the United States”.

1 **SEC. 758. ADJUSTING AND MAKING UNIFORM THE DOLLAR**
2 **AMOUNTS USED IN TITLE 18 TO DISTINGUISH**
3 **BETWEEN GRADES OF OFFENSES.**

4 (a) Sections 215, 288, 641, 643, 644, 645, 646, 647,
5 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658,
6 659, 661, 662, 665, 872, 1003, 1025, 1163, 1361, 1707,
7 1711, and 2113 of title 18, United States Code, are each
8 amended by striking “\$100” each place it appears and
9 inserting “\$1,000”.

10 (b) Section 510 of title 18, United States Code, is
11 amended by striking “\$500” and inserting “\$1,000”.

12 (c) Section 1864 of title 18, United States Code, is
13 amended by striking “\$10,000” and inserting “\$1,000”.

14 **SEC. 759. CONFORMING AMENDMENT CONCERNING MARI-**
15 **JUANA PLANTS.**

16 Section 1010(b)(4) of the Controlled Substances Im-
17 port and Export Act (21 U.S.C. 960(b)(4)) is amended
18 by striking “except in the case of 100 or more marihuana
19 plants” and inserting “except in the case of 50 or more
20 marihuana plants”.

21 **SEC. 760. ACCESS TO CERTAIN RECORDS.**

22 Section 551 of title 47, United States Codes, is
23 amended by adding at the end the following new sub-
24 section:

25 “(i) LIMITED EXCEPTION FOR FEDERAL GRAND
26 JURY PROCEEDING.—Nothing in this section shall apply

1 to any subpoena or court order issued to a cable operator
2 for basic subscriber information in connection with pro-
3 ceedings before a Federal grand jury. A court shall have
4 authority to order a cable operator not to notify the sub-
5 scriber of the existence of a subpoena or court order to
6 which this subsection is applicable. For purposes of this
7 subsection, the term ‘basic subscriber information’ means
8 information stating whether or not a person is or was a
9 subscriber and the name and address (past or present)
10 of a subscriber.”

11 **SEC. 761. CLARIFICATION OF INAPPLICABILITY OF 18 U.S.C.**

12 **2515 TO CERTAIN DISCLOSURES.**

13 Section 2515 of title 18, United States Code, is
14 amended by adding at the end the following: “This section
15 shall not apply to the disclosure by the United States, a
16 State, or political subdivision in a criminal trial or hearing
17 or before a grand jury of the contents of a wire or oral
18 communication, or evidence derived therefrom, the inter-
19 ception of which was in violation of section 2511(2)(d) (re-
20 lating to certain interceptions not under color of law).”.

1 **SEC. 762. CLARIFYING OR CONFORMING AMENDMENTS**
2 **ARISING FROM THE ENACTMENT OF PUBLIC**
3 **LAW 103-322.**

4 (a) Section 3286 of title 18, United States Code, is
5 amended by striking “any offense” and inserting “any
6 non-capital offense”.

7 (b) Section 5032 of title 18, United States Code, is
8 amended by striking “1111, 1113” and inserting “1111,
9 1112, 1113”.

10 (c) Section 81 of title 18, United States Code, is
11 amended by striking “fined under this title or imprisoned
12 not more than five years” and inserting “imprisoned not
13 more than twenty years or fined the greater of the fine
14 under this title or the cost of repairing or replacing any
15 property that is damaged or destroyed”.

16 (d)(1)(A) Chapter 213 of title 18, United States
17 Code, is amended by adding at the end a new section, as
18 follows:

19 **“§ 3294. Arson offenses**

20 “No person shall be prosecuted, tried, or punished
21 for any noncapital offense under sections 81, 844 (f), (h),
22 or (i) of this title unless the indictment is found or the
23 information is instituted within 10 years after the date
24 on which the offense was committed.”

1 (B) The chapter index for chapter 213 of title 18,
2 United States Code, is amended by inserting at the end
3 the following:

“3294. Arson offenses.”.

4 (2) Section 844(i) of title 18, United States Code,
5 is amended by striking the last sentence.

6 (e) Section 704(b)(2) of title 18, United States Code,
7 is amended by striking “with respect to a Congressional
8 Medal of Honor”.

9 (f) Section 408 of the Controlled Substances Act (21
10 U.S.C. 848) is amended—

11 (1) by striking subsections (g)–(p), (g)(1)–(3),
12 and (r); and

13 (2) by redesignating subsections (g)(4)–(10) as
14 (f)(1)–(7).

15 (g) Sections 2261(b)(3) and 2262(b)(3) of title 18,
16 United States Code, are each amended by inserting “(as
17 defined in section 1365 of this title)” after “serious bodily
18 injury”.

19 (h)(1) Section 2261 of title 18, United States Code,
20 is amended—

21 (A) in paragraph (a)(1) by striking “with the
22 intent to injure, harass, or intimidate” and inserting
23 “with the intent to kill, injure, harass, or intimi-
24 date”; and

1 (B) in paragraphs (a)(1) and (a)(2) by insert-
2 ing “or death” after “and thereby causes bodily in-
3 jury”.

4 (2) Section 2262 of title 18, United States Code, is
5 amended—

6 (A) in paragraph (a)(1) by inserting “or death”
7 after “bodily injury”; and

8 (B) in paragraph (a)(2) by striking “commits
9 an act that injures” and inserting “commits an act
10 that causes bodily injury or death to”.

11 **SEC. 763. TECHNICAL AMENDMENTS.**

12 (a) Section 112 of title 18, United States Code, is
13 amended by striking “fined not more than \$10,000” and
14 inserting “fined under this title”.

15 (b) Sections 152, 153, and 154 of title 18, United
16 States Code, are each amended by striking “fined not
17 more than \$5,000” and inserting “fined under this title”.

18 (c) Section 970 of title 18, United States Code, is
19 amended by striking “fined not more than \$500” and in-
20 serting “fined under this title”.

21 (d) Sections 922(a)(2) and (a)(3) of title 18, United
22 States Code, are each amended by striking “subsection
23 (B)(3)” and inserting “subsection (b)(3)”.

24 (e) Section 844(h) of title 18, United States Code,
25 is amended—

1 (1) by striking “be sentenced to imprisonment
2 for 5 years but not more than 15 years” and insert-
3 ing “be sentenced to imprisonment for a minimum
4 of 5 and a maximum of 15 years”; and

5 (2) by striking “be sentenced to imprisonment
6 for 10 years but not more than 25 years” and in-
7 serting “be sentenced to imprisonment for a mini-
8 mum of 10 and a maximum of 25 years”.

9 (f) Section 3582(c)(1)(A)(i) of title 18, United States
10 Code, is amended by inserting “or” after the semicolon.

11 (g) Section 2516(1)(l) of title 18, United States
12 Code, is amended by striking “or” after the semicolon.

13 (h) Section 5032 of title 18, United States Code, is
14 amended by inserting “or as authorized under section
15 3401(g) of this title” after “shall proceed by information”.

16 (i) Section 1114 of title 18, United States Code, is
17 amended by striking “1112.,” and inserting “1112.”.

18 (j) Section 3553(f) of title 18, United States Code,
19 is amended by striking “section 1010 or 1013 of the Con-
20 trolled Substances Import and Export Act (21 U.S.C. 961,
21 963)” and inserting “section 1010 or 1013 of the Con-
22 trolled Substances Import and Export Act (21 U.S.C. 960,
23 963)”.

1 (k) Section 1961(1)(D) of title 18, United States
2 Code, is amended by striking “that title” and inserting
3 “this title”.

4 (l) Section 1510(b)(2)(B) of title 18, United States
5 Code, is amended by striking “that subpoena” the first
6 place it appears and inserting “that subpoena for
7 records”.

8 (m) Section 3286 of title 18, United States Code, is
9 amended—

- 10 (1) by striking “2331” and inserting “2332;
11 (2) by striking “2339” and inserting “2332a”;
12 and
13 (3) by striking “36” and inserting “37”.

14 (n) Section 2339A of title 18, United States Code
15 is amended—

- 16 (1) by striking “2331” and inserting “2332;
17 (2) by striking “2339” and inserting “2332a”;
18 (3) by striking “36” and inserting “37”; and
19 (4) by striking “of an escape” and inserting “or
20 an escape”.

21 (o) Section 2340(1) of title 18, United States Code,
22 is amended by striking “with custody” and inserting
23 “within his or her custody”.

24 (p) Section 504 of title 18, United States Code, is
25 amended—

1 (1) in paragraph (2) by striking “The” the first
 2 place it appears and inserting “the”; and

3 (2) in paragraph (3) by striking “importation,
 4 of - motion-picture films” and inserting “importa-
 5 tion of motion-picture films”.

6 (q) Section 924(a) of title 18, United States Code,
 7 is amended by redesignating the second paragraph (5) (re-
 8 lating to violations of section 922(x)) as paragraph (6).

9 **SEC. 764. SEVERABILITY.**

10 If any provision of this Act, an amendment made by
 11 this Act, or the application of such provision or amend-
 12 ment to any person or circumstance is held to be unconsti-
 13 tutional, the remainder of this Act, the amendments made
 14 by this Act, and the application of the provisions of such
 15 to any person or circumstance shall not be affected there-
 16 by.

○

S 3 IS—2

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