

104TH CONGRESS
1ST SESSION

S. 735

AN ACT

To prevent and punish acts of terrorism, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Terror-
5 ism Prevention Act of 1995”.

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1 **TITLE I—SUBSTANTIVE**
2 **CRIMINAL LAW ENHANCEMENTS**

3 **SEC. 101. INCREASED PENALTY FOR CONSPIRACIES IN-**
4 **VOLVING EXPLOSIVES.**

5 Section 844 of title 18, United States Code, is
6 amended by adding at the end the following new sub-
7 section:

8 “(n) Except as otherwise provided in this section, a
9 person who conspires to commit any offense defined in this
10 chapter shall be subject to the same penalties (other than
11 the penalty of death) as those prescribed for the offense
12 the commission of which was the object of the conspir-
13 acy.”.

14 **SEC. 102. ACTS OF TERRORISM TRANSCENDING NATIONAL**
15 **BOUNDARIES.**

16 (a) REDESIGNATION.—(1) Chapter 113B of title 18,
17 United States Code (relating to torture) is redesignated
18 as chapter 113C.

19 (2) The chapter analysis of title 18, United States
20 Code, is amended by striking “113B” the second place
21 it appears and inserting “113C”.

22 (b) OFFENSE.—Chapter 113B of title 18, United
23 States Code, is amended by inserting after section 2332a
24 the following new section:

1 **“§ 2332b. Acts of terrorism transcending national**
2 **boundaries**

3 “(a) PROHIBITED ACTS.—

4 “(1) Whoever, in a circumstance described in
5 subsection (b), commits an act within the United
6 States that if committed within the special maritime
7 and territorial jurisdiction of the United States
8 would be in violation of section 113(a), (1), (2), (3),
9 (6), or (7), 114, 1111, 1112, 1201, or 1363 shall be
10 punished as prescribed in subsection (c).

11 “(2) Whoever threatens, attempts, or conspires
12 to commit an offense under paragraph (1) shall be
13 punished under subsection (c).

14 “(b) JURISDICTIONAL BASES.—

15 “(1) This section applies to conduct described
16 in subsection (a) if—

17 “(A) the mail, or any facility utilized in
18 interstate commerce, is used in furtherance of
19 the commission of the offense;

20 “(B) the offense obstructs, delays, or af-
21 fects interstate or foreign commerce in any way
22 or degree, or would have obstructed, delayed, or
23 affected interstate or foreign commerce if the
24 offense had been consummated;

25 “(C) the victim or intended victim is the
26 United States Government or any official, offi-

1 cer, employee, or agent of the legislative, execu-
2 tive, or judicial branches, or of any department
3 or agency, of the United States;

4 “(D) the structure, conveyance, or other
5 real or personal property was in whole or in
6 part owned, possessed, or used by, or leased to
7 the United States, or any department or agency
8 thereof;

9 “(E) the offense is committed in the terri-
10 torial sea (including the airspace above and the
11 seabed and subsoil below, and artificial islands
12 and fixed structures erected thereon) of the
13 United States; or

14 “(F) the offense is committed in places
15 within the United States that are in the special
16 maritime and territorial jurisdiction of the
17 United States.

18 “(2) Jurisdiction shall exist over all principals,
19 coconspirators, and accessories after the fact, of an
20 offense under subsection (a) if at least one of the
21 circumstances described in paragraph (1) is applica-
22 ble to at least one offender.

23 “(c) PENALTIES.—

1 “(1) Whoever violates this section shall, in addi-
2 tion to the punishment provided for any other crime
3 charged in the indictment, be punished—

4 “(A) if death results to any person, by
5 death, or by imprisonment for any term of
6 years or for life;

7 “(B) for kidnapping, by imprisonment for
8 any term of years or for life;

9 “(C) for maiming, by imprisonment for not
10 more than 35 years;

11 “(D) for assault with intent to commit
12 murder or any other felony or with a dangerous
13 weapon or assault resulting in serious bodily in-
14 jury, by imprisonment for not more than 30
15 years;

16 “(E) for destroying or damaging any
17 structure, conveyance, or other real or personal
18 property, by imprisonment for not more than
19 25 years;

20 “(F) for attempting or conspiring to com-
21 mit the offense, for any term of years up to the
22 maximum punishment that would have applied
23 had the offense been completed; and

1 “(G) for threatening to commit the of-
2 fense, by imprisonment for not more than 10
3 years.

4 “(2) Notwithstanding any other provision of
5 law, the court shall not place on probation any per-
6 son convicted of a violation of this section.

7 “(d) LIMITATION ON PROSECUTION.—No indictment
8 for any offense described in this section shall be sought
9 by the United States except after the Attorney General,
10 or the highest ranking subordinate of the Attorney Gen-
11 eral with responsibility for criminal prosecutions, has
12 made a written certification that, in the judgment of the
13 certifying official—

14 “(1) such offense, or any activity preparatory to
15 its commission, transcended national boundaries;
16 and

17 “(2) the offense appears to have been intended
18 to coerce, intimidate, or retaliate against a govern-
19 ment or a civilian population, including any segment
20 thereof.

21 “(e) INVESTIGATIVE RESPONSIBILITY.—Violations of
22 this section shall be investigated by the Federal Bureau
23 of Investigation. Nothing in this section shall be construed
24 to interfere with the authority of the United States Secret

1 Service under section 3056, or with its investigative au-
2 thority with respect to sections 871 and 879.

3 “(f) EVIDENCE.—In a prosecution under this section,
4 the United States shall not be required to prove knowledge
5 by any defendant of a jurisdictional base alleged in the
6 indictment.

7 “(g) EXTRATERRITORIAL JURISDICTION.—There is
8 extraterritorial Federal jurisdiction over—

9 “(1) any offense under subsection (a); and

10 “(2) conduct that, under section 3, renders any
11 person an accessory after the fact to an offense
12 under subsection (a).

13 “(h) DEFINITIONS.—As used in this section—

14 “(1) the term ‘commerce’ has the meaning
15 given such term in section 1951(b)(3);

16 “(2) the term ‘facility utilized in interstate com-
17 merce’ includes means of transportation, commu-
18 nication, and transmission;

19 “(3) the term ‘national of the United States’
20 has the meaning given such term in section
21 101(a)(22) of the Immigration and Nationality Act
22 (8 U.S.C. 1101(a)(22));

23 “(4) the term ‘serious bodily injury’ has the
24 meaning given such term in section 1365(g)(3); and

1 “(5) the term ‘territorial sea of the United
2 States’ means all waters extending seaward to 12
3 nautical miles from the baselines of the United
4 States determined in accordance with international
5 law.”.

6 (c) TECHNICAL AMENDMENT.—The chapter analysis
7 for Chapter 113B of title 18, United States Code, is
8 amended by inserting after the item relating to section
9 2332a, the following new item:

“2332b. Acts of terrorism transcending national boundaries.”.

10 (d) STATUTE OF LIMITATIONS AMENDMENT.—Sec-
11 tion 3286 of title 18, United States Code, is amended—

12 (1) by striking “any offense” and inserting
13 “any noncapital offense”;

14 (2) by striking “36” and inserting “37”;

15 (3) by striking “2331” and inserting “2332”;

16 (4) by striking “2339” and inserting “2332a”;

17 and

18 (5) by inserting “2332b (acts of terrorism tran-
19 scending national boundaries),” after “(use of weap-
20 ons of mass destruction),”.

21 (e) PRESUMPTIVE DETENTION.—Section 3142(e) of
22 title 18, United States Code, is amended by inserting “or
23 section 2332b” after “section 924(c)”.

24 (f) EXPANSION OF PROVISION RELATING TO DE-
25 STRUCTION OR INJURY OF PROPERTY WITHIN SPECIAL

1 MARITIME AND TERRITORIAL JURISDICTION.—Section
2 1363 of title 18, United States Code, is amended by strik-
3 ing “any building, structure or vessel, any machinery or
4 building materials and supplies, military or naval stores,
5 munitions of war or any structural aids or appliances for
6 navigation or shipping” and inserting “any structure, con-
7 veyance, or other real or personal property”.

8 **SEC. 103. CONSPIRACY TO HARM PEOPLE AND PROPERTY**
9 **OVERSEAS.**

10 (a) IN GENERAL.—Section 956 of title 18, United
11 States Code, is amended to read as follows:

12 **“§956. Conspiracy to kill, kidnap, maim, or injure**
13 **certain property in a foreign country**

14 “(a)(1) Whoever, within the jurisdiction of the United
15 States, conspires with one or more other persons, regard-
16 less of where such other person or persons is located, to
17 commit at any place outside the United States an act that
18 would constitute the offense of murder, kidnapping, or
19 maiming if committed in the special maritime and terri-
20 torial jurisdiction of the United States, shall, if he or any
21 such other person commits an act within the jurisdiction
22 of the United States to effect any object of the conspiracy,
23 be punished as provided in paragraph (2).

24 “(2) The punishment for an offense under paragraph
25 (1) is—

1 **SEC. 104. INCREASED PENALTIES FOR CERTAIN TERROR-**
2 **ISM CRIMES.**

3 (a) IN GENERAL.—Title 18, United States Code, is
4 amended—

5 (1) in section 114, by striking “maim or dis-
6 figure” and inserting “torture (as defined in section
7 2340), maim, or disfigure”;

8 (2) in section 755, by striking “two years” and
9 inserting “five years”;

10 (3) in section 756, by striking “one year” and
11 inserting “five years”;

12 (4) in section 878(a), by striking “by killing,
13 kidnapping, or assaulting a foreign official, official
14 guest, or internationally protected person”;

15 (5) in section 1113, by striking “three years or
16 fined” and inserting “seven years”; and

17 (6) in section 2332(c), by striking “five” and
18 inserting “ten”.

19 (b) PENALTY FOR CARRYING WEAPONS OR EXPLO-
20 SIVES ON AN AIRCRAFT.—Section 46505 of title 49, Unit-
21 ed States Code, is amended—

22 (1) in subsection (b), by striking “one” and in-
23 serting “10”; and

24 (2) in subsection (c), by striking “5” and in-
25 serting “15”.

1 **SEC. 105. MANDATORY PENALTY FOR TRANSFERRING AN**
2 **EXPLOSIVE MATERIAL KNOWING THAT IT**
3 **WILL BE USED TO COMMIT A CRIME OF VIO-**
4 **LENCE.**

5 Section 844 of title 18, United States Code, is
6 amended by adding at the end the following new sub-
7 section:

8 “(n) Whoever knowingly transfers an explosive mate-
9 rial, knowing or having reasonable cause to believe that
10 such explosive material will be used to commit a crime
11 of violence (as defined in section 924(c)(3)) or drug traf-
12 ficking crime (as defined in section 924(c)(2)) shall be im-
13 prisoned for not less than 10 years, fined under this title,
14 or both.”.

15 **SEC. 106. PENALTY FOR POSSESSION OF STOLEN EXPLO-**
16 **SIVES.**

17 Section 842(h) of title 18, United States Code, is
18 amended to read as follows:

19 “(h) It shall be unlawful for any person to receive,
20 possess, transport, ship, conceal, store, barter, sell, dispose
21 of, pledge, or accept as security for a loan, any stolen ex-
22 plosive material that is moving in, part of, constitutes, or
23 has been shipped or transported in, interstate or foreign
24 commerce, either before or after such material was stolen,
25 knowing or having reasonable cause to believe that the ex-
26 plosive material was stolen.”.

1 **SEC. 107. ENHANCED PENALTIES FOR USE OF EXPLOSIVES**
2 **OR ARSON CRIMES.**

3 Section 844 of title 18, United States Code, is
4 amended—

5 (1) in subsection (e), by striking “five” and in-
6 sserting “10”;

7 (2) by amending subsection (f) to read as fol-
8 lows:

9 “(f)(1) Whoever maliciously damages or destroys, or
10 attempts to damage or destroy, by means of fire or an
11 explosive, any building, vehicle, or other personal or real
12 property in whole or in part owned or possessed by, or
13 leased to, the United States, or any department or agency
14 thereof, shall be imprisoned for not less than 5 years and
15 not more than 20 years. The court may order a fine of
16 not more than the greater of \$100,000 or the cost of re-
17 pairing or replacing any property that is damaged or de-
18 stroyed.

19 “(2) Whoever engages in conduct prohibited by this
20 subsection, and as a result of such conduct directly or
21 proximately causes personal injury to any person, includ-
22 ing any public safety officer performing duties, shall be
23 imprisoned not less than 7 years and not more than 40
24 years. The court may order a fine of not more than the
25 greater of \$200,000 or the cost of repairing or replacing
26 any property that is damaged or destroyed.

1 “(3) Whoever engages in conduct prohibited by this
2 subsection, and as a result of such conduct directly or
3 proximately causes the death of any person, including any
4 public safety officer performing duties, shall be imprisoned
5 for a term of years or for life, or sentenced to death. The
6 court may order a fine of not more than the greater of
7 \$200,000 or the cost of repairing or replacing any prop-
8 erty that is damaged or destroyed.”.

9 (4) in subsection (h)—

10 (A) in the first sentence by striking “5
11 years but not more than 15 years” and insert-
12 ing “10 years”; and

13 (B) in the second sentence by striking “10
14 years but not more than 25 years” and insert-
15 ing “20 years”; and

16 (5) in subsection (i)—

17 (A) by striking “not more than 20 years,
18 fined the greater of a fine under this title or the
19 cost of repairing or replacing any property that
20 is damaged or destroyed,” and inserting “not
21 less than 5 years and not more than 20 years,
22 fined the greater of \$100,000 or the cost of re-
23 pairing or replacing any property that is dam-
24 aged or destroyed”;

1 (B) by striking “not more than 40 years,
2 fined the greater of a fine under this title or the
3 cost of repairing or replacing any property that
4 is damaged or destroyed,” and inserting “not
5 less than 7 years and not more than 40 years,
6 fined the greater of \$200,000 or the cost of re-
7 pairing or replacing any property that is dam-
8 aged or destroyed”; and

9 (C) by striking “7 years” and inserting
10 “10 years”.

11 **SEC. 108. INCREASED PERIODS OF LIMITATION FOR NA-**
12 **TIONAL FIREARMS ACT VIOLATIONS.**

13 Section 6531 of the Internal Revenue Code of 1986
14 is amended—

15 (1) by redesignating paragraphs (1) through
16 (8) as subparagraphs (A) through (H), respectively;
17 and

18 (2) by amending the matter immediately pre-
19 ceding subparagraph (A), as redesignated, to read as
20 follows: “No person shall be prosecuted, tried, or
21 punished for any criminal offense under the internal
22 revenue laws unless the indictment is found or the
23 information instituted not later than 3 years after
24 the commission of the offense, except that the period
25 of limitation shall be—

1 “(1) 5 years for offenses described in section
2 5861 (relating to firearms and other devices); and

3 “(2) 6 years—.”

4 **TITLE II—COMBATING**
5 **INTERNATIONAL TERRORISM**

6 **SEC. 201. FINDINGS.**

7 The Congress finds that—

8 (1) international terrorism is among the most
9 serious transnational threats faced by the United
10 States and its allies, far eclipsing the dangers posed
11 by population growth or pollution;

12 (2) the President should continue to make ef-
13 forts to counter international terrorism a national
14 security priority;

15 (3) because the United Nations has been an in-
16 adequate forum for the discussion of cooperative,
17 multilateral responses to the threat of international
18 terrorism, the President should undertake immediate
19 efforts to develop effective multilateral responses to
20 international terrorism as a complement to national
21 counterterrorist efforts;

22 (4) the President should use all necessary
23 means, including covert action and military force, to
24 disrupt, dismantle, and destroy international infra-

1 structure used by international terrorists, including
2 overseas terrorist training facilities and safe havens;

3 (5) the Congress deplores decisions to ease,
4 evade, or end international sanctions on state spon-
5 sors of terrorism, including the recent decision by
6 the United Nations Sanctions Committee to allow
7 airline flights to and from Libya despite Libya's
8 noncompliance with United Nations resolutions; and

9 (6) the President should continue to undertake
10 efforts to increase the international isolation of state
11 sponsors of international terrorism, including efforts
12 to strengthen international sanctions, and should op-
13 pose any future initiatives to ease sanctions on
14 Libya or other state sponsors of terrorism.

15 **SEC. 202. PROHIBITION ON ASSISTANCE TO COUNTRIES**
16 **THAT AID TERRORIST STATES.**

17 The Foreign Assistance Act of 1961 (22 U.S.C. 151
18 et seq.) is amended by adding immediately after section
19 620F the following new section:

20 **“SEC. 620G. PROHIBITION ON ASSISTANCE TO COUNTRIES**
21 **THAT AID TERRORIST STATES.**

22 “(a) PROHIBITION.—No assistance under this Act
23 shall be provided to the government of any country that
24 provides assistance to the government of any other coun-

1 try for which the Secretary of State has made a deter-
2 mination under section 620A”.

3 “(b) WAIVER.—Assistance prohibited by this section
4 may be furnished to a foreign government described in
5 subsection (a) if the President determines that furnishing
6 such assistance is important to the national interests of
7 the United States and, not later than 15 days before obli-
8 gating such assistance, furnishes a report to the appro-
9 priate committees of Congress including—

10 “(1) a statement of the determination;

11 “(2) a detailed explanation of the assistance to
12 be provided;

13 “(3) the estimated dollar amount of the assist-
14 ance; and

15 “(4) an explanation of how the assistance fur-
16 thers United States national interests.”.

17 **SEC. 203. PROHIBITION ON ASSISTANCE TO COUNTRIES**
18 **THAT PROVIDE MILITARY EQUIPMENT TO**
19 **TERRORIST STATES.**

20 The Foreign Assistance Act of 1961 (22 U.S.C. 151
21 et seq.) is amended by adding immediately after section
22 620G the following new section:

1 **“SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES**
2 **THAT PROVIDE MILITARY EQUIPMENT TO**
3 **TERRORIST STATES.**

4 “(a) PROHIBITION.—

5 “(1) IN GENERAL.—No assistance under this
6 Act shall be provided to the government of any coun-
7 try that provides lethal military equipment to a
8 country the government of which the Secretary of
9 State has determined is a terrorist government for
10 the purposes of 6(j) of the Export Administration
11 Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of
12 the Foreign Assistance Act of 1961 (22 U.S.C.
13 2371).

14 “(2) APPLICABILITY.—The prohibition under
15 this section with respect to a foreign government
16 shall terminate 1 year after that government ceases
17 to provide lethal military equipment. This section
18 applies with respect to lethal military equipment pro-
19 vided under a contract entered into after the date of
20 enactment of this Act.

21 “(b) WAIVER.—Notwithstanding any other provision
22 of law, assistance may be furnished to a foreign govern-
23 ment described in subsection (a) if the President deter-
24 mines that furnishing such assistance is important to the
25 national interests of the United States and, not later than
26 15 days before obligating such assistance, furnishes a re-

1 port to the appropriate committees of Congress includ-
2 ing—

3 “(1) a statement of the determination;

4 “(2) a detailed explanation of the assistance to
5 be provided;

6 “(3) the estimated dollar amount of the assist-
7 ance; and

8 “(4) an explanation of how the assistance fur-
9 thers United States national interests.”.

10 **SEC. 204. OPPOSITION TO ASSISTANCE BY INTERNATIONAL**
11 **FINANCIAL INSTITUTIONS TO TERRORIST**
12 **STATES.**

13 The International Financial Institutions Act (22
14 U.S.C. 262c et seq.) is amended by inserting after section
15 1620 the following new section:

16 **“SEC. 1621. OPPOSITION TO ASSISTANCE BY INTER-**
17 **NATIONAL FINANCIAL INSTITUTIONS TO TER-**
18 **RORIST STATES.**

19 “(a) IN GENERAL.—The Secretary of the Treasury
20 shall instruct the United States executive director of each
21 international financial institution to vote against any loan
22 or other use of the funds of the respective institution to
23 or for a country for which the Secretary of State has made
24 a determination under section 6(j) of the Export Adminis-
25 tration Act of 1979 (50 U.S.C. App. 2405(j)) or section

1 620A of the Foreign Assistance Act of 1961 (22 U.S.C.
2 2371).

3 “(b) DEFINITION.—For purposes of this section, the
4 term ‘international financial institution’ includes—

5 “(1) the International Bank for Reconstruction
6 and Development, the International Development
7 Association, and the International Monetary Fund;

8 “(2) wherever applicable, the Inter-American
9 Bank, the Asian Development Bank, the European
10 Bank for Reconstruction and Development, the Afri-
11 can Development Bank, and the African Develop-
12 ment Fund; and

13 “(3) any similar institution established after the
14 date of enactment of this section.”.

15 **SEC. 205. ANTITERRORISM ASSISTANCE.**

16 (a) FOREIGN ASSISTANCE ACT.—Section 573 of the
17 Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is
18 amended—

19 (1) in subsection (c), by striking “development
20 and implementation of the antiterrorism assistance
21 program under this chapter, including”;

22 (2) by amending subsection (d) to read as fol-
23 lows:

1 “(d)(1) Arms and ammunition may be provided
2 under this chapter only if they are directly related to
3 antiterrorism assistance.

4 “(2) The value (in terms of original acquisition cost)
5 of all equipment and commodities provided under this
6 chapter in any fiscal year shall not exceed 30 percent of
7 the funds made available to carry out this chapter for that
8 fiscal year.”; and

9 (3) by striking subsection (f).

10 (b) ASSISTANCE TO FOREIGN COUNTRIES TO PRO-
11 CURE EXPLOSIVES DETECTION DEVICES AND OTHER
12 COUNTERTERRORISM TECHNOLOGY.—(1) Subject to sec-
13 tion 575(b), up to \$3,000,000 in any fiscal year may be
14 made available—

15 (A) to procure explosives detection devices and
16 other counterterrorism technology; and

17 (B) for joint counterterrorism research and de-
18 velopment projects on such technology conducted
19 with NATO and major non-NATO allies under the
20 auspices of the Technical Support Working Group of
21 the Department of State.

22 (2) As used in this subsection, the term “major non-
23 NATO allies” means those countries designated as major
24 non-NATO allies for purposes of section 2350a(i)(3) of
25 title 10, United States Code.

1 (c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwith-
2 standing any other provision of law (except section 620A
3 of the Foreign Assistance Act of 1961) up to \$1,000,000
4 in assistance may be provided to a foreign country for
5 counterterrorism efforts in any fiscal year if—

6 (1) such assistance is provided for the purpose
7 of protecting the property of the United States Gov-
8 ernment or the life and property of any United
9 States citizen, or furthering the apprehension of any
10 individual involved in any act of terrorism against
11 such property or persons; and

12 (2) the appropriate committees of Congress are
13 notified not later than 15 days prior to the provision
14 of such assistance.

15 **SEC. 206. JURISDICTION FOR LAWSUITS AGAINST TERROR-**
16 **IST STATES.**

17 (a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY
18 FOR CERTAIN CASES.—Section 1605 of title 28, United
19 States Code, is amended—

20 (1) in subsection (a)—

21 (A) by striking the period at the end of
22 paragraph (6) and inserting “; or” and

23 (B) by adding at the end the following new
24 paragraph:

1 “(7) not otherwise covered by paragraph (2) in
2 which money damages are sought against a foreign
3 government for personal injury or death that was
4 caused by an act of torture, extrajudicial killing, air-
5 craft sabotage, hostage taking, or the provision of
6 material support or resources (as defined in section
7 2339A of title 18, United States Code) for a person
8 carrying out such an act, by a foreign state or by
9 any official, employee, or agent of such foreign state
10 while acting within the scope of his or her office,
11 employment, or agency, except that—

12 “(A) the claimant must first afford the
13 foreign state a reasonable opportunity to arbi-
14 trate the claim in accordance with accepted
15 international rules of arbitration; and

16 “(B) an action under this paragraph shall
17 not be maintained unless the act upon which
18 the claim is based—

19 “(i) occurred while the individual
20 bringing the claim was a national of the
21 United States (as that term is defined in
22 section 101(a)(2) of the Immigration and
23 Nationality Act); and

24 “(ii) occurred while the foreign state
25 was designated as a state sponsor of ter-

1 rorism under section 6(j) of the Export
2 Administration Act of 1979 (50 App.
3 U.S.C. 2405(j)) or section 620A of the
4 Foreign Assistance Act of 1961 (22 U.S.C.
5 2371).”; and

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

8 “(e) For purposes of paragraph (7)—

9 “(1) the terms ‘torture’ and ‘extrajudicial kill-
10 ing’ have the meaning given those terms in section
11 3 of the Torture Victim Protection Act of 1991 (28
12 U.S.C. 350 note);

13 “(2) the term ‘hostage taking’ has the meaning
14 given such term in Article 1 of the International
15 Convention Against the Taking of Hostages; and

16 “(3) the term ‘aircraft sabotage’ has the mean-
17 ing given such term in Article 1 of the Convention
18 for the Suppression of Unlawful Acts Against the
19 Safety of Civil Aviation.”.

20 (b) EXCEPTION TO IMMUNITY FROM ATTACH-
21 MENT.—

22 (1) FOREIGN STATE.—Section 1610(a) of title
23 28, United States Code, is amended—

24 (A) by striking the period at the end of
25 paragraph (6) and inserting “, or”; and

1 (B) by adding at the end the following new
2 paragraph:

3 “(7) the judgment relates to a claim for which
4 the foreign state is not immune under section
5 1605(a)(7), regardless of whether the property is or
6 was involved with the act upon which the claim is
7 based.”.

8 (2) AGENCY OR INSTRUMENTALITY.—Section
9 1610(b)(2) of such title is amended—

10 (A) by striking “or (5)” and inserting
11 “(5), or (7)”; and

12 (B) by striking “used for the activity” and
13 inserting “involved in the act”.

14 (c) APPLICABILITY.—The amendments made by this
15 title shall apply to any cause of action arising before, on,
16 or after the date of the enactment of this Act.

17 **SEC. 207. REPORT ON SUPPORT FOR INTERNATIONAL TER-**
18 **RORISTS.**

19 Not later than 60 days after the date of enactment
20 of this Act, and annually thereafter in the report required
21 by section 140 of the Foreign Relations Authorization Act,
22 Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), the Sec-
23 retary of State shall submit a report to the Speaker of
24 the House of Representatives and the Committee on For-
25 eign Relations of the Senate that includes—

1 (1) a detailed assessment of international ter-
2 rorist groups including their—

3 (A) size, leadership, and sources of finan-
4 cial and logistical support;

5 (B) goals, doctrine, and strategy;

6 (C) nature, scope, and location of human
7 and technical infrastructure;

8 (D) level of education and training;

9 (E) bases of operation and recruitment;

10 (F) operational capabilities; and

11 (G) linkages with state and non-state ac-
12 tors such as ethnic groups, religious commu-
13 nities, or criminal organizations;

14 (2) a detailed assessment of any country that
15 provided support of any type for international ter-
16 rorism, terrorist groups, or individual terrorists, in-
17 cluding countries that knowingly allowed terrorist
18 groups or individuals to transit or reside in their ter-
19 ritory, regardless of whether terrorist acts were com-
20 mitted on their territory by such individuals;

21 (3) a detailed assessment of individual country
22 efforts to take effective action against countries
23 named in section 6(j) of the Export Administration
24 Act of 1979 (50 U.S.C. App. 2405(j)), including the

1 status of compliance with international sanctions
2 and the status of bilateral economic relations; and

3 (4) United States Government efforts to imple-
4 ment this title.

5 **SEC. 208. DEFINITION OF ASSISTANCE.**

6 For purposes of this title—

7 (1) the term “assistance” means assistance to
8 or for the benefit of a government of any country
9 that is provided by grant, concessional sale, guar-
10 anty, insurance, or by any other means on terms
11 more favorable than generally available in the appli-
12 cable market, whether in the form of a loan, lease,
13 credit, debt relief, or otherwise, including subsidies
14 for exports to such country and favorable tariff
15 treatment of articles that are the growth, product,
16 or manufacture of such country; and

17 (2) the term “assistance” does not include as-
18 sistance of the type authorized under chapter 9 of
19 part 1 of the Foreign Assistance Act of 1961 (relat-
20 ing to international disaster assistance).

21 **SEC. 209. WAIVER AUTHORITY CONCERNING NOTICE OF**
22 **DENIAL OF APPLICATION FOR VISAS.**

23 Section 212(b) of the Immigration and Nationality
24 Act (8 U.S.C. 1182(b)) is amended—

1 (1) by redesignating paragraphs (1) and (2) as
2 subparagraphs (A) and (B), respectively;

3 (2) by striking “If” and inserting “(1) Subject
4 to paragraph (2), if”; and

5 (3) by inserting at the end the following para-
6 graph:

7 “(2) With respect to applications for visas, the
8 Secretary of State may waive the application of
9 paragraph (1) in the case of a particular alien or
10 any class or classes of excludable aliens, except in
11 cases of intent to immigrate.”.

12 **SEC. 210. MEMBERSHIP IN A TERRORIST ORGANIZATION AS**
13 **A BASIS FOR EXCLUSION FROM THE UNITED**
14 **STATES UNDER THE IMMIGRATION AND NA-**
15 **TIONALITY ACT.**

16 Section 212(a)(3)(B) of the Immigration and Nation-
17 ality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

18 (1) in clause (i)—

19 (A) by striking “or” at the end of
20 subclause (I);

21 (B) by inserting “or” at the end of
22 subclause (II); and

23 (C) by inserting after subclause (II) the
24 following new subclause:

1 “(III) is a member of a terrorist
2 organization or who actively supports
3 or advocates terrorist activity,”; and

4 (2) by adding at the end the following new
5 clause:

6 “(iv) TERRORIST ORGANIZATION DE-
7 FINED.—As used in this subparagraph, the
8 term ‘terrorist organization’ means an or-
9 ganization that engages in, or has engaged
10 in, terrorist activity as designated by the
11 Secretary of State, after consultation with
12 the Secretary of the Treasury.”.

13 **TITLE III—ALIEN REMOVAL**

14 **SEC. 301. ALIEN TERRORIST REMOVAL.**

15 (a) TABLE OF CONTENTS.—The Immigration and
16 Nationality Act is amended by adding at the end of the
17 table of contents the following:

“TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

 “501. Definitions.

 “502. Applicability.

 “503. Removal of alien terrorists.”.

18 (b) ALIEN TERRORIST REMOVAL.—The Immigration
19 and Nationality Act is amended by adding at the end the
20 following new title:

1 **“TITLE V—ALIEN TERRORIST**
2 **REMOVAL PROCEDURES**

3 **“SEC. 501. DEFINITIONS.**

4 “As used in this title—

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

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

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

14 “(4) the term ‘special court’ means the court
15 described in section 503(c); and

16 “(5) the term ‘special removal hearing’ means
17 the hearing described in section 503(e).

18 **“SEC. 502. APPLICABILITY.**

19 “(a) IN GENERAL.—The provisions of this title may
20 be followed in the discretion of the Attorney General when-
21 ever the Department of Justice has classified information
22 that an alien described in section 241(a)(4)(B) is subject
23 to deportation because of such section.

24 “(b) PROCEDURES.—Whenever an official of the De-
25 partment of Justice files, under section 503(a), an applica-

1 tion with the court established under section 503(c) for
2 authorization to seek removal pursuant to this title, the
3 alien's rights regarding removal and expulsion shall be
4 governed solely by the provisions of this title, except as
5 specifically provided.

6 **“SEC. 503. REMOVAL OF ALIEN TERRORISTS.**

7 “(a) APPLICATION FOR USE OF PROCEDURES.—This
8 section shall apply whenever the Attorney General certifies
9 under seal to the special court that—

10 “(1) the Attorney General or Deputy Attorney
11 General has approved of the proceeding under this
12 section;

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

15 “(3) removal of such alien terrorist by deporta-
16 tion proceedings described in sections 242, 242A, or
17 242B would pose a risk to the national security of
18 the United States because such proceedings would
19 disclose classified information.

20 “(b) CUSTODY AND RELEASE PENDING HEARING.—

21 (1) The Attorney General may take into custody any alien
22 with respect to whom a certification has been made under
23 subsection (a), and notwithstanding any other provision
24 of law, may retain such alien in custody in accordance with
25 this subsection.

1 “(2)(A) An alien with respect to whom a certification
2 has been made under subsection (a) shall be given a re-
3 lease hearing before the special court designated pursuant
4 to subsection (c).

5 “(B) The judge shall grant the alien release, subject
6 to such terms and conditions prescribed by the court (in-
7 cluding the posting of any monetary amount), pending the
8 special removal hearing if—

9 “(i) the alien is lawfully present in the United
10 States;

11 “(ii) the alien demonstrates that the alien, if re-
12 leased, is not likely to flee; and

13 “(iii) the alien demonstrates that release of the
14 alien will not endanger national security or the safe-
15 ty of any person or the community.

16 “(C) The judge may consider classified information
17 submitted in camera and ex parte in making a determina-
18 tion whether to release an alien pending the special hear-
19 ing.

20 “(c) SPECIAL COURT.—(1) The Chief Justice of the
21 United States shall publicly designate not more than 5
22 judges from up to 5 United States judicial districts to hear
23 and decide cases arising under this section, in a manner
24 consistent with the designation of judges described in sec-

1 tion 103(a) of the Foreign Intelligence Surveillance Act
2 (50 U.S.C. 1803(a)).

3 “(2) The Chief Justice may, in the Chief Justice’s
4 discretion, designate the same judges under this section
5 as are designated pursuant to section 103(a) of the For-
6 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
7 1803(a)).

8 “(d) INVOCATION OF SPECIAL COURT PROCE-
9 DURE.—(1) When the Attorney General makes the appli-
10 cation described in subsection (a), a single judge of the
11 special court shall consider the application in camera and
12 ex parte.

13 “(2) The judge shall invoke the procedures of sub-
14 section (e) if the judge determines that there is probable
15 cause to believe that—

16 “(A) the alien who is the subject of the applica-
17 tion has been correctly identified and is an alien as
18 described in section 241(a)(4)(B); and

19 “(B) a deportation proceeding described in sec-
20 tion 242, 242A, or 242B would pose a risk to the
21 national security of the United States because such
22 proceedings would disclose classified information.

23 “(e) SPECIAL REMOVAL HEARING.—(1) Except as
24 provided in paragraph (5), the special removal hearing au-

1 thORIZED by a showing of probable cause described in sub-
2 section (d)(2) shall be open to the public.

3 “(2) The alien shall have a reasonable opportunity
4 to be present at such hearing and to be represented by
5 counsel. Any alien financially unable to obtain counsel
6 shall be entitled to have counsel assigned to represent such
7 alien. Counsel may be appointed as described in section
8 3006A of title 18, United States Code.

9 “(3) The alien shall have a reasonable opportunity
10 to introduce evidence on his own behalf, and except as pro-
11 vided in paragraph (5), shall have a reasonable oppor-
12 tunity to cross-examine any witness or request that the
13 judge issue a subpoena for the presence of a named wit-
14 ness.

15 “(4)(A) An alien subject to removal under this sec-
16 tion shall have no right—

17 “(i) of discovery of information derived from
18 electronic surveillance authorized under the Foreign
19 Intelligence Surveillance Act of 1978 (50 U.S.C. 801
20 et seq.) or otherwise for national security purposes
21 if disclosure would present a risk to the national se-
22 curity; or

23 “(ii) to seek the suppression of evidence that
24 the alien alleges was unlawfully obtained, except on
25 grounds of credibility or relevance.

1 “(B) The Government is authorized to use, in the re-
2 moval proceedings, the fruits of electronic surveillance and
3 unconsented physical searches authorized under the For-
4 eign Intelligence Surveillance Act of 1978 (50 U.S.C. 801
5 et seq.) without regard to subsections 106 (c), (e), (f), (g),
6 and (h) of such Act.

7 “(C) Section 3504 of title 18, United States Code,
8 shall not apply to procedures under this section if the At-
9 torney General determines that public disclosure would
10 pose a risk to the national security of the United States
11 because it would disclose classified information.

12 “(5) The judge shall authorize the introduction in
13 camera and ex parte of any evidence for which the Attor-
14 ney General determines that public disclosure would pose
15 a risk to the national security of the United States because
16 it would disclose classified information. With respect to
17 such evidence, the Attorney General shall submit to the
18 court an unclassified summary of the specific evidence pre-
19 pared in accordance with paragraph (6).

20 “(6)(A) The information submitted under paragraph
21 (5)(B) shall contain an unclassified summary of the classi-
22 fied information that does not pose a risk to national secu-
23 rity.

24 “(B) The judge shall approve the summary within 15
25 days of submission if the judge finds that it is sufficient

1 to inform the alien of the nature of the evidence that such
2 person is an alien as described in section 241(a), and to
3 provide the alien with substantially the same ability to
4 make his defense as would disclosure of the classified in-
5 formation.

6 “(C) The Attorney General shall cause to be delivered
7 to the alien a copy of the unclassified summary approved
8 under subparagraph (B).

9 “(D) If the written unclassified summary is not ap-
10 proved by the court pursuant to subparagraph (B), the
11 Department of Justice shall be afforded 15 days to correct
12 the deficiencies identified by the court and submit a re-
13 vised unclassified summary.

14 “(E) If the revised unclassified summary is not ap-
15 proved by the court within 15 days of its submission pur-
16 suant to subparagraph (B), the special removal hearing
17 shall be terminated unless the court, within that time,
18 after reviewing the classified information in camera and
19 ex parte, issues written findings that—

20 “(i) the alien’s continued presence in the Unit-
21 ed States would likely cause—

22 “(I) serious and irreparable harm to the
23 national security; or

24 “(II) death or serious bodily injury to any
25 person; and

1 “(ii) provision of either the classified informa-
2 tion or an unclassified summary that meets the
3 standard set forth in subparagraph (B) would likely
4 cause—

5 “(I) serious and irreparable harm to the
6 national security; or

7 “(II) death or serious bodily injury to any
8 person; and

9 “(iii) the unclassified summary prepared by the
10 Justice Department is adequate to allow the alien to
11 prepare a defense.

12 “(F) If the court issues such findings, the special re-
13 moval proceeding shall continue, and the Attorney General
14 shall cause to be delivered to the alien within 15 days of
15 the issuance of such findings a copy of the unclassified
16 summary together with a statement that it meets the
17 standard set forth in subparagraph (E)(iii).

18 “(G)(i) Within 10 days of filing of the appealable
19 order the Department of Justice may take an interlocutory
20 appeal to the United States Court of Appeals for the Dis-
21 trict of Columbia Circuit of—

22 “(I) any determination made by the judge con-
23 cerning the requirements set forth in subparagraph
24 (B).

1 “(II) any determination made by the judge con-
2 cerning the requirements set forth in subparagraph
3 (E).

4 “(ii) In an interlocutory appeal taken under this
5 paragraph, the entire record, including any proposed order
6 of the judge or summary of evidence, shall be transmitted
7 to the Court of Appeals under seal, and the matter shall
8 be heard ex parte. The Court of Appeals shall consider
9 the appeal as expeditiously as possible, but no later than
10 30 days after filing of the appeal.

11 “(f) DETERMINATION OF DEPORTATION.—The judge
12 shall, considering the evidence on the record as a whole
13 (in camera and otherwise), require that the alien be de-
14 ported if the Attorney General proves, by clear and con-
15 vincing evidence, that the alien is subject to deportation
16 because such alien is an alien as described in section
17 241(a)(4)(B). If the judge finds that the Department of
18 Justice has met this burden, the judge shall order the
19 alien removed and, if the alien was released pending the
20 special removal proceeding, order the Attorney General to
21 take the alien into custody.

22 “(g) APPEALS.—(1) The alien may appeal a final de-
23 termination under subsection (f) to the United States
24 Court of Appeals for the District of Columbia Circuit, by
25 filing a notice of appeal with such court not later than

1 30 days after the determination is made. An appeal under
2 this section shall be heard by the Court of Appeals sitting
3 en banc.

4 “(2) The Attorney General may appeal a determina-
5 tion under subsection (d), (e), or (f) to the Court of Ap-
6 peals for the District of Columbia Circuit, by filing a no-
7 tice of appeal with such court not later than 20 days after
8 the determination is made under any one of such sub-
9 sections.

10 “(3) If the Department of Justice does not seek re-
11 view, the alien shall be released from custody, unless such
12 alien may be arrested and taken into custody pursuant
13 to title II as an alien subject to deportation, in which case
14 such alien shall be treated in accordance with the provi-
15 sions of this Act concerning the deportation of aliens.

16 “(4) If the application for the order is denied because
17 the judge has not found probable cause to believe that the
18 alien who is the subject of the application has been cor-
19 rectly identified or is an alien as described in paragraph
20 4(B) of section 241(a), and the Department of Justice
21 seeks review, the alien shall be released from custody un-
22 less such alien may be arrested and taken into custody
23 pursuant to title II as an alien subject to deportation, in
24 which case such alien shall be treated in accordance with

1 the provisions of this Act concerning the deportation of
2 aliens simultaneously with the application of this title.

3 “(5)(A) If the application for the order is denied
4 based on a finding that no probable cause exists to find
5 that adherence to the provisions of title II regarding the
6 deportation of the identified alien would pose a risk of ir-
7 reparable harm to the national security of the United
8 States, or death or serious bodily injury to any person,
9 the judge shall release the alien from custody subject to
10 the least restrictive condition or combination of conditions
11 of release described in section 3142(b) and (c)(1)(B) (i)
12 through (xiv) of title 18, United States Code, that will rea-
13 sonably ensure the appearance of the alien at any future
14 proceeding pursuant to this title and will not endanger the
15 safety of any other person or the Community.

16 “(B) The alien shall remain in custody if the court
17 fails to make a finding under subparagraph (A), until the
18 completion of any appeal authorized by this title. Sections
19 3145 through 3148 of title 18, United States Code, per-
20 taining to review and appeal of a release or detention
21 order, penalties for failure to appear, penalties for an of-
22 fense committed while on release, and sanctions for viola-
23 tion of a release condition, shall apply to an alien to whom
24 the previous sentence applies and—

1 “(i) for purposes of section 3145 of such title,
2 an appeal shall be taken to the United States Court
3 of Appeals for the District of Columbia Circuit; and

4 “(ii) for purposes of section 3146 of such title
5 the alien shall be considered released in connection
6 with a charge of an offense punishable by life im-
7 prisonment.

8 “(6) When requested by the Attorney General, the
9 entire record of the proceeding under this section shall be
10 transmitted to the court of appeals or the Supreme Court
11 under seal. The court of appeals or Supreme Court may
12 consider such appeal in camera.”.

13 **SEC. 302. EXTRADITION OF ALIENS.**

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

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

18 (2) by adding at the end the following new sub-
19 sections:

20 “(b) The provisions of this chapter shall be construed
21 to permit, in the exercise of comity, the surrender of per-
22 sons, other than citizens, nationals, or permanent resi-
23 dents of the United States, who have committed crimes
24 of violence against nationals of the United States in for-
25 eign countries without regard to the existence of any trea-

1 ty of extradition with such foreign government if the At-
2 torney General certifies, in writing, that—

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

8 “(2) the offenses charged are not of a political
9 nature.

10 “(c) As used in this section, the term ‘national of the
11 United States’ has the meaning given such term in section
12 101(a)(22) of the Immigration and Nationality Act (8
13 U.S.C. 1101(a)(22)).”.

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

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

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

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

1 **SEC. 303. CHANGES TO THE IMMIGRATION AND NATIONAL-**
2 **ITY ACT TO FACILITATE REMOVAL OF ALIEN**
3 **TERRORISTS.**

4 (a) **TERRORISM ACTIVITIES.**—Section 212(a)(3)(B)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1182(a)(3)(B)) is amended to read as follows:

7 “(B) **TERRORISM ACTIVITIES.**—

8 “(i) **IN GENERAL.**—Any alien who—

9 “(I) has engaged in a terrorism
10 activity, or

11 “(II) a consular officer or the At-
12 torney General knows, or has reason
13 to believe, is likely to engage after
14 entry in any terrorism activity (as de-
15 fined in clause (iii)),

16 is excludable. An alien who is an officer,
17 official, representative, or spokesman of
18 any terrorist organization designated as a
19 terrorist organization by proclamation by
20 the President after finding such organiza-
21 tion to be detrimental to the interest of the
22 United States, or any person who directs,
23 counsels, commands, or induces such orga-
24 nization or its members to engage in ter-
25 rorism activity, shall be considered, for

1 purposes of this Act, to be engaged in ter-
2 rorism activity.

3 “(ii) TERRORISM ACTIVITY DE-
4 FINED.—As used in this Act, the term ‘ter-
5 rorism activity’ means any activity that is
6 unlawful under the laws of the place where
7 it is committed (or which, if it had been
8 committed in the United States, would be
9 unlawful under the laws of the United
10 States or any State), and that involves any
11 of the following:

12 “(I) The hijacking or sabotage of
13 any conveyance (including an aircraft,
14 vessel, or vehicle).

15 “(II) The seizing or detaining,
16 and threatening to kill, injure, or con-
17 tinue to detain, another individual to
18 compel a third person (including a
19 governmental organization) to do or
20 abstain from doing any act as an ex-
21 plicit or implicit condition for the re-
22 lease of the individual seized or de-
23 tained.

24 “(III) A violent attack upon an
25 internationally protected person (as

1 defined in section 1116(b)(4) of title
2 18, United States Code) or upon the
3 liberty of such a person.

4 “(IV) An assassination.

5 “(V) The use of any—

6 “(aa) biological agent, chem-
7 ical agent, or nuclear weapon or
8 device, or

9 “(bb) explosive, firearm, or
10 other weapon (other than for
11 mere personal monetary gain),
12 with intent to endanger, directly, or
13 indirectly, the safety of one or more
14 individuals or to cause substantial
15 damage to property.

16 “(VI) A threat, attempt, or con-
17 spiracy to do any of the foregoing.

18 “(iii) ENGAGE IN TERRORISM ACTIV-
19 ITY DEFINED.—As used in this Act, the
20 term ‘engage in terrorism activity’ means
21 to commit, in an individual capacity or as
22 a member of an organization, an act of ter-
23 rorism activity, or an act that the actor
24 knows affords material support to any in-
25 dividual, organization, or government that

1 the actor knows plans to commit terrorism
2 activity, including any of the following
3 acts:

4 “(I) The preparation or planning
5 of terrorism activity.

6 “(II) The gathering of informa-
7 tion on potential targets for terrorism
8 activity.

9 “(III) The providing of any type
10 of material support, including a safe
11 house, transportation, communica-
12 tions, funds, false documentation or
13 identification, weapons, explosives, or
14 training.

15 “(IV) The soliciting of funds or
16 other things of value for terrorism ac-
17 tivity or for any terrorist organization.

18 “(V) The solicitation of any indi-
19 vidual for membership in a terrorist
20 organization, terrorist government, or
21 to engage in a terrorism activity.

22 “(iv) TERRORIST ORGANIZATION DE-
23 FINED.—As used in this Act, the term ‘ter-
24 rorist organization’ means—

1 “(I) an organization engaged in,
2 or that has a significant subgroup
3 that engages in, terrorism activity, re-
4 gardless of any legitimate activities
5 conducted by the organization or its
6 subgroups; and

7 “(II) an organization designated
8 by the Secretary of State under sec-
9 tion 2339B of title 18.”.

10 (b) DEPORTABLE ALIENS.—Section 241(a)(4)(B) of
11 the Immigration and Nationality Act (8 U.S.C.
12 1251(a)(4)(B)) is amended to read as follows:

13 “(B) TERRORISM ACTIVITIES.—Any alien who
14 is engaged, or at any time after entry engages in,
15 any terrorism activity (as defined in section
16 212(a)(3)(B)) is deportable.”.

17 (c) BURDEN OF PROOF.—Section 291 of the Immi-
18 gration and Nationality Act (8 U.S.C. 1361) is amended
19 by inserting after “custody of the Service.” the following
20 new sentence: “The limited production authorized by this
21 provision shall not extend to the records of any other agen-
22 cy or department of the Government or to any documents
23 that do not pertain to the respondent’s entry.”.

24 (d) APPREHENSION AND DEPORTATION OF
25 ALIENS.—Section 242(b) of the Immigration and Nation-

1 ality Act (8 U.S.C. 1252(b)(3)) is amended by inserting
2 immediately after paragraph (4) the following: “For pur-
3 poses of paragraph (3), in the case of an alien who is not
4 lawfully admitted for permanent residence and notwith-
5 standing the provisions of any other law, reasonable op-
6 portunity shall not include access to classified information,
7 whether or not introduced in evidence against the alien,
8 except that any proceeding conducted under this section
9 which involves the use of classified evidence shall be con-
10 ducted in accordance with the procedures of section 501.
11 Section 3504 of title 18, United States Code, and 18
12 U.S.C. 3504 and the Foreign Intelligence Surveillance Act
13 of 1978 (50 U.S.C. 1801 et seq.) shall not apply in such
14 cases.”.

15 (e) CRIMINAL ALIEN REMOVAL.—

16 (1) JUDICIAL REVIEW.—Section 106 of the Im-
17 migration and Nationality Act (8 U.S.C.
18 1105a(a)(10)) is amended to read as follows:

19 “(10) Any final order of deportation against an
20 alien who is deportable by reason of having commit-
21 ted a criminal offense covered in section 241(a)(2)
22 (A)(iii), (B), (C), or (D), or any offense covered by
23 section 241(a)(2)(A)(ii) for which both predicate of-
24 fenses are covered by section 241(a)(2)(A)(i), shall
25 not be subject to review by any court.”.

1 (2) FINAL ORDER OF DEPORTATION DE-
2 FINED.—Section 101(a) of such Act (8 U.S.C.
3 1101(a)) is amended by adding at the end the fol-
4 lowing new paragraph:

5 “(47)(A) The term ‘order of deportation’ means the
6 order of the special inquiry officer, or other such adminis-
7 trative officer to whom the Attorney General has delegated
8 the responsibility for determining whether an alien is de-
9 portable, concluding that the alien is deportable or order-
10 ing deportation.

11 “(B) The order described under subparagraph (A)
12 shall become final upon the earlier of—

13 “(i) a determination by the Board of Immigra-
14 tion Appeals affirming such order; or

15 “(ii) the expiration of the period in which the
16 alien is permitted to seek review of such order by the
17 Board of Immigration Appeals.”.

18 (3) ARREST AND CUSTODY.—Section 242(a)(2)
19 of such Act is amended—

20 (A) in subparagraph (A)—

21 (i) by striking “(2)(A) The Attorney”
22 and inserting “(2) The Attorney”;

23 (ii) by striking “an aggravated felony
24 upon” and all that follows through “of the
25 same offense)” and inserting “any criminal

1 offense covered in section 241(a)(2)
2 (A)(iii), (B), (C), or (D), or any offense
3 covered by section 241(a)(2)(A)(ii) for
4 which both predicate offenses are covered
5 by section 241(a)(2)(A)(i), upon release of
6 the alien from incarceration, shall deport
7 the alien as expeditiously as possible”; and
8 (iii) by striking “but subject to sub-
9 paragraph (B)””; and
10 (B) by striking subparagraph (B).

11 (4) CLASSES OF EXCLUDABLE ALIENS.—Sec-
12 tion 212(c) of such Act (8 U.S.C. 1182(c)) is
13 amended—

14 (A) by striking “The first sentence of this”
15 and inserting “This”; and

16 (B) by striking “has been convicted of one
17 or more aggravated felonies” and all that fol-
18 lows through the end and inserting “is deport-
19 able by reason of having committed any crimi-
20 nal offense covered in section 241(a)(2) (A)(iii),
21 (B), (C), or (D), or any offense covered by sec-
22 tion 241(a)(2)(A)(ii) for which both predicate
23 offenses are covered by section
24 241(a)(2)(A)(i).”.

1 (5) AGGRAVATED FELONY DEFINED.—Section
2 101(a)(43) of such Act is amended—

3 (A) in subparagraph (F)—

4 (i) by inserting “, including forcible
5 rape,” after “offense”]; and

6 (ii) by striking “5 years” and insert-
7 ing “1 year”; and

8 (B) in subparagraph (G) by striking “5
9 years” and inserting “1 year”.

10 (6) DEPORTATION OF CRIMINAL ALIENS.—Sec-
11 tion 242A(a) of such Act (8 U.S.C. 1252a) is
12 amended—

13 (A) in paragraph (1)—

14 (i) by striking “aggravated felonies
15 (as defined in section 101(a)(43) of this
16 title)” and inserting “any criminal offense
17 covered in section 241(a)(2) (A)(iii), (B),
18 (C), or (D), or any offense covered by sec-
19 tion 241(a)(2)(A)(ii) for which both predi-
20 cate offenses are covered by section
21 241(a)(2)(A)(i).”; and

22 (ii) by striking “, where warranted.”;

23 (B) in paragraph (2), by striking “aggra-
24 vated felony” and all that follows through “be-
25 fore any scheduled hearings.” and inserting

1 “any criminal offense covered in section
2 241(a)(2) (A)(iii), (B), (C), or (D), or any of-
3 fense covered by section 241(a)(2)(A)(ii) for
4 which both predicate offenses are covered by
5 section 241(a)(2)(A)(i).”.

6 (7) DEADLINES FOR DEPORTING ALIEN.—Sec-
7 tion 242(c) of such Act (8 U.S.C. 1252(c)) is
8 amended—

9 (A) by striking “(c) When a final order”
10 and inserting “(c)(1) Subject to paragraph (2),
11 when a final order”; and

12 (B) by inserting at the end the following
13 new paragraph:

14 “(2) When a final order of deportation under admin-
15 istrative process is made against any alien who is deport-
16 able by reason of having committed a criminal offense cov-
17 ered in section 241(a)(2) (A)(iii), (B), (C), or (D) or any
18 offense covered by section 241(a)(2)(A)(ii) for which both
19 predicate offenses are covered by section 241(a)(2)(A)(i),
20 the Attorney General shall have 30 days from the date
21 of the order within which to effect the alien’s departure
22 from the United States. The Attorney General shall have
23 sole and unreviewable discretion to waive the foregoing
24 provision for aliens who are cooperating with law enforce-
25 ment authorities or for purposes of national security.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of enactment of
3 this Act and shall apply to cases pending before, on, or
4 after such date of enactment.

5 **SEC. 304. ACCESS TO CERTAIN CONFIDENTIAL IMMIGRA-**
6 **TION AND NATURALIZATION FILES THROUGH**
7 **COURT ORDER.**

8 (a) CONFIDENTIALITY OF INFORMATION.—Section
9 245A(c)(5) of the Immigration and Nationality Act (8
10 U.S.C. 1255a(c)(5)) is amended—

11 (1) by inserting “(i)” after “except the Attor-
12 ney General”; and

13 (2) by inserting after “Title 13” the following:
14 “and (ii) may authorize an application to a Federal
15 court of competent jurisdiction for, and a judge of
16 such court may grant, an order authorizing disclo-
17 sure of information contained in the application of
18 the alien to be used—

19 “(I) for identification of the alien when
20 there is reason to believe that the alien has
21 been killed or severely incapacitated; or

22 “(II) for criminal law enforcement pur-
23 poses against the alien whose application is to
24 be disclosed.”.

1 (b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—
2 Section 210(b) of the Immigration and Nationality Act (8
3 U.S.C. 1160(b)) is amended—

4 (1) in paragraph (5), by inserting “, except as
5 allowed by a court order issued pursuant to para-
6 graph (6) of this subsection” after “consent of the
7 alien”; and

8 (2) in paragraph (6), by inserting the following
9 sentence before “Anyone who uses”: “Notwithstand-
10 ing the preceding sentence, the Attorney General
11 may authorize an application to a Federal court of
12 competent jurisdiction for, and a judge of such court
13 may grant an order authorizing, disclosure of infor-
14 mation contained in the application of the alien to
15 be used for identification of the alien when there is
16 reason to believe that the alien has been killed or se-
17 verely incapacitated, or for criminal law enforcement
18 purposes against the alien whose application is to be
19 disclosed or to discover information leading to the lo-
20 cation or identity of the alien.”.

1 **TITLE IV—CONTROL OF FUND-**
2 **RAISING FOR TERRORISM AC-**
3 **TIVITIES**

4 **SEC. 401. PROHIBITION ON TERRORIST FUNDRAISING.**

5 (a) IN GENERAL.—Chapter 113B of title 18, United
6 States Code, is amended by adding at the end the follow-
7 ing new section:

8 **“§ 2339B. Fundraising for terrorist organizations**

9 “(a) FINDINGS AND PURPOSE.—

10 “(1) The Congress finds that—

11 “(A) terrorism is a serious and deadly
12 problem which threatens the interests of the
13 United States overseas and within our territory;

14 “(B) the Nation’s security interests are
15 gravely affected by the terrorist attacks carried
16 out overseas against United States Government
17 facilities and officials, and against American
18 citizens present in foreign countries;

19 “(C) United States foreign policy and eco-
20 nomic interests are profoundly affected by ter-
21 rorist acts overseas directed against foreign
22 governments and their people;

23 “(D) international cooperation is required
24 for an effective response to terrorism, as dem-
25 onstrated by the numerous multilateral conven-

1 tions in force providing universal prosecutive ju-
2 risdiction over persons involved in a variety of
3 terrorist acts, including hostage taking, murder
4 of an internationally protected person, and air-
5 craft piracy and sabotage;

6 “(E) some foreign terrorist organizations,
7 acting through affiliated groups or individuals,
8 raise significant funds within the United States
9 or use the United States as a conduit for the
10 receipt of funds raised in other nations; and

11 “(F) the provision of funds to organiza-
12 tions that engage in terrorism serves to facili-
13 tate their terrorist endeavors, regardless of
14 whether the funds, in whole or in part, are in-
15 tended or claimed to be used for nonviolent pur-
16 poses.

17 “(2) The purpose of this section is to provide
18 the Federal Government the fullest possible basis,
19 consistent with the Constitution, to prevent persons
20 within the United States or subject to the jurisdic-
21 tion of the United States from providing funds, di-
22 rectly or indirectly, to foreign organizations, includ-
23 ing subordinate or affiliated persons, that engage in
24 terrorism activities.

25 “(b) DESIGNATION.—

1 “(1) The Secretary of State, after consultation
2 with the Secretary of the Treasury, is authorized to
3 designate under this section any foreign organization
4 based on finding that—

5 “(A) the organization engages in terrorism
6 activity as defined in section 212(a)(3)(B) of
7 the Immigration and Nationality Act (8 U.S.C.
8 1182(a)(3)(B)); and

9 “(B) the organization’s terrorism activities
10 threaten the security of United States citizens,
11 national security, foreign policy, or the economy
12 of the United States.

13 “(2) Not later than 7 days after making a des-
14 igation under paragraph (1), the Secretary of State
15 shall prepare and transmit to Congress a report con-
16 taining a list of the designated organizations and a
17 summary of the facts underlying the designation.
18 The designation shall take effect 30 days after the
19 receipt of actual notice under subsection (b)(6), un-
20 less otherwise provided by law.

21 “(3) A designation or redesignation under this
22 subsection shall be in effect for 1 year following its
23 effective date, unless revoked under paragraph (4).

24 “(4)(A) If the Secretary of State, after con-
25 sultation with the Secretary of the Treasury, finds

1 that the conditions that were the basis for any des-
2 ignation issued under this subsection have changed
3 in such a manner as to warrant revocation of such
4 designation, or that the national security, foreign re-
5 lations, or economic interests of the United States so
6 warrant, the Secretary of State may revoke such
7 designation in whole or in part.

8 “(B) Not later than 7 calendar days after the
9 Secretary of State finds that an organization no
10 longer engages in, or supports, terrorism activity,
11 the Secretary of State shall prepare and transmit to
12 Congress a supplemental report stating the reasons
13 for the finding.

14 “(5) Any designation, or revocation of a des-
15 ignation, issued under this subsection shall be pub-
16 lished in the Federal Register not later than 7 cal-
17 endar days after the Secretary of State makes the
18 designation.

19 “(6) Not later than 7 calendar days after mak-
20 ing a designation under this subsection, the Sec-
21 retary of State shall give the organization actual no-
22 tice of—

23 “(A) the designation;

1 “(B) the consequences of the designation
2 for the organization’s ability to raise funds in
3 the United States; and

4 “(C) the availability of judicial review.

5 “(7) Any revocation or lapsing of a designation
6 shall not affect any action or proceeding based on
7 any conduct committed prior to the effective date of
8 such revocation or lapsing.

9 “(8) Classified information may be used in
10 making a designation under this subsection. Such in-
11 formation shall not be disclosed to the public or to
12 any party, but may be disclosed to a court ex parte
13 and in camera.

14 “(9) No question concerning the validity of the
15 issuance of a designation issued under this sub-
16 section may be raised by a defendant in a criminal
17 prosecution as a defense in or as an objection to any
18 trial or hearing if such designation was issued and
19 published in the Federal Register.

20 “(c) JUDICIAL REVIEW.—

21 “(1) Organizations designated by the Secretary
22 of State as engaging in, or supporting, terrorism ac-
23 tivities under this section may seek review of the
24 designation in the District Court for the District of

1 Columbia not later than 30 days after receipt of ac-
2 tual notice under subsection (b)(6).

3 “(2) In reviewing a designation under this sub-
4 section, the court shall receive relevant oral or docu-
5 mentary evidence, unless the court finds that the
6 probative value is substantially outweighed by the
7 danger of unfair prejudice, confusion of the issues,
8 or considerations of undue delay, waste of time, or
9 needless presentation of cumulative evidence, or un-
10 less its introduction or consideration is prohibited by
11 a common law privilege or by the Constitution or
12 laws of the United States. A party shall be entitled
13 to present its case or defense by oral or documen-
14 tary evidence, to submit rebuttal evidence, and to
15 conduct such cross-examination as may be required
16 for a full and true disclosure of the facts.

17 “(3) The judge shall authorize the introduction
18 in camera and ex parte of any item of evidence con-
19 taining classified information for which the Attorney
20 General determines that public disclosure would pose
21 a risk to the national security of the United States.
22 With respect to such evidence, the Attorney General
23 shall submit to the court either—

1 “(A) a statement identifying relevant facts
2 that the specific evidence would tend to prove;
3 or

4 “(B) an unclassified summary of the spe-
5 cific evidence prepared in accordance with para-
6 graph (5).

7 “(4)(A)(i) The Secretary of State shall have the
8 burden of demonstrating that there are specific and
9 articulable facts giving reason to believe that the or-
10 ganization engages in or supports terrorism activity
11 (as that term is defined in section 212(a)(3)(B)).

12 “(ii) The organization shall have the burden of
13 proving that its purpose is to engage in religious,
14 charitable, literary, educational, or nonterrorism ac-
15 tivities and that it engages in such activities.

16 “(iii) The Secretary shall have the burden of
17 proving that the control group of the organization
18 has actual knowledge that the organization or its re-
19 sources are being used for terrorism activities.

20 “(iv) If any portion of the Secretary’s evidence
21 consists of classified information that cannot be re-
22 vealed to the organization for national security rea-
23 sons, the Secretary must prove these elements by
24 clear and convincing evidence.

1 “(B) If the court finds, under the standards
2 stated in subparagraph (A) that the control group of
3 the organization has actual knowledge that the orga-
4 nization or its resources are being used for terrorism
5 activities, the court shall affirm the designation of
6 the Secretary.

7 “(C)(i) If the court finds by a preponderance of
8 the evidence that the organization or its resources
9 have been used for terrorism activities without the
10 knowledge of the control group, but that the control
11 group is now aware of these facts, the court may
12 condition revocation of the designation on the con-
13 trol group’s undertaking or completing all steps
14 within its power to prevent the organization or its
15 resources from being used for terrorism activities.
16 Such steps may include—

17 “(I) maintaining financial records ade-
18 quate to document the use of the organization’s
19 resources; and

20 “(II) making records available to the Sec-
21 retary for inspection.

22 “(ii) If a designation is revoked under sub-
23 section (B)(4) and the organization fails to comply
24 with any condition imposed, the designation may be
25 reinstated by the Secretary of State upon a showing

1 that the organization failed to comply with the con-
2 dition.

3 “(5)(A) The information submitted under paragraph
4 (3)(B) shall contain an unclassified summary of the classi-
5 fied information that does not pose a risk to national secu-
6 rity.

7 “(B) The judge shall approve the unclassified sum-
8 mary if the judge finds that the summary is sufficient to
9 inform the organization of the activities described in sec-
10 tion 212(a)(3)(B) in which the organization is alleged to
11 engage, and to permit the organization to defend against
12 the designation.

13 “(C) The Attorney General shall cause to be delivered
14 to the organization a copy of the unclassified summary
15 approved under subparagraph (B).

16 “(6) The court shall decide the case on the basis of
17 the evidence on the record as a whole, in camera or other-
18 wise.

19 “(d) PROHIBITED ACTIVITIES.—It shall be unlawful
20 for any person within the United States, or any person
21 subject to the jurisdiction of the United States anywhere,
22 to directly or indirectly, raise, receive, or collect on behalf
23 of, or furnish, give, transmit, transfer, or provide funds
24 to or for an organization or person designated by the Sec-

1 retary of State under subsection (b), or to attempt to do
2 any of the foregoing.

3 “(e) SPECIAL REQUIREMENTS FOR FINANCIAL INSTI-
4 TUTIONS.—

5 “(1) Except as authorized by the Secretary of
6 State, after consultation with the Secretary of the
7 Treasury, by means of directives, regulations, or li-
8 censes, any financial institution that becomes aware
9 that it has possession of or control over any funds
10 in which an organization or person designated under
11 subsection (b) has an interest, shall—

12 “(A) retain possession of or maintain con-
13 trol over such funds; and

14 “(B) report to the Secretary the existence
15 of such funds in accordance with the regula-
16 tions prescribed by the Secretary.

17 “(2) Any financial institution that knowingly
18 fails to report to the Secretary the existence of such
19 funds shall be subject to a civil penalty of \$250 per
20 day for each day that it fails to report to the Sec-
21 retary—

22 “(A) in the case of funds being possessed
23 or controlled at the time of the designation of
24 the organization or person, within 10 days after
25 the designation; and

1 “(B) in the case of funds whose possession
2 of or control over arose after the designation of
3 the organization or person, within 10 days after
4 the financial institution obtained possession of
5 or control over the funds.

6 “(f) INVESTIGATIONS.—Any investigation emanating
7 from a possible violation of this section shall be conducted
8 by the Attorney General, except that investigations relat-
9 ing to—

10 “(1) a financial institution’s compliance with
11 the requirements of subsection (e); and

12 “(2) civil penalty proceedings authorized pursu-
13 ant to subsection (g)(2),

14 shall be conducted in coordination with the Attorney Gen-
15 eral by the office within the Department of the Treasury
16 responsible for civil penalty proceedings authorized by this
17 section. Any evidence of a criminal violation of this section
18 arising in the course of an investigation by the Secretary
19 or any other Federal agency shall be referred immediately
20 to the Attorney General for further investigation. The At-
21 torney General shall timely notify the Secretary of any ac-
22 tion taken on referrals from the Secretary, and may refer
23 investigations to the Secretary for remedial licensing or
24 civil penalty action.

25 “(g) PENALTIES.—

1 “(1) Any person who, with knowledge that the
2 donee is a designated entity, violates subsection (d)
3 shall be fined under this title, or imprisoned for up
4 to ten years, or both.

5 “(2) Any financial institution that knowingly
6 fails to comply with subsection (e), or by regulations
7 promulgated thereunder, shall be subject to a civil
8 penalty of \$50,000 per violation, or twice the
9 amount of money of which the financial institution
10 was required to retain possession or control, which-
11 ever is greater.

12 “(h) INJUNCTION.—

13 “(1) Whenever it appears to the Secretary or
14 the Attorney General that any person is engaged in,
15 or is about to engage in, any act which constitutes,
16 or would constitute, a violation of this section, the
17 Attorney General may initiate civil action in a dis-
18 trict court of the United States to enjoin such viola-
19 tion.

20 “(2) A proceeding under this subsection is gov-
21 erned by the Federal Rules of Civil Procedure, ex-
22 cept that, if an indictment has been returned against
23 the respondent, discovery is governed by the Federal
24 Rules of Criminal Procedure.

1 “(i) EXTRATERRITORIAL JURISDICTION.—There is
2 extraterritorial Federal jurisdiction over an offense under
3 this section.

4 “(j) CLASSIFIED INFORMATION IN CIVIL PROCEED-
5 INGS BROUGHT BY THE UNITED STATES.—

6 “(1) DISCOVERY OF CLASSIFIED INFORMATION
7 BY DEFENDANTS.—A court, upon a sufficient show-
8 ing, may authorize the United States to delete speci-
9 fied items of classified information from documents
10 to be introduced into evidence or made available to
11 the defendant through discovery under the Federal
12 Rules of Civil Procedure, to substitute an unclassi-
13 fied summary of the information for such classified
14 documents, or to substitute a statement admitting
15 relevant facts that the classified information would
16 tend to prove. The court shall permit the United
17 States to make a request for such authorization in
18 the form of a written statement to be inspected by
19 the court alone. If the court enters an order grant-
20 ing relief following such an ex parte showing, the en-
21 tire text of the statement of the United States shall
22 be sealed and preserved in the records of the court
23 to be made available to the appellate court in the
24 event of an appeal. If the court enters an order de-
25 nyng relief to the United States under this para-

1 graph, the United States may take an immediate, in-
2 terlocutory appeal in accordance with the provisions
3 of paragraph (3). For purposes of such an appeal,
4 the entire text of the underlying written statement
5 of the United States, together with any transcripts
6 of arguments made ex parte to the court in connec-
7 tion therewith, shall be maintained under seal and
8 delivered to the appellate court.

9 “(2) INTRODUCTION OF CLASSIFIED INFORMA-
10 TION; PRECAUTIONS BY COURT.—

11 “(A) EXHIBITS.—The United States, to
12 prevent unnecessary or inadvertent disclosure of
13 classified information in a civil trial or other
14 proceeding brought by the United States under
15 this section, may petition the court ex parte to
16 admit, in lieu of classified writings, recordings
17 or photographs, one or more of the following:

18 “(i) copies of those items from which
19 classified information has been deleted;

20 “(ii) stipulations admitting relevant
21 facts that specific classified information
22 would tend to prove; or

23 “(iii) an unclassified summary of the
24 specific classified information.

1 The court shall grant such a motion of the
2 United States if the court finds that the re-
3 dacted item, stipulation, or unclassified sum-
4 mary will provide the defendant with substan-
5 tially the same ability to make his defense as
6 would disclosure of the specific classified infor-
7 mation.

8 “(B) TAKING OF TRIAL TESTIMONY.—Dur-
9 ing the examination of a witness in any civil
10 proceeding brought by the United States under
11 this section, the United States may object to
12 any question or line of inquiry that may require
13 the witness to disclose classified information not
14 previously found to be admissible. Following
15 such an objection, the court shall take suitable
16 action to determine whether the response is ad-
17 missible and, in doing so, shall take precautions
18 to guard against the compromise of any classi-
19 fied information. Such action may include per-
20 mitting the United States to provide the court,
21 ex parte, with a proffer of the witness’s re-
22 sponse to the question or line of inquiry, and
23 requiring the defendant to provide the court
24 with a proffer of the nature of the information
25 the defendant seeks to elicit.

1 “(C) APPEAL.—If the court enters an
2 order denying relief to the United States under
3 this subsection, the United States may take an
4 immediate interlocutory appeal in accordance
5 with paragraph (3).

6 “(3) INTERLOCUTORY APPEAL.—

7 “(A) An interlocutory appeal by the United
8 States shall lie to a court of appeals from a de-
9 cision or order of a district court—

10 “(i) authorizing the disclosure of clas-
11 sified information;

12 “(ii) imposing sanctions for
13 nondisclosure of classified information; or

14 “(iii) refusing a protective order
15 sought by the United States to prevent the
16 disclosure of classified information.

17 “(B) An appeal taken pursuant to this
18 paragraph either before or during trial shall be
19 expedited by the court of appeals. Prior to trial,
20 an appeal shall be taken not later than 10 days
21 after the decision or order appealed from, and
22 the trial shall not commence until the appeal is
23 resolved. If an appeal is taken during trial, the
24 trial court shall adjourn the trial until the ap-
25 peal is resolved. The court of appeals—

1 “(i) shall hear argument on such ap-
2 peal not later than 4 days after the ad-
3 journalment of the trial;

4 “(ii) may dispense with written briefs
5 other than the supporting materials pre-
6 viously submitted to the trial court;

7 “(iii) shall render its decision not
8 later than 4 days after argument on ap-
9 peal; and

10 “(iv) may dispense with the issuance
11 of a written opinion in rendering its deci-
12 sion.

13 “(C) An interlocutory appeal and decision
14 under this paragraph shall not affect the right
15 of the defendant, in a subsequent appeal from
16 a final judgment, to claim as error, reversal by
17 the trial court on remand of a ruling appealed
18 from during trial.

19 “(4) CONSTRUCTION.—Nothing in this sub-
20 section shall prevent the United States from seeking
21 protective orders or asserting privileges ordinarily
22 available to the United States to protect against the
23 disclosure of classified information, including the in-
24 vocation of the military and State secrets privilege.

25 “(k) DEFINITIONS.—As used in this section—

1 “(1) the term ‘classified information’ means
2 any information or material that has been deter-
3 mined by the United States Government pursuant to
4 an Executive order, statute, or regulation, to require
5 protection against unauthorized disclosure for rea-
6 sons of national security and any restricted data, as
7 defined in paragraph (r) of section 11 of the Atomic
8 Energy Act of 1954 (42 U.S.C. 2014(y));

9 “(2)(A) the term ‘control group’ means the offi-
10 cers or agents charged with directing the affairs of
11 the organization;

12 “(B) if a single officer or agent is authorized to
13 conduct the affairs of the organization, the knowl-
14 edge of the officer or agent that the organization or
15 its resources are being used for terrorism activities
16 shall constitute knowledge of the control group;

17 “(C) if a single officer or agent is a member of
18 a group empowered to conduct the affairs of the or-
19 ganization but cannot conduct the affairs of the or-
20 ganization on his or her own authority, that person’s
21 knowledge shall not constitute knowledge by the con-
22 trol group unless that person’s knowledge is shared
23 by a sufficient number of members of the group so
24 that the group with knowledge has the authority to
25 conduct the affairs of the organization;

1 “(3) the term ‘financial institution’ has the
2 meaning prescribed in section 5312(a)(2) of title 31,
3 United States Code, including any regulations pro-
4 mulgated thereunder;

5 “(4) the term ‘funds’ includes coin or currency
6 of the United States or any other country, traveler’s
7 checks, personal checks, bank checks, money orders,
8 stocks, bonds, debentures, drafts, letters of credit,
9 any other negotiable instrument, and any electronic
10 representation of any of the foregoing;

11 “(5) the term ‘national security’ means the na-
12 tional defense and foreign relations of the United
13 States;

14 “(6) the term ‘person’ includes an individual,
15 partnership, association, group, corporation, or other
16 organization;

17 “(7) the term ‘Secretary’ means the Secretary
18 of the Treasury; and

19 “(8) the term ‘United States’, when used in a
20 geographical sense, includes all commonwealths, ter-
21 ritories, and possessions of the United States.”.

22 (b) TECHNICAL AMENDMENT.—The analysis for
23 chapter 113B of title 18, United States Code, is amended
24 by adding at the end the following new item:

“2339B. Fundraising for terrorist organizations.”.

1 (c) CLASSIFIED INFORMATION IN CIVIL PROCEED-
2 INGS.—Section 2339B(k) of title 18, United States Code
3 (relating to classified information in civil proceedings
4 brought by the United States), shall also be applicable to
5 civil proceedings brought by the United States under the
6 International Emergency Economic Powers Act (50
7 U.S.C. 1701 et seq.).

8 **SEC. 402. CORRECTION TO MATERIAL SUPPORT PROVI-**
9 **SION.**

10 Section 2339A of title 18, United States Code, is
11 amended to read as follows:

12 **“§ 2339A. Providing material support to terrorists**

13 “(a) DEFINITION.—In this section, ‘material support
14 or resources’ means currency or other financial securities,
15 financial services, lodging, training, safehouses, false doc-
16 umentation or identification, communications equipment,
17 facilities, weapons, lethal substances, explosives, person-
18 nel, transportation, and other physical assets, but does not
19 include humanitarian assistance to persons not directly in-
20 volved in such violations.

21 “(b) OFFENSE.—A person who, within the United
22 States, provides material support or resources or conceals
23 or disguises the nature, location, source, or ownership of
24 material support or resources, knowing or intending that
25 they are to be used in preparation for, or in carrying out,

1 a violation of section 32, 37, 351, 844(f) or (i), 956, 1114,
2 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or
3 2332a of this title or section 46502 of title 49, or in prepa-
4 ration for or carrying out the concealment or an escape
5 from the commission of any such violation, shall be fined
6 under this title, imprisoned not more than 10 years, or
7 both.”.

8 **TITLE V—ASSISTANCE TO FED-**
9 **ERAL LAW ENFORCEMENT**
10 **AGENCIES**

11 **Subtitle A—Antiterrorism**
12 **Assistance**

13 **SEC. 501. DISCLOSURE OF CERTAIN CONSUMER REPORTS**
14 **TO THE FEDERAL BUREAU OF INVESTIGA-**
15 **TION FOR FOREIGN COUNTERINTELLIGENCE**
16 **INVESTIGATIONS.**

17 (a) IN GENERAL.—The Fair Credit Reporting Act
18 (15 U.S.C. 1681 et seq.) is amended by adding after sec-
19 tion 623 the following new section:

20 **“SEC. 624. DISCLOSURES TO THE FEDERAL BUREAU OF IN-**
21 **VESTIGATION FOR FOREIGN COUNTERINTEL-**
22 **LIGENCE PURPOSES.**

23 “(a) IDENTITY OF FINANCIAL INSTITUTIONS.—(1)
24 Notwithstanding section 604 or any other provision of this
25 title, a court or magistrate judge may issue an order ex

1 parte directing a consumer reporting agency to furnish to
2 the Federal Bureau of Investigation the names and ad-
3 dresses of all financial institutions (as that term is defined
4 in section 1101 of the Right to Financial Privacy Act of
5 1978) at which a consumer maintains or has maintained
6 an account, to the extent that information is in the files
7 of the agency. The court or magistrate judge shall issue
8 the order if the Director of the Federal Bureau of Inves-
9 tigation, or the Director's designee, certifies in writing to
10 the court or magistrate judge that—

11 “(A) such information is necessary for the con-
12 duct of an authorized foreign counterintelligence in-
13 vestigation; and

14 “(B) there are specific and articulable facts giv-
15 ing reason to believe that the consumer—

16 “(i) is a foreign power (as defined in sec-
17 tion 101 of the Foreign Intelligence Surveil-
18 lance Act of 1978) or a person who is not a
19 United States person (as defined in such sec-
20 tion 101) and is an official of a foreign power;
21 or

22 “(ii) is an agent of a foreign power and is
23 engaging or has engaged in international terror-
24 ism (as that term is defined in section 101(c)
25 of the Foreign Intelligence Surveillance Act of

1 1978) or clandestine intelligence activities that
2 involve or may involve a violation of criminal
3 statutes of the United States.

4 “(2) An order issued under this subsection shall not
5 disclose that it is issued for purposes of a counterintel-
6 ligence investigation.

7 “(b) IDENTIFYING INFORMATION.—(1) Notwith-
8 standing section 604 or any other provision of this title,
9 a court or magistrate judge shall issue an order ex parte
10 directing a consumer reporting agency to furnish identify-
11 ing information respecting a consumer, limited to name,
12 address, former addresses, places of employment, or
13 former places of employment, to the Federal Bureau of
14 Investigation. The court or magistrate judge shall issue
15 the order if the Director or the Director’s designee, cer-
16 tifies in writing that—

17 “(A) such information is necessary to the con-
18 duct of an authorized foreign counterintelligence in-
19 vestigation; and

20 “(B) there is information giving reason to be-
21 lieve that the consumer has been, or is about to be,
22 in contact with a foreign power or an agent of a for-
23 eign power (as defined in section 101 of the Foreign
24 Intelligence Surveillance Act of 1978).

1 “(2) An order issued under this subsection shall not
2 disclose that it is issued for purposes of a counterintel-
3 ligence investigation.

4 “(c) COURT ORDER FOR DISCLOSURE OF CONSUMER
5 REPORTS.—(1) Notwithstanding section 604 or any other
6 provision of this title, if requested in writing by the Direc-
7 tor of the Federal Bureau of Investigation, or an author-
8 ized designee of the Director, a court may issue an order
9 ex parte directing a consumer reporting agency to furnish
10 a consumer report to the Federal Bureau of Investigation,
11 upon a showing in camera that—

12 “(A) the consumer report is necessary for the
13 conduct of an authorized foreign counterintelligence
14 investigation; and

15 “(B) there are specific and articulable facts giv-
16 ing reason to believe that the consumer whose
17 consumer report is sought—

18 “(i) is an agent of a foreign power; and

19 “(ii) is engaging or has engaged in inter-
20 national terrorism (as that term is defined in
21 section 101(c) of the Foreign Intelligence Sur-
22 veillance Act of 1978) or clandestine intel-
23 ligence activities that involve or may involve a
24 violation of criminal statutes of the United
25 States.

1 “(2) An order issued under this subsection shall not
2 disclose that it is issued for purposes of a counterintel-
3 ligence investigation.

4 “(d) CONFIDENTIALITY.—(1) No consumer reporting
5 agency or officer, employee, or agent of a consumer report-
6 ing agency shall disclose to any person, other than officers,
7 employees, or agents of a consumer reporting agency nec-
8 essary to fulfill the requirement to disclose information to
9 the Federal Bureau of Investigation under this section,
10 that the Federal Bureau of Investigation has sought or
11 obtained the identity of financial institutions or a
12 consumer report respecting any consumer under sub-
13 section (a), (b), or (c).

14 “(2) No consumer reporting agency or officer, em-
15 ployee, or agent of a consumer reporting agency shall in-
16 clude in any consumer report any information that would
17 indicate that the Federal Bureau of Investigation has
18 sought or obtained such information or a consumer report.

19 “(e) PAYMENT OF FEES.—The Federal Bureau of
20 Investigation is authorized, subject to the availability of
21 appropriations, pay to the consumer reporting agency as-
22 sembling or providing reports or information in accord-
23 ance with procedures established under this section, a fee
24 for reimbursement for such costs as are reasonably nec-
25 essary and which have been directly incurred in searching,

1 reproducing, or transporting books, papers, records, or
2 other data required or requested to be produced under this
3 section.

4 “(f) LIMIT ON DISSEMINATION.—The Federal Bu-
5 reau of Investigation may not disseminate information ob-
6 tained pursuant to this section outside of the Federal Bu-
7 reau of Investigation, except—

8 “(1) to the Department of Justice, as may be
9 necessary for the approval or conduct of a foreign
10 counterintelligence investigation; or

11 “(2) where the information concerns a person
12 subject to the Uniform Code of Military Justice, to
13 appropriate investigative authorities within the mili-
14 tary department concerned as may be necessary for
15 the conduct of a joint foreign counterintelligence in-
16 vestigation.

17 “(g) RULES OF CONSTRUCTION.—Nothing in this
18 section shall be construed to prohibit information from
19 being furnished by the Federal Bureau of Investigation
20 pursuant to a subpoena or court order, or in connection
21 with a judicial or administrative proceeding to enforce the
22 provisions of this Act. Nothing in this section shall be con-
23 strued to authorize or permit the withholding of informa-
24 tion from the Congress.

1 “(h) REPORTS TO CONGRESS.—On an annual basis,
2 the Attorney General shall fully inform the Permanent Se-
3 lect Committee on Intelligence and the Committee on
4 Banking and Financial Services of the House of Rep-
5 resentatives, and the Select Committee on Intelligence and
6 the Committee on Banking, Housing, and Urban Affairs
7 of the Senate concerning all requests made pursuant to
8 subsections (a), (b), and (c).

9 “(i) DAMAGES.—Any agency or department of the
10 United States obtaining or disclosing any consumer re-
11 ports, records, or information contained therein in viola-
12 tion of this section is liable to the consumer to whom such
13 consumer reports, records, or information relate in an
14 amount equal to the sum of—

15 “(1) \$100, without regard to the volume of
16 consumer reports, records, or information involved;

17 “(2) any actual damages sustained by the
18 consumer as a result of the disclosure;

19 “(3) if the violation is found to have been will-
20 ful or intentional, such punitive damages as a court
21 may allow; and

22 “(4) in the case of any successful action to en-
23 force liability under this subsection, the costs of the
24 action, together with reasonable attorney fees, as de-
25 termined by the court.

1 “(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a
2 court determines that any agency or department of the
3 United States has violated any provision of this section
4 and the court finds that the circumstances surrounding
5 the violation raise questions of whether or not an officer
6 or employee of the agency or department acted willfully
7 or intentionally with respect to the violation, the agency
8 or department shall promptly initiate a proceeding to de-
9 termine whether or not disciplinary action is warranted
10 against the officer or employee who was responsible for
11 the violation.

12 “(k) GOOD-FAITH EXCEPTION.—Notwithstanding
13 any other provision of this title, any consumer reporting
14 agency or agent or employee thereof making disclosure of
15 consumer reports or identifying information pursuant to
16 this subsection in good-faith reliance upon a certification
17 of the Federal Bureau of Investigation pursuant to provi-
18 sions of this section shall not be liable to any person for
19 such disclosure under this title, the constitution of any
20 State, or any law or regulation of any State or any politi-
21 cal subdivision of any State notwithstanding.

22 “(l) INJUNCTIVE RELIEF.—In addition to any other
23 remedy contained in this section, injunctive relief shall be
24 available to require compliance with the procedures of this
25 section. In the event of any successful action under this

1 subsection, costs together with reasonable attorney fees,
2 as determined by the court, may be recovered.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of the Fair Credit Reporting Act (15
5 U.S.C. 1681a et seq.) is amended by adding after the item
6 relating to section 623 the following new item:

“624. Disclosures to the Federal Bureau of Investigation for foreign counter-
intelligence purposes.”.

7 **SEC. 502. ACCESS TO RECORDS OF COMMON CARRIERS,**
8 **PUBLIC ACCOMMODATION FACILITIES, PHYS-**
9 **ICAL STORAGE FACILITIES, AND VEHICLE**
10 **RENTAL FACILITIES IN FOREIGN COUNTER-**
11 **INTELLIGENCE AND COUNTERTERRORISM**
12 **CASES.**

13 Title 18, United States Code, is amended by inserting
14 after chapter 121 the following new chapter:

15 **“CHAPTER 122—ACCESS TO CERTAIN**
16 **RECORDS**

17 **“§ 2720. Access to records of common carriers, public**
18 **accommodation facilities, physical stor-**
19 **age facilities, and vehicle rental facilities**
20 **in counterintelligence and counter-**
21 **terrorism cases**

22 “(a)(1) A court or magistrate judge may issue an
23 order ex parte directing any common carrier, public ac-
24 commodation facility, physical storage facility, or vehicle

1 rental facility to furnish any records in its possession to
2 the Federal Bureau of Investigation. The court or mag-
3 istrate judge shall issue the order if the Director of the
4 Federal Bureau of Investigation or the Director's designee
5 (whose rank shall be no lower than Assistant Special
6 Agent in Charge) certifies in writing that—

7 “(A) such records are sought for foreign coun-
8 terintelligence purposes; and

9 “(B) there are specific and articulable facts giv-
10 ing reason to believe that the person to whom the
11 records pertain is a foreign power or an agent of a
12 foreign power as defined in section 101 of the For-
13 eign Intelligence Surveillance Act of 1978 (50
14 U.S.C. 801).

15 “(2) An order issued under this subsection shall not
16 disclose that it is issued for purposes of a counterintel-
17 ligence investigation.

18 “(b) No common carrier, public accommodation facil-
19 ity, physical storage facility, or vehicle rental facility, or
20 any officer, employee, or agent of such common carrier,
21 public accommodation facility, physical storage facility, or
22 vehicle rental facility, shall disclose to any person, other
23 than those officers, agents, or employees of the common
24 carrier, public accommodation facility, physical storage fa-
25 cility, or vehicle rental facility necessary to fulfill the re-

1 requirement to disclose the information to the Federal Bu-
2 reau of Investigation under this section.

3 “(c) As used in this chapter—

4 “(1) the term ‘common carrier’ means a loco-
5 motive, rail carrier, bus carrying passengers, water
6 common carrier, air common carrier, or private com-
7 mercial interstate carrier for the delivery of pack-
8 ages and other objects;

9 “(2) the term ‘public accommodation facility’
10 means any inn, hotel, motel, or other establishment
11 that provides lodging to transient guests;

12 “(3) the term ‘physical storage facility’ means
13 any business or entity that provides space for the
14 storage of goods or materials, or services related to
15 the storage of goods or materials, to the public or
16 any segment thereof; and

17 “(4) the term ‘vehicle rental facility’ means any
18 person or entity that provides vehicles for rent,
19 lease, loan, or other similar use, to the public or any
20 segment thereof.”.

1 **SEC. 503. INCREASE IN MAXIMUM REWARDS FOR INFORMA-**
2 **TION CONCERNING INTERNATIONAL TER-**
3 **RORISM.**

4 (a) **TERRORISM ABROAD.**—Section 36 of the State
5 Department Basic Authorities Act of 1956 (22 U.S.C.
6 2708) is amended—

7 (1) in subsection (c), by striking “\$2,000,000”
8 and inserting “\$10,000,000”; and

9 (2) in subsection (g), by striking “\$5,000,000”
10 and inserting “\$10,000,000.

11 (b) **DOMESTIC TERRORISM.**—Title 18, United States
12 Code, is amended—

13 (1) in section 3072, by striking “\$500,000”
14 and inserting “\$10,000,000”; and

15 (2) in section 3075, by striking “\$5,000,000”
16 and inserting “\$10,000,000”.

17 (c) **GENERAL REWARD AUTHORITY OF THE ATTOR-**
18 **NEY GENERAL.**—

19 (1) **IN GENERAL.**—Chapter 203 of title 18,
20 United States Code, is amended by adding imme-
21 diately after section 3059A the following section:

22 **“§ 3059B. General reward authority**

23 “(a) Notwithstanding any other provision of law, the
24 Attorney General may pay rewards and receive from any
25 department or agency funds for the payment of rewards

1 under this section to any individual who assists the De-
2 partment of Justice in performing its functions.

3 “(b) Not later than 30 days after authorizing a re-
4 ward under this section that exceeds \$100,000, the Attor-
5 ney General shall give notice to the respective chairmen
6 of the Committees on Appropriations and the Committees
7 on the Judiciary of the Senate and the House of Rep-
8 resentatives.

9 “(c) A determination made by the Attorney General
10 to authorize an award under this section and the amount
11 of any reward authorized shall be final and conclusive, and
12 not subject to judicial review.”.

13 **Subtitle B—Intelligence and**
14 **Investigation Enhancements**

15 **SEC. 511. STUDY AND REPORT ON ELECTRONIC SURVEIL-**
16 **LANCE.**

17 (a) STUDY.—The Attorney General and the Director
18 of the Federal Bureau of Investigation shall study all ap-
19 plicable laws and guidelines relating to electronic surveil-
20 lance and the use of pen registers and other trap and trace
21 devices.

22 (b) REPORT.—Not later than 90 days after the date
23 of enactment of this Act, the Attorney General shall sub-
24 mit a report to the Congress that includes—

1 (1) the findings of the study conducted pursu-
2 ant to subsection (a);

3 (2) recommendations for the use of electronic
4 devices in conducting surveillance of terrorist or
5 other criminal organizations, and for any modifica-
6 tions in the law necessary to enable the Federal
7 Government to fulfill its law enforcement respon-
8 sibilities within appropriate constitutional param-
9 eters; and

10 (3) a summary of efforts to use current wiretap
11 authority, including detailed examples of situations
12 in which expanded authority would have enabled law
13 enforcement authorities to fulfill their responsibil-
14 ities.

15 **SEC. 512. AUTHORIZATION FOR INTERCEPTIONS OF COM-**
16 **MUNICATIONS IN CERTAIN TERRORISM RE-**
17 **LATED OFFENSES.**

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

20 (1) in paragraph (c)—

21 (A) by inserting before “or section 1992
22 (relating to wrecking trains)” the following:
23 “section 2332 (relating to terrorist acts
24 abroad), section 2332a (relating to weapons of
25 mass destruction, section 2332b (relating to

1 acts of terrorism transcending national bound-
2 aries), section 2339A (relating to providing ma-
3 terial support to terrorists), section 37 (relating
4 to violence at international airports),”; and

5 (B) by inserting after “section 175 (relat-
6 ing to biological weapons),” the following: “or a
7 felony violation under section 1028 (relating to
8 production of false identification documenta-
9 tion), sections 1541, 1542, 1543, 1544, and
10 1546 (relating to passport and visa offenses),”;

11 (2) by striking “and” at the end of paragraph
12 (o), as so redesignated by section 512(a)(2);

13 (3) by redesignating paragraph (p), as so red-
14 igned by section 512(a)(2), as paragraph (s); and

15 (4) by inserting after paragraph (o), as so re-
16 igned by section 512(a)(2), the following new
17 subparagraphs:

18 “(p) any violation of section 956 or section 960 of
19 title 18, United States Code (relating to certain actions
20 against foreign nations);

21 “(q) any violation of section 46502 of title 49, United
22 States Code; and”.

1 **SEC. 513. REQUIREMENT TO PRESERVE EVIDENCE.**

2 Section 2703 of title 18, United States Code, is
3 amended by adding at the end the following new sub-
4 section:

5 “(f) REQUIREMENT TO PRESERVE EVIDENCE.—A
6 provider of wire or electronic communication services or
7 a remote computing service, upon the request of a govern-
8 mental entity, shall take all necessary steps to preserve
9 records and other evidence in its possession pending the
10 issuance of a court order or other process. Such records
11 shall be retained for a period of 90 days, which period
12 shall be extended for an additional 90-day period upon a
13 renewed request by the governmental entity.”.

14 **Subtitle C—Additional Funding for**
15 **Law Enforcement**

16 **SEC. 521. FEDERAL BUREAU OF INVESTIGATION ASSIST-**
17 **ANCE TO COMBAT TERRORISM.**

18 (a) IN GENERAL.—With funds made available pursu-
19 ant to subsection (b), the Attorney General shall—

- 20 (1) develop digital telephony technology;
- 21 (2) support and enhance the technical support
22 center and tactical operations;
- 23 (3) create a Federal Bureau of Investigation
24 counterterrorism and counterintelligence fund for
25 costs associated with terrorism cases;

1 (4) expand and improve the instructional, oper-
2 ational support, and construction of the Federal Bu-
3 reau of Investigation academy;

4 (5) construct an FBI laboratory, provide lab-
5 oratory examination support, and provide for a Com-
6 mand Center;

7 (6) make funds available to the chief executive
8 officer of each State to carry out the activities de-
9 scribed in subsection (d); and

10 (7) enhance personnel to support
11 counterterrorism activities.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated for the activities of the
14 Federal Bureau of Investigation, to help meet the in-
15 creased demands for activities to combat terrorism—

16 (1) \$300,000,000 for fiscal year 1996;

17 (2) \$225,000,000 for fiscal year 1997;

18 (3) \$328,000,000 for fiscal year 1998;

19 (4) \$190,000,000 for fiscal year 1999; and

20 (5) \$183,000,000 for fiscal year 2000.

21 (c) AVAILABILITY OF FUNDS.—

22 (1) IN GENERAL.—Funds made available pur-
23 suant to subsection (b), in any fiscal year, shall re-
24 main available until expended.

25 (d) STATE GRANTS.—

1 (1) IN GENERAL.—Any funds made available
2 for purposes of subsection (a)(6) may be expended—

3 (A) by the Director of the Federal Bureau
4 of Investigation to expand the combined DNA
5 Identification System (CODIS) to include Fed-
6 eral crimes and crimes committed in the Dis-
7 trict of Columbia; and

8 (B) by the Attorney General, in consulta-
9 tion with the Director of the Federal Bureau of
10 Investigation to make funds available to the
11 chief executive officer of each State to carry out
12 the activities described in paragraph (2).

13 (2) GRANT PROGRAM.—

14 (A) USE OF FUNDS.—The executive officer
15 of each State shall use any funds made avail-
16 able under paragraph (1)(B) in conjunction
17 with units of local government, other States, or
18 combinations thereof, to carry out all or part of
19 a program to establish, develop, update, or up-
20 grade—

21 (i) computerized identification systems
22 that are compatible and integrated with
23 the databases of the National Crime Infor-
24 mation Center of the Federal Bureau of
25 Investigation;

1 (ii) ballistics identification programs
2 that are compatible and integrated with
3 the Drugfire Program of the Federal Bu-
4 reau of Investigation;

5 (iii) the capability to analyze
6 deoxyribonucleic acid (DNA) in a forensic
7 laboratory in ways that are compatible and
8 integrated with the combined DNA Identi-
9 fication System (CODIS) of the Federal
10 Bureau of Investigation; and

11 (iv) automated fingerprint identifica-
12 tion systems that are compatible and inte-
13 grated with the Integrated Automated Fin-
14 gerprint Identification System (IAFIS) of
15 the Federal Bureau of Investigation.

16 (B) ELIGIBILITY.—To be eligible to receive
17 funds under this paragraph, a State shall re-
18 quire that each person convicted of a felony of
19 a sexual nature shall provide to appropriate
20 State law enforcement officials, as designated
21 by the chief executive officer of the State, a
22 sample of blood, saliva, or other specimen nec-
23 essary to conduct a DNA analysis consistent
24 with the standards established for DNA testing

1 by the Director of the Federal Bureau of Inves-
2 tigation.

3 (C) INTERSTATE COMPACTS.—A State may
4 enter into a compact or compacts with another
5 State or States to carry out this subsection.

6 (D) ALLOCATION.—(i) Of the total amount
7 appropriated pursuant to this section in a fiscal
8 year—

9 (I) \$500,000 or 0.25 percent, which-
10 ever is greater, shall be allocated to each
11 of the participating States; and

12 (II) of the total funds remaining after
13 the allocation under subclause (I), there
14 shall be allocated to each State an amount
15 which bears the same ratio to the amount
16 of remaining funds described in this sub-
17 paragraph as the population of such State
18 bears to the population of all States.

19 (ii) DEFINITION.—For purposes of this
20 subparagraph, the term “State” means any
21 State of the United States, the District of Co-
22 lumbia, the Commonwealth of Puerto Rico, the
23 Virgin Islands, American Samoa, Guam, and
24 the Northern Mariana Islands, except that for
25 purposes of the allocation under this subpara-

1 graph, American Samoa and the Common-
2 wealth of the Northern Mariana Islands shall
3 be considered as one State and that for these
4 purposes, 67 percent of the amounts allocated
5 shall be allocated to American Samoa, and 33
6 percent to the Commonwealth of the Northern
7 Mariana Islands.

8 **SEC. 522. AUTHORIZATION OF ADDITIONAL APPROPRIA-**
9 **TIONS FOR THE UNITED STATES CUSTOMS**
10 **SERVICE.**

11 (a) IN GENERAL.—There are authorized to be appro-
12 priated for the activities of the United States Customs
13 Service, to help meet the increased needs of the United
14 States Customs Service—

15 (1) \$6,000,000 for fiscal year 1996;

16 (2) \$6,000,000 for fiscal year 1997;

17 (3) \$6,000,000 for fiscal year 1998;

18 (4) \$5,000,000 for fiscal year 1999; and

19 (5) \$5,000,000 for fiscal year 2000.

20 (b) AVAILABILITY OF FUNDS.—Funds made avail-
21 able pursuant to subsection (a), in any fiscal year, shall
22 remain available until expended.

1 **SEC. 523. AUTHORIZATION OF ADDITIONAL APPROPRIA-**
2 **TIONS FOR THE IMMIGRATION AND NATU-**
3 **RALIZATION SERVICE.**

4 (a) IN GENERAL.—There are authorized to be appro-
5 priated for the activities of the Immigration and Natu-
6 ralization Service, to help meet the increased needs of the
7 Immigration and Naturalization Service \$5,000,000 for
8 each of the fiscal years 1996, 1997, 1998, 1999, and
9 2000.

10 (b) AVAILABILITY OF FUNDS.—Funds made avail-
11 able pursuant to subsection (a), in any fiscal year, shall
12 remain available until expended.

13 **SEC. 524. DRUG ENFORCEMENT ADMINISTRATION.**

14 (a) ACTIVITIES OF DRUG ENFORCEMENT ADMINIS-
15 TRATION.—With funds made available pursuant to sub-
16 section (b), the Attorney General shall—

- 17 (1) fund antiviolence crime initiatives;
18 (2) fund major violators' initiatives; and
19 (3) enhance or replace infrastructure.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Drug Enforce-
22 ment Administration, to help meet the increased needs of
23 the Drug Enforcement Administration—

- 24 (1) \$60,000,000 for fiscal year 1996;
25 (2) \$70,000,000 for fiscal year 1997;
26 (3) \$80,000,000 for fiscal year 1998;

1 (4) \$90,000,000 for fiscal year 1999; and

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

3 (c) AVAILABILITY OF FUNDS.—Funds made available
4 pursuant to this section, in any fiscal year, shall remain
5 available until expended.

6 **SEC. 525. DEPARTMENT OF JUSTICE.**

7 (a) IN GENERAL.—Subject to the availability of ap-
8 propriations, the Attorney General shall—

9 (1) hire additional Assistant United States At-
10 torneys, and

11 (2) provide for increased security at court-
12 houses and other facilities housing Federal workers.

13 (b) AUTHORIZATION OF ADDITIONAL APPROPRIA-
14 TIONS.—There are authorized to be appropriated for the
15 activities of the Department of Justice, to hire additional
16 Assistant United States Attorneys and personnel for the
17 Criminal Division of the Department of Justice and pro-
18 vide increased security to meet the needs resulting from
19 this Act \$20,000,000 for each of the fiscal years 1996,
20 1997, 1998, 1999, and 2000.

21 (c) AVAILABILITY OF FUNDS.—Funds made available
22 pursuant to this section, in any fiscal year, shall remain
23 available until expended.

1 **SEC. 526. AUTHORIZATION OF ADDITIONAL APPROPRIA-**
2 **TIONS FOR THE DEPARTMENT OF THE**
3 **TREASURY.**

4 (a) IN GENERAL.—There are authorized to be appro-
5 priated for the activities of the Bureau of Alcohol, Tobacco
6 and Firearms, to augment counterterrorism efforts—

7 (1) \$20,000,000 for fiscal year 1996;

8 (2) \$20,000,000 for fiscal year 1997;

9 (3) \$20,000,000 for fiscal year 1998;

10 (4) \$20,000,000 for fiscal year 1999; and

11 (5) \$20,000,000 for fiscal year 2000.

12 (b) IN GENERAL.—There are authorized to be appro-
13 priated for the activities of the United States Secret Serv-
14 ice, to augment White House security and expand Presi-
15 dential protection activities—

16 (1) \$62,000,000 for fiscal year 1996;

17 (2) \$25,000,000 for fiscal year 1997;

18 (3) \$25,000,000 for fiscal year 1998;

19 (4) \$25,000,000 for fiscal year 1999; and

20 (5) \$25,000,000 for fiscal year 2000.

21 **SEC. 527. FUNDING SOURCE.**

22 Notwithstanding any other provision of law, funding
23 for authorizations provided in this subtitle may be paid
24 for out of the Violent Crime Reduction Trust Fund.

1 **SEC. 528. DETERRENT AGAINST TERRORIST ACTIVITY DAM-**
2 **AGING A FEDERAL INTEREST COMPUTER.**

3 The United States Sentencing Commission shall re-
4 view existing guideline levels as they apply to sections
5 1030(a)(4) and 1030(a)(5) of title 18, United States
6 Code, and report to Congress on their findings as to their
7 deterrent effect within 60 calendar days. Furthermore, the
8 Commission shall promulgate guideline amendments that
9 will ensure that individuals convicted under sections
10 1030(a)(4) and 1030(a)(5) of title 18, United States
11 Code, are incarcerated for not less than 6 months.

12 **TITLE VI—CRIMINAL**
13 **PROCEDURAL IMPROVEMENTS**
14 **Subtitle A—Habeas Corpus Reform**

15 **SEC. 601. FILING DEADLINES.**

16 Section 2244 of title 28, United States Code, is
17 amended by adding at the end the following new sub-
18 section:

19 “(d)(1) A 1-year period of limitation shall apply to
20 an application for a writ of habeas corpus by a person
21 in custody pursuant to the judgment of a State court. The
22 limitation period shall run from the latest of—

23 “(A) the date on which the judgment became
24 final by the conclusion of direct review or the expira-
25 tion of the time for seeking such review;

1 “(B) the date on which the impediment to filing
2 an application created by State action in violation of
3 the Constitution or laws of the United States is re-
4 moved, if the applicant was prevented from filing by
5 such State action;

6 “(C) the date on which the constitutional right
7 asserted was initially recognized by the Supreme
8 Court, if the right has been newly recognized by the
9 Supreme Court and made retroactively applicable to
10 cases on collateral review; or

11 “(D) the date on which the factual predicate of
12 the claim or claims presented could have been dis-
13 covered through the exercise of due diligence.

14 “(2) The time during which a properly filed applica-
15 tion for State post-conviction or other collateral review
16 with respect to the pertinent judgment or claim shall not
17 be counted toward any period of limitation under this sub-
18 section.”.

19 **SEC. 602. APPEAL.**

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

22 **“§ 2253. Appeal**

23 “(a) In a habeas corpus proceeding or a proceeding
24 under section 2255 before a district judge, the final order

1 shall be subject to review, on appeal, by the court of ap-
2 peals for the circuit in which the proceeding is held.

3 “(b) There shall be no right of appeal from a final
4 order in a proceeding to test the validity of a warrant to
5 remove to another district or place for commitment or trial
6 a person charged with a criminal offense against the Unit-
7 ed States, or to test the validity of such person’s detention
8 pending removal proceedings.

9 “(c)(1) Unless a circuit justice or judge issues a cer-
10 tificate of appealability, an appeal may not be taken to
11 the court of appeals from—

12 “(A) the final order in a habeas corpus proceed-
13 ing in which the detention complained of arises out
14 of process issued by a State court; or

15 “(B) the final order in a proceeding under sec-
16 tion 2255.

17 “(2) A certificate of appealability may issue under
18 paragraph (1) only if the applicant has made a substantial
19 showing of the denial of a constitutional right.

20 “(3) The certificate of appealability under paragraph
21 (1) shall indicate which specific issue or issues satisfy the
22 showing required by paragraph (2).”.

1 **SEC. 603. AMENDMENT OF FEDERAL RULES OF APPELLATE**
2 **PROCEDURE.**

3 Rule 22 of the Federal Rules of Appellate Procedure
4 is amended to read as follows:

5 **“Rule 22. Habeas corpus and section 2255 pro-**
6 **ceedings**

7 “(a) APPLICATION FOR THE ORIGINAL WRIT.—An
8 application for a writ of habeas corpus shall be made to
9 the appropriate district court. If application is made to
10 a circuit judge, the application shall be transferred to the
11 appropriate district court. If an application is made to or
12 transferred to the district court and denied, renewal of the
13 application before a circuit judge shall not be permitted.
14 The applicant may, pursuant to section 2253 of title 28,
15 United States Code, appeal to the appropriate court of ap-
16 peals from the order of the district court denying the writ.

17 “(b) CERTIFICATE OF APPEALABILITY.—In a habeas
18 corpus proceeding in which the detention complained of
19 arises out of process issued by a State court, an appeal
20 by the applicant for the writ may not proceed unless a
21 district or a circuit judge issues a certificate of
22 appealability pursuant to section 2253(c) of title 28, Unit-
23 ed States Code. If an appeal is taken by the applicant,
24 the district judge who rendered the judgment shall either
25 issue a certificate of appealability or state the reasons why
26 such a certificate should not issue. The certificate or the

1 statement shall be forwarded to the court of appeals with
2 the notice of appeal and the file of the proceedings in the
3 district court. If the district judge has denied the certifi-
4 cate, the applicant for the writ may then request issuance
5 of the certificate by a circuit judge. If such a request is
6 addressed to the court of appeals, it shall be deemed ad-
7 dressed to the judges thereof and shall be considered by
8 a circuit judge or judges as the court deems appropriate.
9 If no express request for a certificate is filed, the notice
10 of appeal shall be deemed to constitute a request ad-
11 dressed to the judges of the court of appeals. If an appeal
12 is taken by a State or its representative, a certificate of
13 appealability is not required.”.

14 **SEC. 604. SECTION 2254 AMENDMENTS.**

15 Section 2254 of title 28, United States Code, is
16 amended—

17 (1) by amending subsection (b) to read as fol-
18 lows:

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

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

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

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

5 “(2) An application for a writ of habeas corpus may
6 be denied on the merits, notwithstanding the failure of the
7 applicant to exhaust the remedies available in the courts
8 of the State.

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

13 (2) by redesignating subsections (d), (e), and
14 (f) as subsections (e), (f), and (g), respectively;

15 (3) by inserting after subsection (c) the follow-
16 ing new subsection:

17 “(d) An application for a writ of habeas corpus on
18 behalf of a person in custody pursuant to the judgment
19 of a State court shall not be granted with respect to any
20 claim that was adjudicated on the merits in State court
21 proceedings unless the adjudication of the claim—

22 “(1) resulted in a decision that was contrary to,
23 or involved an unreasonable application of, clearly
24 established Federal law, as determined by the Su-
25 preme Court of the United States; or

1 “(2) resulted in a decision that was based on an
2 unreasonable determination of the facts in light of
3 the evidence presented in the State court proceed-
4 ing.”;

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

7 “(e)(1) In a proceeding instituted by an application
8 for a writ of habeas corpus by a person in custody pursu-
9 ant to the judgment of a State court, a determination of
10 a factual issue made by a State court shall be presumed
11 to be correct. The applicant shall have the burden of re-
12 butting the presumption of correctness by clear and con-
13 vincing evidence.

14 “(2) If the applicant has failed to develop the factual
15 basis of a claim in State court proceedings, the court shall
16 not hold an evidentiary hearing on the claim unless the
17 applicant shows that—

18 “(A) the claim relies on—

19 “(i) a new rule of constitutional law, made
20 retroactive to cases on collateral review by the
21 Supreme Court, that was previously unavail-
22 able; or

23 “(ii) a factual predicate that could not
24 have been previously discovered through the ex-
25 ercise of due diligence; and

1 “(B) the facts underlying the claim would be
2 sufficient to establish by clear and convincing evi-
3 dence that but for constitutional error, no reasonable
4 factfinder would have found the applicant guilty of
5 the underlying offense.”; and

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

8 “(h) Except as provided in title 21, United States
9 Code, section 848, in all proceedings brought under this
10 section, and any subsequent proceedings on review, the
11 court may appoint counsel for an applicant who is or be-
12 comes financially unable to afford counsel, except as pro-
13 vided by a rule promulgated by the Supreme Court pursu-
14 ant to statutory authority. Appointment of counsel under
15 this section shall be governed by section 3006A of title
16 18.

17 “(i) The ineffectiveness or incompetence of counsel
18 during Federal or State collateral post-conviction proceed-
19 ings shall not be a ground for relief in a proceeding arising
20 under section 2254.”.

21 **SEC. 605. SECTION 2255 AMENDMENTS.**

22 Section 2255 of title 28, United States Code, is
23 amended—

24 (1) by striking the second and fifth undesig-
25 nated paragraphs; and

1 (2) by adding at the end the following new un-
2 designated paragraphs:

3 “A 1-year period of limitation shall apply to a motion
4 under this section. The limitation period shall run from
5 the latest of—

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

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

13 “(3) the date on which the right asserted was
14 initially recognized by the Supreme Court, if that
15 right has been newly recognized by the Supreme
16 Court and made retroactively applicable to cases on
17 collateral review; or

18 “(4) the date on which the facts supporting the
19 claim or claims presented could have been discovered
20 through the exercise of due diligence.

21 “Except as provided in title 21, United States Code,
22 section 848, in all proceedings brought under this section,
23 and any subsequent proceedings on review, the court may
24 appoint counsel for a movant who is or becomes financially
25 unable to afford counsel shall be in the discretion of the

1 court, except as provided by a rule promulgated by the
2 Supreme Court pursuant to statutory authority. Appoint-
3 ment of counsel under this section shall be governed by
4 section 3006A of title 18.

5 “A second or successive motion must be certified as
6 provided in section 2244 by a panel of the appropriate
7 court of appeals to contain—

8 “(1) newly discovered evidence that, if proven
9 and viewed in light of the evidence as a whole, would
10 be sufficient to establish by clear and convincing evi-
11 dence that no reasonable factfinder would have
12 found the movant guilty of the offense; or

13 “(2) a new rule of constitutional law, made ret-
14 roactive to cases on collateral review by the Supreme
15 Court, that was previously unavailable.”.

16 **SEC. 606. LIMITS ON SECOND OR SUCCESSIVE APPLICA-**
17 **TIONS.**

18 (a) CONFORMING AMENDMENT TO SECTION
19 2244(a).—Section 2244(a) of title 28, United States
20 Code, is amended by striking “and the petition” and all
21 that follows through “by such inquiry.” and inserting “,
22 except as provided in section 2255.”.

23 (b) LIMITS ON SECOND OR SUCCESSIVE APPLICA-
24 TIONS.—Section 2244(b) of title 28, United States Code,
25 is amended to read as follows:

1 “(b)(1) A claim presented in a second or successive
2 habeas corpus application under section 2254 that was
3 presented in a prior application shall be dismissed.

4 “(2) A claim presented in a second or successive ha-
5 beas corpus application under section 2254 that was not
6 presented in a prior application shall be dismissed un-
7 less—

8 “(A) the applicant shows that the claim relies
9 on a new rule of constitutional law, made retroactive
10 to cases on collateral review by the Supreme Court,
11 that was previously unavailable; or

12 “(B)(i) the factual predicate for the claim could
13 not have been discovered previously through the ex-
14 ercise of due diligence; and

15 “(ii) the facts underlying the claim, if proven
16 and viewed in light of the evidence as a whole, would
17 be sufficient to establish by clear and convincing evi-
18 dence that, but for constitutional error, no reason-
19 able factfinder would have found the applicant guilty
20 of the underlying offense.

21 “(3)(A) Before a second or successive application per-
22 mitted by this section is filed in the district court, the ap-
23 plicant shall move in the appropriate court of appeals for
24 an order authorizing the district court to consider the ap-
25 plication.

1 “(B) A motion in the court of appeals for an order
2 authorizing the district court to consider a second or suc-
3 cessive application shall be determined by a three-judge
4 panel of the court of appeals.

5 “(C) The court of appeals may authorize the filing
6 of a second or successive application only if it determines
7 that the application makes a prima facie showing that the
8 application satisfies the requirements of this subsection.

9 “(D) The court of appeals shall grant or deny the
10 authorization to file a second or successive application not
11 later than 30 days after the filing of the motion.

12 “(E) The grant or denial of an authorization by a
13 court of appeals to file a second or successive application
14 shall not be appealable and shall not be the subject of a
15 petition for rehearing or for a writ of certiorari.

16 “(4) A district court shall dismiss any claim pre-
17 sented in a second or successive application that the court
18 of appeals has authorized to be filed unless the applicant
19 shows that the claim satisfies the requirements of this sec-
20 tion.”.

21 **SEC. 607. DEATH PENALTY LITIGATION PROCEDURES.**

22 (a) ADDITION OF CHAPTER TO TITLE 28, UNITED
23 STATES CODE.—Title 28, United States Code, is amended
24 by inserting after chapter 153 the following new chapter:

1 **“CHAPTER 154—SPECIAL HABEAS CORPUS**
 2 **PROCEDURES IN CAPITAL CASES**

“Sec.

“2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

“2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

“2263. Filing of habeas corpus application; time requirements; tolling rules.

“2264. Scope of Federal review; district court adjudications.

“2265. Application to State unitary review procedure.

“2266. Limitation periods for determining applications and motions.

3 **“§ 2261. Prisoners in State custody subject to capital**
 4 **sentence; appointment of counsel; re-**
 5 **quirement of rule of court or statute; pro-**
 6 **cedures for appointment**

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

11 “(b) This chapter is applicable if a State establishes
 12 by statute, rule of its court of last resort, or by another
 13 agency authorized by State law, a mechanism for the ap-
 14 pointment, compensation, and payment of reasonable liti-
 15 gation expenses of competent counsel in State post-convic-
 16 tion proceedings brought by indigent prisoners whose cap-
 17 ital convictions and sentences have been upheld on direct
 18 appeal to the court of last resort in the State or have oth-
 19 erwise become final for State law purposes. The rule of

1 court or statute must provide standards of competency for
2 the appointment of such counsel.

3 “(c) Any mechanism for the appointment, compensa-
4 tion, and reimbursement of counsel as provided in sub-
5 section (b) must offer counsel to all State prisoners under
6 capital sentence and must provide for the entry of an
7 order by a court of record—

8 “(1) appointing one or more counsels to rep-
9 resent the prisoner upon a finding that the prisoner
10 is indigent and accepted the offer or is unable com-
11 petently to decide whether to accept or reject the
12 offer;

13 “(2) finding, after a hearing if necessary, that
14 the prisoner rejected the offer of counsel and made
15 the decision with an understanding of its legal con-
16 sequences; or

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

19 “(d) No counsel appointed pursuant to subsections
20 (b) and (c) to represent a State prisoner under capital
21 sentence shall have previously represented the prisoner at
22 trial or on direct appeal in the case for which the appoint-
23 ment is made unless the prisoner and counsel expressly
24 request continued representation.

1 “(e) The ineffectiveness or incompetence of counsel
2 during State or Federal post-conviction proceedings in a
3 capital case shall not be a ground for relief in a proceeding
4 arising under section 2254. This limitation shall not pre-
5 clude the appointment of different counsel, on the court’s
6 own motion or at the request of the prisoner, at any phase
7 of State or Federal post-conviction proceedings on the
8 basis of the ineffectiveness or incompetence of counsel in
9 such proceedings.

10 **“§ 2262. Mandatory stay of execution; duration; limits**
11 **on stays of execution; successive peti-**
12 **tions**

13 “(a) Upon the entry in the appropriate State court
14 of record of an order under section 2261(c), a warrant
15 or order setting an execution date for a State prisoner
16 shall be stayed upon application to any court that would
17 have jurisdiction over any proceedings filed under section
18 2254. The application shall recite that the State has in-
19 voked the post-conviction review procedures of this chapter
20 and that the scheduled execution is subject to stay.

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

23 “(1) a State prisoner fails to file a habeas cor-
24 pus application under section 2254 within the time
25 required in section 2263;

1 direct review or the expiration of the time for seeking such
2 review.

3 “(b) The time requirements established by subsection
4 (a) shall be tolled—

5 “(1) from the date that a petition for certiorari
6 is filed in the Supreme Court until the date of final
7 disposition of the petition if a State prisoner files
8 the petition to secure review by the Supreme Court
9 of the affirmance of a capital sentence on direct re-
10 view by the court of last resort of the State or other
11 final State court decision on direct review;

12 “(2) from the date on which the first petition
13 for post-conviction review or other collateral relief is
14 filed until the final State court disposition of such
15 petition; and

16 “(3) during an additional period not to exceed
17 30 days, if—

18 “(A) a motion for an extension of time is
19 filed in the Federal district court that would
20 have jurisdiction over the case upon the filing
21 of a habeas corpus application under section
22 2254; and

23 “(B) a showing of good cause is made for
24 the failure to file the habeas corpus application

1 within the time period established by this sec-
2 tion.

3 **“§ 2264. Scope of Federal review; district court adju-
4 dications**

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

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

13 “(2) the result of the Supreme Court recogni-
14 tion of a new Federal right that is made retro-
15 actively applicable; or

16 “(3) based on a factual predicate that could not
17 have been discovered through the exercise of due
18 diligence in time to present the claim for State or
19 Federal post-conviction review.

20 “(b) Following review subject to subsections (a), (d),
21 and (e) of section 2254, the court shall rule on the claims
22 properly before it.

1 prisoner and counsel expressly request continued represen-
2 tation.

3 “(c) Sections 2262, 2263, 2264, and 2266 shall apply
4 in relation to cases involving a sentence of death from any
5 State having a unitary review procedure that qualifies
6 under this section. References to State ‘post-conviction re-
7 view’ and ‘direct review’ in such sections shall be under-
8 stood as referring to unitary review under the State proce-
9 dure. The reference in section 2262(a) to ‘an order under
10 section 2261(c)’ shall be understood as referring to the
11 post-trial order under subsection (b) concerning represen-
12 tation in the unitary review proceedings, but if a tran-
13 script of the trial proceedings is unavailable at the time
14 of the filing of such an order in the appropriate State
15 court, then the start of the 180-day limitation period
16 under section 2263 shall be deferred until a transcript is
17 made available to the prisoner or counsel of the prisoner.

18 **“§ 2266. Limitation periods for determining applica-
19 tions and motions**

20 “(a) The adjudication of any application under sec-
21 tion 2254 that is subject to this chapter, and the adjudica-
22 tion of any motion under section 2255 by a person under
23 sentence of death, shall be given priority by the district
24 court and by the court of appeals over all noncapital mat-
25 ters.

1 “(b)(1)(A) A district court shall render a final deter-
2 mination and enter a final judgment on any application
3 for a writ of habeas corpus brought under this chapter
4 in a capital case not later than 180 days after the date
5 on which the application is filed.

6 “(B) A district court shall afford the parties at least
7 120 days in which to complete all actions, including the
8 preparation of all pleadings and briefs, and if necessary,
9 a hearing, prior to the submission of the case for decision.

10 “(C)(i) A district court may delay for not more than
11 one additional 30-day period beyond the period specified
12 in subparagraph (A), the rendering of a determination of
13 an application for a writ of habeas corpus if the court is-
14 sues a written order making a finding, and stating the
15 reasons for the finding, that the ends of justice that would
16 be served by allowing the delay outweigh the best interests
17 of the public and the applicant in a speedy disposition of
18 the application.

19 “(ii) The factors, among others, that a court shall
20 consider in determining whether a delay in the disposition
21 of an application is warranted are as follows:

22 “(I) Whether the failure to allow the delay
23 would be likely to result in a miscarriage of justice.

24 “(II) Whether the case is so unusual or so com-
25 plex, due to the number of defendants, the nature of

1 the prosecution, or the existence of novel questions
2 of fact or law, that it is unreasonable to expect ade-
3 quate briefing within the time limitations established
4 by subparagraph (A).

5 “(III) Whether the failure to allow a delay in
6 a case, that, taken as a whole, is not so unusual or
7 so complex as described in subclause (II), but would
8 otherwise deny the applicant reasonable time to ob-
9 tain counsel, would unreasonably deny the applicant
10 or the government continuity of counsel, or would
11 deny counsel for the applicant or the government the
12 reasonable time necessary for effective preparation,
13 taking into account the exercise of due diligence.

14 “(iii) No delay in disposition shall be permissible be-
15 cause of general congestion of the court’s calendar.

16 “(iv) The court shall transmit a copy of any order
17 issued under clause (i) to the Director of the Administra-
18 tive Office of the United States Courts for inclusion in
19 the report under paragraph (5).

20 “(2) The time limitations under paragraph (1) shall
21 apply to—

22 “(A) an initial application for a writ of habeas
23 corpus;

24 “(B) any second or successive application for a
25 writ of habeas corpus; and

1 “(C) any redetermination of an application for
2 a writ of habeas corpus following a remand by the
3 court of appeals or the Supreme Court for further
4 proceedings, in which case the limitation period shall
5 run from the date the remand is ordered.

6 “(3)(A) The time limitations under this section shall
7 not be construed to entitle an applicant to a stay of execu-
8 tion, to which the applicant would otherwise not be enti-
9 tled, for the purpose of litigating any application or ap-
10 peal.

11 “(B) No amendment to an application for a writ of
12 habeas corpus under this chapter shall be permitted after
13 the filing of the answer to the application, except on the
14 grounds specified in section 2244(b).

15 “(4)(A) The failure of a court to meet or comply with
16 a time limitation under this section shall not be a ground
17 for granting relief from a judgment of conviction or sen-
18 tence.

19 “(B) The State may enforce a time limitation under
20 this section by petitioning for a writ of mandamus to the
21 court of appeals. The court of appeals shall act on the
22 petition for a writ or mandamus not later than 30 days
23 after the filing of the petition.

24 “(5)(A) The Administrative Office of United States
25 Courts shall submit to Congress an annual report on the

1 compliance by the district courts with the time limitations
2 under this section.

3 “(B) The report described in subparagraph (A) shall
4 include copies of the orders submitted by the district
5 courts under paragraph (1)(B)(iv).

6 “(c)(1)(A) A court of appeals shall hear and render
7 a final determination of any appeal of an order granting
8 or denying, in whole or in part, an application brought
9 under this chapter in a capital case not later than 120
10 days after the date on which the reply brief is filed, or
11 if no reply brief is filed, not later than 120 days after
12 the date on which the answering brief is filed.

13 “(B)(i) A court of appeals shall decide whether to
14 grant a petition for rehearing or other request for rehear-
15 ing en banc not later than 30 days after the date on which
16 the petition for rehearing is filed unless a responsive
17 pleading is required, in which case the court shall decide
18 whether to grant the petition not later than 30 days after
19 the date on which the responsive pleading is filed.

20 “(ii) If a petition for rehearing or rehearing en banc
21 is granted, the court of appeals shall hear and render a
22 final determination of the appeal not later than 120 days
23 after the date on which the order granting rehearing or
24 rehearing en banc is entered.

1 “(2) The time limitations under paragraph (1) shall
2 apply to—

3 “(A) an initial application for a writ of habeas
4 corpus;

5 “(B) any second or successive application for a
6 writ of habeas corpus; and

7 “(C) any redetermination of an application for
8 a writ of habeas corpus or related appeal following
9 a remand by the court of appeals en banc or the Su-
10 preme Court for further proceedings, in which case
11 the limitation period shall run from the date the re-
12 mand is ordered.

13 “(3) The time limitations under this section shall not
14 be construed to entitle an applicant to a stay of execution,
15 to which the applicant would otherwise not be entitled, for
16 the purpose of litigating any application or appeal.

17 “(4)(A) The failure of a court to meet or comply with
18 a time limitation under this section shall not be a ground
19 for granting relief from a judgment of conviction or sen-
20 tence.

21 “(B) The State may enforce a time limitation under
22 this section by applying for a writ of mandamus to the
23 Supreme Court.

24 “(5) The Administrative Office of United States
25 Courts shall submit to Congress an annual report on the

1 compliance by the courts of appeals with the time limita-
2 tions under this section.”.

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

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

7 (c) EFFECTIVE DATE.—Chapter 154 of title 28,
8 United States Code (as added by subsection (a)) shall
9 apply to cases pending on or after the date of enactment
10 of this Act.

11 **SEC. 608. TECHNICAL AMENDMENT.**

12 Section 408(q) of the Controlled Substances Act (21
13 U.S.C. 848(q)) is amended by amending paragraph (9)
14 to read as follows:

15 “(9) Upon a finding that investigative, expert, or
16 other services are reasonably necessary for the representa-
17 tion of the defendant, whether in connection with issues
18 relating to guilt or the sentence, the court may authorize
19 the defendant’s attorneys to obtain such services on behalf
20 of the defendant and, if so authorized, shall order the pay-
21 ment of fees and expenses therefor under paragraph (10).
22 No ex parte proceeding, communication, or request may
23 be considered pursuant to this section unless a proper
24 showing is made concerning the need for confidentiality.

1 Any such proceeding, communication, or request shall be
2 transcribed and made a part of the record available for
3 appellate review.”.

4 **Subtitle B—Criminal Procedural** 5 **Improvements**

6 **SEC. 621. CLARIFICATION AND EXTENSION OF CRIMINAL** 7 **JURISDICTION OVER CERTAIN TERRORISM** 8 **OFFENSES OVERSEAS.**

9 (a) AIRCRAFT PIRACY.—Section 46502(b) of title 49,
10 United States Code, is amended—

11 (1) in paragraph (1), by striking “and later
12 found in the United States”;

13 (2) by amending paragraph (2) to read as fol-
14 lows:

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

17 “(A) a national of the United States was
18 aboard the aircraft;

19 “(B) an offender is a national of the Unit-
20 ed States; or

21 “(C) an offender is afterwards found in the
22 United States.”; and

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

1 “(3) For purposes of this subsection, the term
2 ‘national of the United States’ has the meaning
3 given such term in section 101(a)(22) of the Immi-
4 gration and Nationality Act (8 U.S.C.
5 1101(a)(22)).”.

6 (b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FA-
7 CILITIES.—Section 32(b) of title 18, United States Code,
8 is amended—

9 (1) by striking “(b) Whoever” and inserting
10 “(b)(1) Whoever”;

11 (2) by redesignating paragraphs (1) through
12 (4) as subparagraphs (A) through (D), respectively;

13 (3) by striking “, if the offender is later found
14 in the United States,”; and

15 (4) by adding at the end the following new
16 paragraphs:

17 “(2) The courts of the United States have jurisdiction
18 over an offense described in this subsection if—

19 “(A) a national of the United States was on
20 board, or would have been on board, the aircraft;

21 “(B) an offender is a national of the United
22 States; or

23 “(C) an offender is afterwards found in the
24 United States.

1 “(3) For purposes of this subsection, the term ‘na-
2 tional of the United States’ has the meaning given such
3 term in section 101(a)(22) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1101(a)(22)).”.

5 (c) MURDER OR MANSLAUGHTER OF INTERNATION-
6 ALLY PROTECTED PERSONS.—Section 1116 of title 18,
7 United States Code, is amended—

8 (1) in subsection (a), by striking “, except
9 that”;

10 (2) in subsection (b), by adding at the end the
11 following new paragraph:

12 “(7) ‘National of the United States’ has the
13 meaning given such term in section 101(a)(22) of
14 the Immigration and Nationality Act (8 U.S.C.
15 1101(a)(22)).”; and

16 (3) in subsection (c), by striking the first sen-
17 tence and inserting the following: “If the victim of
18 an offense under subsection (a) is an internationally
19 protected person outside the United States, the
20 United States may exercise jurisdiction over the of-
21 fense if (1) the victim is a representative, officer,
22 employee, or agent of the United States, (2) an of-
23 fender is a national of the United States, or (3) an
24 offender is afterwards found in the United States.”.

1 (d) PROTECTION OF INTERNATIONALLY PROTECTED
2 PERSONS.—Section 112 of title 18, United States Code,
3 is amended—

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

6 (2) in subsection (e), by striking the first sen-
7 tence and inserting the following: “If the victim of
8 an offense under subsection (a) is an internationally
9 protected person outside the United States, the
10 United States may exercise jurisdiction over the of-
11 fense if (1) the victim is a representative, officer,
12 employee, or agent of the United States, (2) an of-
13 fender is a national of the United States, or (3) an
14 offender is afterwards found in the United States.”.

15 (e) THREATS AGAINST INTERNATIONALLY PRO-
16 TECTED PERSONS.—Section 878 of title 18, United States
17 Code, is amended—

18 (1) in subsection (c), by inserting “national of
19 the United States,” before “and”; and

20 (2) in subsection (d), by striking the first sen-
21 tence and inserting the following: “If the victim of
22 an offense under subsection (a) is an internationally
23 protected person outside the United States, the
24 United States may exercise jurisdiction over the of-
25 fense if (1) the victim is a representative, officer,

1 employee, or agent of the United States, (2) an of-
2 fender is a national of the United States, or (3) an
3 offender is afterwards found in the United States.”.

4 (f) KIDNAPPING OF INTERNATIONALLY PROTECTED
5 PERSONS.—Section 1201(e) of title 18, United States
6 Code, is amended—

7 (1) by striking the first sentence and inserting
8 the following: “If the victim of an offense under sub-
9 section (a) is an internationally protected person
10 outside the United States, the United States may
11 exercise jurisdiction over the offense if (1) the victim
12 is a representative, officer, employee, or agent of the
13 United States, (2) an offender is a national of the
14 United States, or (3) an offender is afterwards
15 found in the United States.”; and

16 (2) by adding at the end the following: “For
17 purposes of this subsection, the term ‘national of the
18 United States’ has the meaning given such term in
19 section 101(a)(22) of the Immigration and National-
20 ity Act (8 U.S.C. 1101(a)(22)).”.

21 (g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Sec-
22 tion 37(b)(2) of title 18, United States Code, is amended
23 to read as follows:

24 “(2) the prohibited activity takes place outside
25 the United States, and—

1 “(A) the offender is later found in the
2 United States; or

3 “(B) an offender or a victim is a national
4 of the United States (as defined in section
5 101(a)(22) of the Immigration and Nationality
6 Act (8 U.S.C. 1101(a)(22))).”.

7 (h) NATIONAL OF THE UNITED STATES DEFINED.—
8 Section 178 of title 18, United States Code, is amended—

9 (1) by striking the “and” at the end of para-
10 graph (3);

11 (2) by striking the period at the end of para-
12 graph (4) and inserting “; and”; and

13 (3) by adding at the end the following new
14 paragraph:

15 “(5) the term ‘national of the United States’
16 has the meaning given such term in section
17 101(a)(22) of the Immigration and Nationality Act
18 (8 U.S.C. 1101(a)(22)).”.

19 **SEC. 622. EXPANSION OF TERRITORIAL SEA.**

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

1 States, subject to its sovereignty, and, for purposes of
2 Federal criminal jurisdiction, is within the special mari-
3 time and territorial jurisdiction of the United States wher-
4 ever that term is used in title 18, United States Code.

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

9 (1) in subsection (a), by inserting after “title,”
10 the following: “or on, above, or below any portion of
11 the territorial sea of the United States not within
12 the jurisdiction of any State, Commonwealth, terri-
13 tory, possession, or district”; and

14 (2) by adding at the end the following new sub-
15 section:

16 “(c) Whenever any waters of the territorial sea of the
17 United States lie outside the territory of any State, Com-
18 monwealth, territory, possession, or district, such waters
19 (including the airspace above and the seabed and subsoil
20 below, and artificial islands and fixed structures erected
21 thereon) shall be deemed for purposes of subsection (a)
22 to lie within the area of that State, Commonwealth, terri-
23 tory, possession, or district it would lie within if the
24 boundaries of such State, Commonwealth, territory, pos-

1 session, or district were extended seaward to the outer
2 limit of the territorial sea of the United States.”.

3 **SEC. 623. EXPANSION OF WEAPONS OF MASS DESTRUCTION**
4 **STATUTE.**

5 Section 2332a of title 18, United States Code, is
6 amended—

7 (1) in subsection (a)—

8 (A) by inserting “threatens,” before “at-
9 tempts”;

10 (B) in paragraph (2), by striking “; or”
11 and inserting the following: “and the results of
12 such use affect interstate or foreign commerce
13 or, in the case of a threat, attempt, or conspir-
14 acy, would have affected interstate or foreign
15 commerce if such use had occurred;”;

16 (C) by redesignating paragraph (3) as
17 paragraph (4);

18 (D) by inserting after paragraph (2) the
19 following:

20 “(3) against a victim, or intended victim, that
21 is the United States Government, a member of the
22 uniformed services, or any official, officer, employee,
23 or agent of the legislative, executive, or judicial
24 branches, or any department or agency, of the Unit-
25 ed States; and”;

1 (E) in paragraph (4), as redesignated, by
2 inserting before the comma at the end the fol-
3 lowing: “, or is within the United States and is
4 used in any activity affecting interstate or for-
5 eign commerce”.

6 (2) by redesignating subsection (b) as sub-
7 section (c);

8 (3) by adding immediately after subsection (a)
9 the following new subsection:

10 “(b) USE OUTSIDE UNITED STATES.—Any national
11 of the United States who outside of the United States
12 uses, threatens, attempts, or conspires to use, a weapon
13 of mass destruction, shall be imprisoned for any term of
14 years or for life, and if death results, shall be punished
15 by death or imprisonment for any term of years or for
16 life. The preceding sentence does not apply to a person
17 performing an act that, as performed, is within the scope
18 of the person’s official duties as an officer or employee
19 of the United States or as a member of the Armed Forces
20 of the United States, or to a person employed by a con-
21 tractor of the United States for performing an act that,
22 as performed, is authorized under the contract.”; and

23 (4) by amending subsection (c)(2)(B), as redesi-
24 gnated by paragraph (3), by striking “poison gas”
25 and inserting “any poisonous chemical agent or sub-

1 stance, regardless of form or delivery system, de-
2 signed for causing widespread death or injury;”.

3 **SEC. 624. ADDITION OF TERRORISM OFFENSES TO THE**
4 **RICO STATUTE.**

5 Section 1961(1) of title 18, United States Code, is
6 amended—

7 (1) in subparagraph (B)—

8 (A) by inserting after “Section” the follow-
9 ing: “32 (relating to the destruction of air-
10 craft), section 37 (relating to violence at inter-
11 national airports), section 115 (relating to in-
12 fluencing, impeding, or retaliating against a
13 Federal official by threatening or injuring a
14 family member), section”;

15 (B) by inserting after “section 224 (relat-
16 ing to sports bribery),” the following: “section
17 351 (relating to congressional or Cabinet officer
18 assassination),”;

19 (C) by inserting after “section 664 (relat-
20 ing to embezzlement from pension and welfare
21 funds),” the following: “section 831 (relating to
22 prohibited transactions involving nuclear mate-
23 rials), section 844 (f) or (i) (relating to destruc-
24 tion by explosives or fire of government prop-

1 erty or property affecting interstate or foreign
2 commerce),”;

3 (D) by inserting after “sections 891–894
4 (relating to extortionate credit transactions),”
5 the following: “section 956 (relating to conspir-
6 acy to kill, kidnap, maim, or injure certain
7 property in a foreign country),”;

8 (E) by inserting after “section 1084 (relat-
9 ing to the transmission of gambling informa-
10 tion),” the following: “section 1111 (relating to
11 murder), section 1114 (relating to murder of
12 United States law enforcement officials), sec-
13 tion 1116 (relating to murder of foreign offi-
14 cials, official guests, or internationally protected
15 persons), section 1203 (relating to hostage tak-
16 ing),”;

17 (F) by inserting after “section 1344 (relat-
18 ing to financial institution fraud),” the follow-
19 ing: “section 1361 (relating to willful injury of
20 government property within the special mari-
21 time and territorial jurisdiction),”;

22 (G) by inserting after “section 1513 (relat-
23 ing to retaliating against a witness, victim, or
24 an informant),” the following: “section 1751
25 (relating to Presidential assassination),”;

1 (H) by inserting after “section 1958 (relat-
2 ing to use of interstate commerce facilities in
3 the commission of murder-for-hire),” the follow-
4 ing: “section 2280 (relating to violence against
5 maritime navigation), section 2281 (relating to
6 violence against maritime fixed platforms),”;
7 and

8 (I) by inserting after “2321 (relating to
9 trafficking in certain motor vehicles or motor
10 vehicle parts),” the following: “section 2332
11 (relating to terrorist acts abroad against United
12 States nationals), section 2332a (relating to use
13 of weapons of mass destruction), section 2332b
14 (relating to acts of terrorism transcending na-
15 tional boundaries), section 2339A (relating to
16 providing material support to terrorists),”;

17 (2) by striking “or” before “(E)”; and

18 (3) by inserting before the semicolon at the end
19 the following: “, or (F) section 46502 of title 49,
20 United States Code”.

21 **SEC. 625. ADDITION OF TERRORISM OFFENSES TO THE**
22 **MONEY LAUNDERING STATUTE.**

23 Section 1956(c)(7) of title 18, United States Code,
24 is amended—

1 (1) in subparagraph (B), by amending clause
2 (ii) to read as follows:

3 “(ii) murder, kidnapping, robbery, extor-
4 tion, or destruction of property by means of ex-
5 plosive or fire;” and

6 (2) in subparagraph (D)—

7 (A) by inserting after “an offense under”
8 the following: “section 32 (relating to the de-
9 struction of aircraft), section 37 (relating to vi-
10 olence at international airports), section 115
11 (relating to influencing, impeding, or retaliating
12 against a Federal official by threatening or in-
13 juring a family member),”;

14 (B) by inserting after “section 215 (relat-
15 ing to commissions or gifts for procuring
16 loans),” the following: “section 351 (relating to
17 congressional or Cabinet officer assassina-
18 tion),”;

19 (C) by inserting after “section 798 (relat-
20 ing to espionage),” the following: “section 831
21 (relating to prohibited transactions involving
22 nuclear materials), section 844 (f) or (i) (relat-
23 ing to destruction by explosives or fire of Gov-
24 ernment property or property affecting inter-
25 state or foreign commerce),”;

1 (D) by inserting after “section 875 (relat-
2 ing to interstate communications),” the follow-
3 ing: “section 956 (relating to conspiracy to kill,
4 kidnap, maim, or injure certain property in a
5 foreign country),”;

6 (E) by inserting after “section 1032 (relat-
7 ing to concealment of assets from conservator,
8 receiver, or liquidating agent of financial insti-
9 tution),” the following: “section 1111 (relating
10 to murder), section 1114 (relating to murder of
11 United States law enforcement officials), sec-
12 tion 1116 (relating to murder of foreign offi-
13 cials, official guests, or internationally protected
14 persons),”;

15 (F) by inserting after “section 1203 (relat-
16 ing to hostage taking)” the following: “section
17 1361 (relating to willful injury of Government
18 property), section 1363 (relating to destruction
19 of property within the special maritime and ter-
20 ritorial jurisdiction),”;

21 (G) by inserting after “section 1708 (relat-
22 ing to theft from the mail)” the following: “sec-
23 tion 1751 (relating to Presidential assassina-
24 tion),”;

1 (H) by inserting after “2114 (relating to
2 bank and postal robbery and theft),” the follow-
3 ing: “section 2280 (relating to violence against
4 maritime navigation), section 2281 (relating to
5 violence against maritime fixed platforms),”;
6 and

7 (I) by striking “of this title” and inserting
8 the following: “section 2332 (relating to terror-
9 ist acts abroad against United States nation-
10 als), section 2332a (relating to use of weapons
11 of mass destruction), section 2332b (relating to
12 international terrorist acts transcending na-
13 tional boundaries), 2339A (relating to providing
14 material support to terrorists) of this title, sec-
15 tion 46502 of title 49, United States Code,”.

16 **SEC. 626. PROTECTION OF CURRENT OR FORMER OFFI-**
17 **CIALS, OFFICERS, OR EMPLOYEES OF THE**
18 **UNITED STATES.**

19 (a) AMENDMENT TO INCLUDE ASSAULTS, MURDERS,
20 AND THREATS AGAINST FAMILIES OF FEDERAL OFFI-
21 CIALS.—Section 115(a)(2) of title 18, United States Code,
22 is amended by inserting “, or threatens to assault, kidnap,
23 or murder, any person who formerly served as a person
24 designated in paragraph (1), or” after “assaults, kidnaps,
25 or murders, or attempts to kidnap or murder”.

1 (b) MURDER OR ATTEMPTS TO MURDER CURRENT
2 OR FORMER FEDERAL OFFICERS OR EMPLOYEES.—Sec-
3 tion 1114 of title 18, United States Code, is amended to
4 read as follows:

5 **“§1114. Protection of officers and employees of the**
6 **United States**

7 “Whoever kills or attempts to kill a current or former
8 officer or employee of the United States or its instrumen-
9 talities, or an immediate family member of such officer
10 or employee, or any person assisting such an officer or
11 employee in the performance of official duties, during or
12 on account of the performance of such duties or the provi-
13 sion of such assistance, shall be punished—

14 “(1) in the case of murder, as provided under
15 section 1111;

16 “(2) in the case of manslaughter, as provided
17 under section 1112; and

18 “(3) in the case of attempted murder or man-
19 slaughter as provided in section 1113, not more than
20 20 years.”.

21 (c) AMENDMENT TO CLARIFY THE MEANING OF THE
22 TERM DEADLY OR DANGEROUS WEAPON IN THE PROHI-
23 BITION ON ASSAULT ON FEDERAL OFFICERS OR EMPLOY-
24 EES.—Section 111(b) of title 18, United States Code, is
25 amended by inserting after “deadly or dangerous weapon”

1 the following: “(including a weapon intended to cause
2 death or danger but that fails to do so by reason of a
3 defective or missing component)”.

4 **SEC. 627. ADDITION OF CONSPIRACY TO TERRORISM OF-**
5 **FENSES.**

6 (a) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FA-
7 CILITIES.—(1) Section 32(a)(7) of title 18, United States
8 Code, is amended by inserting “or conspires” after “at-
9 tempts”.

10 (2) Section 32(b)(D) of title 18, United States Code,
11 as redesignated by section 721(b)(2), is amended by in-
12 serting “or conspires” after “attempts”.

13 (b) VIOLENCE AT INTERNATIONAL AIRPORTS.—Sec-
14 tion 37(a) of title 18, United States Code, is amended by
15 inserting “or conspires” after “attempts”.

16 (c) INFLUENCING, IMPEDING, OR RETALIATING
17 AGAINST A FEDERAL OFFICIAL BY THREATENING OR IN-
18 JURING A FAMILY MEMBER.—(1) Section 115(a)(1)(A) of
19 title 18, United States Code, is amended by inserting “or
20 conspires” after “attempts”.

21 (2) Section 115(a)(2) of title 18, United States Code,
22 as amended by section 729, is further amended by insert-
23 ing “or conspires” after “attempts”.

24 (3) Section 115(b)(2) of title 18, United States Code,
25 is amended by striking both times it appears “or at-

1 tempted kidnapping” and inserting both times “, at-
2 tempted kidnapping or conspiracy to kidnap”.

3 (4)(A) Section 115(b)(3) of title 18, United States
4 Code, is amended by striking “or attempted murder” and
5 inserting “, attempted murder or conspiracy to murder”.

6 (B) Section 115(b)(3) of title 18, United States Code,
7 is further amended by striking “and 1113” and inserting
8 “, 1113, and 1117”.

9 (d) PROHIBITIONS WITH RESPECT TO BIOLOGICAL
10 WEAPONS.—Section 175(a) of title 18, United States
11 Code, is amended by inserting “, or conspires to do so,”
12 after “any organization to do so,”.

13 (e) HOSTAGE TAKING.—Section 1203(a) of title 18,
14 United States Code, is amended by inserting “or con-
15 spires” after “attempts”.

16 (f) VIOLENCE AGAINST MARITIME NAVIGATION.—
17 Section 2280(a)(1)(H) of title 18, United States Code, is
18 amended by inserting “or conspires” after “attempts”.

19 (g) VIOLENCE AGAINST MARITIME FIXED PLAT-
20 FORMS.—Section 2281(a)(1)(F) of title 18, United States
21 Code, is amended by inserting “or conspires” after “at-
22 tempts”.

23 (h) AIRCRAFT PIRACY.—Section 46502 of title 49,
24 United States Code, is amended—

1 (1) in subsection (a)(2), by inserting “, conspir-
2 ing,” after “committing” and

3 (2) in subsection (b)—

4 (A) in paragraph (1), by inserting “or con-
5 spiring to commit” after “committing”;

6 (B) in paragraph (2), by inserting “con-
7 spired or” after “has placed,”; and

8 (C) in paragraph (3), by inserting “con-
9 spired or” after “has placed,”.

10 (i) CLARIFICATION OF MARITIME VIOLENCE JURIS-
11 DICTION.—Section 2280(b)(1)(A) of title 18, United
12 States Code, is amended—

13 (1) in clause (ii), by striking “and the activity
14 is not prohibited as a crime by the State in which
15 the activity takes place”; and

16 (2) in clause (iii), by striking “the activity takes
17 place on a ship flying the flag of a foreign country
18 or outside the United States,”.

19 **SEC. 628. CLARIFICATION OF FEDERAL JURISDICTION**
20 **OVER BOMB THREATS.**

21 Section 844(e) of title 18, United States Code, is
22 amended—

23 (1) by striking “(e) Whoever” and inserting
24 “(e)(1) Whoever”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(2) Whoever willfully makes any threat, or mali-
4 ciously conveys false information knowing the same to be
5 false, concerning an attempt or alleged attempt being
6 made, or to be made to violate subsection (f) or (i) of this
7 section or section 81 of this title shall be fined under this
8 title, imprisoned for not more than 5 years, or both.”.

9 **TITLE VII—MARKING OF**
10 **PLASTIC EXPLOSIVES**

11 **SEC. 701. FINDINGS AND PURPOSES.**

12 (a) FINDINGS.—The Congress finds that—

13 (1) plastic explosives were used by terrorists in
14 the bombings of Pan Am flight 103 in December
15 1988 and UTA flight 722 in September 1989;

16 (2) plastic explosives can be used with little
17 likelihood of detection for acts of unlawful inter-
18 ference with civil aviation, maritime navigation, and
19 other modes of transportation;

20 (3) the criminal use of plastic explosives places
21 innocent lives in jeopardy, endangers national secu-
22 rity, affects domestic tranquility, and gravely affects
23 interstate and foreign commerce;

24 (4) the marking of plastic explosives for the
25 purpose of detection would contribute significantly to

1 the prevention and punishment of such unlawful
2 acts; and

3 (5) for the purpose of deterring and detecting
4 such unlawful acts, the Convention on the Marking
5 of Plastic Explosives for the Purpose of Detection,
6 Done at Montreal on 1 March 1991, requires each
7 contracting State to adopt appropriate measures to
8 ensure that plastic explosives are duly marked and
9 controlled.

10 (b) PURPOSE.—The purpose of this title is to fully
11 implement the Convention on the Marking of Plastic Ex-
12 plosives for the Purpose of Detection, Done at Montreal
13 on 1 March 1991.

14 **SEC. 702. DEFINITIONS.**

15 Section 841 of title 18, United States Code, is
16 amended by adding at the end the following new sub-
17 sections:

18 “(o) ‘Convention on the Marking of Plastic Explo-
19 sives’ means the Convention on the Marking of Plastic Ex-
20 plosives for the Purpose of Detection, Done at Montreal
21 on 1 March 1991.

22 “(p) ‘Detection agent’ means any one of the sub-
23 stances specified in this subsection when introduced into
24 a plastic explosive or formulated in such explosive as a
25 part of the manufacturing process in such a manner as

1 to achieve homogeneous distribution in the finished explo-
2 sive, including—

3 “(1) Ethylene glycol dinitrate (EGDN),
4 $C_2H_4(NO_3)_2$, molecular weight 152, when the mini-
5 mum concentration in the finished explosive is 0.2
6 percent by mass;

7 “(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB),
8 $C_6H_{12}(NO_2)_2$, molecular weight 176, when the mini-
9 mum concentration in the finished explosive is 0.1
10 percent by mass;

11 “(3) Para-Mononitrotoluene (p-MNT),
12 $C_7H_7NO_2$, molecular weight 137, when the minimum
13 concentration in the finished explosive is 0.5 percent
14 by mass;

15 “(4) Ortho-Mononitrotoluene (o-MNT),
16 $C_7H_7NO_2$, molecular weight 137, when the minimum
17 concentration in the finished explosive is 0.5 percent
18 by mass; and

19 “(5) any other substance in the concentration
20 specified by the Secretary, after consultation with
21 the Secretary of State and the Secretary of Defense,
22 which has been added to the table in part 2 of the
23 Technical Annex to the Convention on the Marking
24 of Plastic Explosives.

1 “(q) ‘Plastic explosive’ means an explosive material
2 in flexible or elastic sheet form formulated with one or
3 more high explosives which in their pure form have a
4 vapor pressure less than 10^{-4} Pa at a temperature of
5 25°C ., is formulated with a binder material, and is as a
6 mixture malleable or flexible at normal room tempera-
7 ture.”.

8 **SEC. 703. REQUIREMENT OF DETECTION AGENTS FOR**
9 **PLASTIC EXPLOSIVES.**

10 Section 842 of title 18, United States Code, is
11 amended by adding after subsection (k) the following new
12 subsections:

13 “(l) It shall be unlawful for any person to manufac-
14 ture any plastic explosive that does not contain a detection
15 agent.

16 “(m)(1) It shall be unlawful for any person to import
17 or bring into the United States, or export from the United
18 States, any plastic explosive that does not contain a detec-
19 tion agent.

20 “(2) This subsection does not apply to the importa-
21 tion or bringing into the United States, or the exportation
22 from the United States, of any plastic explosive that was
23 imported, brought into, or manufactured in the United
24 States prior to the date of enactment of title VII of the
25 Comprehensive Terrorism Prevention Act of 1995 by or

1 on behalf of any agency of the United States performing
2 military or police functions (including any military reserve
3 component) or by or on behalf of the National Guard of
4 any State, not later than 15 years after the date of entry
5 into force of the Convention on the Marking of Plastic Ex-
6 plosives, with respect to the United States.

7 “(n)(1) It shall be unlawful for any person to ship,
8 transport, transfer, receive, or possess any plastic explo-
9 sive that does not contain a detection agent.

10 “(2) This subsection does not apply to—

11 “(A) the shipment, transportation, transfer, re-
12 ceipt, or possession of any plastic explosive that was
13 imported, brought into, or manufactured in the
14 United States prior to the date of enactment of the
15 Comprehensive Terrorism Prevention Act of 1995 by
16 any person during a period not exceeding 3 years
17 after the date of enactment of title VII of the Com-
18 prehensive Terrorism Prevention Act of 1995; or

19 “(B) the shipment, transportation, transfer, re-
20 ceipt, or possession of any plastic explosive that was
21 imported, brought into, or manufactured in the
22 United States prior to the date of enactment of title
23 VII of the Comprehensive Terrorism Prevention Act
24 of 1995 by or on behalf of any agency of the United
25 States performing a military or police function (in-

1 cluding any military reserve component) or by or on
2 behalf of the National Guard of any State, not later
3 than 15 years after the date of entry into force of
4 the Convention on the Marking of Plastic Explo-
5 sives, with respect to the United States.

6 “(o) It shall be unlawful for any person, other than
7 an agency of the United States (including any military re-
8 serve component) or the National Guard of any State, pos-
9 sessed any plastic explosive on the date of enactment of
10 title VII of the Comprehensive Terrorism Prevention Act
11 of 1995, to fail to report to the Secretary within 120 days
12 after such effective date the quantity of such explosives
13 possessed, the manufacturer or importer, any marks of
14 identification on such explosives, and such other informa-
15 tion as the Secretary may by regulations prescribe.”.

16 **SEC. 704. CRIMINAL SANCTIONS.**

17 Section 844(a) of title 18, United States Code, is
18 amended to read as follows:

19 “(a) Any person who violates any of subsections (a)
20 through (i) or (l) through (o) of section 842 shall be fined
21 under this title or imprisoned not more than 10 years, or
22 both.”.

23 **SEC. 705. EXCEPTIONS.**

24 Section 845 of title 18, United States Code, is
25 amended—

1 (1) in subsection (a), by inserting “(l), (m), (n),
2 or (o) of section 842 and subsections” after “sub-
3 sections”;

4 (2) in paragraph (1), by inserting before the
5 semicolon “, and which pertain to safety”; and

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

8 “(c) It is an affirmative defense against any proceed-
9 ing involving subsections (l) through (o) of section 842
10 if the proponent proves by a preponderance of the evidence
11 that the plastic explosive—

12 “(1) consisted of a small amount of plastic ex-
13 plosive intended for and utilized solely in lawful—

14 “(A) research, development, or testing of
15 new or modified explosive materials;

16 “(B) training in explosives detection or de-
17 velopment or testing of explosives detection
18 equipment; or

19 “(C) forensic science purposes; or

20 “(2) was plastic explosive that, within 3 years
21 after the date of enactment of the Comprehensive
22 Terrorism Prevention Act of 1995, will be or is in-
23 corporated in a military device within the territory
24 of the United States and remains an integral part
25 of such military device, or is intended to be, or is in-

1 corporated in, and remains an integral part of a
2 military device that is intended to become, or has be-
3 come, the property of any agency of the United
4 States performing military or police functions (in-
5 cluding any military reserve component) or the Na-
6 tional Guard of any State, wherever such device is
7 located.

8 “(3) For purposes of this subsection, the term
9 ‘military device’ includes, but is not restricted to,
10 shells, bombs, projectiles, mines, missiles, rockets,
11 shaped charges, grenades, perforators, and similar
12 devices lawfully manufactured exclusively for mili-
13 tary or police purposes.”.

14 **SEC. 706. INVESTIGATIVE AUTHORITY.**

15 Section 846 of title 18, United States Code, is
16 amended—

17 (1) in the last sentence, by inserting in the last
18 sentence before “subsection” the phrase “subsection
19 (m) or (n) of section 842 or;”, and

20 (2) by adding at the end the following: “The
21 Attorney General shall exercise authority over viola-
22 tions of subsection (m) or (n) of section 842 only
23 when they are committed by a member of a terrorist
24 or revolutionary group. In any matter involving a
25 terrorist or revolutionary group or individual, as de-

1 terminated by the Attorney General, the Attorney
2 General shall have primary investigative responsibil-
3 ity and the Secretary shall assist the Attorney Gen-
4 eral as requested.”.

5 **SEC. 707. EFFECTIVE DATE.**

6 Except as otherwise provided in this title, this title
7 and the amendments made by this title shall take effect
8 1 year after the date of enactment of this Act.

9 **SEC. 708. STUDY AND REQUIREMENTS FOR TAGGING OF EX-**
10 **PLOSIVE MATERIALS, AND STUDY AND REC-**
11 **COMMENDATIONS FOR RENDERING EXPLO-**
12 **SIVE COMPONENTS INERT AND IMPOSING**
13 **CONTROLS ON PRECURSORS OF EXPLOSIVES.**

14 (a) The Secretary of the Treasury shall conduct a
15 study and make recommendations concerning—

16 (1) the tagging of explosive materials for pur-
17 poses of detection and identification;

18 (2) whether common chemicals used to manu-
19 facture explosive materials can be rendered inert and
20 whether it is feasible to require it; and

21 (3) whether controls can be imposed on certain
22 precursor chemicals used to manufacture explosive
23 materials and whether it is feasible and cost-effective
24 to require it.

1 In conducting the study, the Secretary shall consult with
2 other Federal, State and local officials with expertise in
3 this area and such other individuals as shall be deemed
4 necessary. Such study shall be completed within twelve
5 months after the enactment of this Act and shall be sub-
6 mitted to the Congress and made available to the public.
7 Such study may include, if appropriate, recommendations
8 for legislation.

9 (b) There are authorized to be appropriated for the
10 study and recommendations contained in paragraph (a)
11 such sums as may be necessary.

12 (c) Section 842, of title 18, United States Code, is
13 amended by inserting after subsection (k), a new sub-
14 section (l) which reads as follows:

15 “(l)(1) It shall be unlawful for any person to manu-
16 facture, import, ship, transport, receive, possess, transfer,
17 or distribute any explosive material that does not contain
18 a tracer element as prescribed by the Secretary pursuant
19 to regulation, knowing or having reasonable cause to be-
20 lieve that the explosive material does not contain the re-
21 quired tracer element.

22 “(2) For purposes of this subsection, explosive mate-
23 rial does not include smokeless or black powder manufac-
24 tured for uses set forth in section 845(a) (4) and (5) of
25 this chapter.”.

1 (d) Section 844, of title 18, United States Code, is
2 amended by inserting after “(a) through (i)” the phrase
3 “and (l)”.

4 (e) Section 846, of title 18, United States Code, is
5 amended by designating the present section as “(a)” and
6 by adding a new subsection (b) reading as follows:

7 “(b) to facilitate the enforcement of this chapter the
8 Secretary shall, within 6 months after submission of the
9 study required by subsection (a), promulgate regulations
10 for the addition of tracer elements to explosive materials
11 manufactured in or imported into the United States. Trac-
12 er elements to be added to explosive materials under provi-
13 sions of this subsection shall be of such character and in
14 such quantity as the Secretary may authorize or require,
15 and such as will not substantially impair the quality of
16 the explosive materials for their intended lawful use, ad-
17 versely affect the safety of these explosives, or have a sub-
18 stantially adverse effect on the environment.”.

19 (f) The penalties provided herein shall not take effect
20 until ninety days after the date of promulgation of the
21 regulations provided for herein.

22 **TITLE VIII—NUCLEAR** 23 **MATERIALS**

24 **SEC. 801. FINDINGS AND PURPOSE.**

25 (a) FINDINGS.—The Congress finds that—

1 (1) nuclear materials, including byproduct ma-
2 terials, can be used to create radioactive dispersal
3 devices that are capable of causing serious bodily in-
4 jury as well as substantial damage to property and
5 the environment;

6 (2) the potential use of nuclear materials, in-
7 cluding byproduct materials, enhances the threat
8 posed by terrorist activities and thereby has a great-
9 er effect on the security interests of the United
10 States;

11 (3) due to the widespread hazards presented by
12 the threat of nuclear contamination, as well as nu-
13 clear bombs, the United States has a strong interest
14 in ensuring that persons who are engaged in the ille-
15 gal acquisition and use of nuclear materials, includ-
16 ing byproduct materials, are prosecuted for their of-
17 fenses;

18 (4) the threat that nuclear materials will be ob-
19 tained and used by terrorist and other criminal orga-
20 nizations has increased substantially since the enact-
21 ment in 1982 of the legislation that implemented the
22 Convention on the Physical Protection of Nuclear
23 Material, codified at section 831 of title 18, United
24 States Code;

1 (5) the successful efforts to obtain agreements
2 from other countries to dismantle nuclear weapons
3 have resulted in increased packaging and transpor-
4 tation of nuclear materials, thereby decreasing the
5 security of such materials by increasing the oppor-
6 tunity for unlawful diversion and theft;

7 (6) the illicit trafficking in the relatively more
8 common, commercially available and usable nuclear
9 and byproduct materials poses a potential to cause
10 significant loss of life and environmental damage;

11 (7) reported trafficking incidents in the early
12 1990's suggest that the individuals involved in traf-
13 ficking these materials from Eurasia and Eastern
14 Europe frequently conducted their black market
15 sales of these materials within the Federal Republic
16 of Germany, the Baltic States, the former Soviet
17 Union, Central Europe, and to a lesser extent in the
18 Middle European countries;

19 (8) the international community has become in-
20 creasingly concerned over the illegal possession of
21 nuclear and nuclear byproduct materials;

22 (9) the potentially disastrous ramifications of
23 increased access to nuclear and nuclear byproduct
24 materials pose such a significant future threat that

1 the United States must use all lawful methods avail-
2 able to combat the illegal use of such materials;

3 (10) the United States has an interest in en-
4 couraging United States corporations to do business
5 in the countries that comprised the former Soviet
6 Union, and in other developing democracies;

7 (11) protection of such United States corpora-
8 tions from threats created by the unlawful use of nu-
9 clear materials is important to the success of the ef-
10 fort to encourage such business ventures, and to fur-
11 ther the foreign relations and commerce of the Unit-
12 ed States;

13 (12) the nature of nuclear contamination is
14 such that it may affect the health, environment, and
15 property of United States nationals even if the acts
16 that constitute the illegal activity occur outside the
17 territory of the United States, and are primarily di-
18 rected toward foreign nationals; and

19 (13) there is presently no Federal criminal stat-
20 ute that provides adequate protection to United
21 States interests from nonweapons grade, yet hazard-
22 ous radioactive material, and from the illegal diver-
23 sion of nuclear materials that are held for other
24 than peaceful purposes.

1 (b) PURPOSE.—The purpose of this title is to provide
2 Federal law enforcement agencies the necessary tools and
3 fullest possible basis allowed under the Constitution to
4 combat the threat of nuclear contamination and prolifera-
5 tion that may result from illegal possession and use of ra-
6 dioactive materials.

7 **SEC. 802. EXPANSION OF SCOPE AND JURISDICTIONAL**
8 **BASES OF NUCLEAR MATERIALS PROHIBI-**
9 **TIONS.**

10 Section 831 of title 18, United States Code, is
11 amended—

12 (1) in subsection (a)—

13 (A) by striking “nuclear material” each
14 place it appears and inserting “nuclear material
15 or nuclear byproduct material”;

16 (B) in paragraph (1)—

17 (i) in subparagraph (A), by inserting
18 “or the environment” after “property”;
19 and

20 (ii) by amending subparagraph (B) to
21 read as follows:

22 “(B)(i) circumstances exist that are likely
23 to cause the death or serious bodily injury to
24 any person or substantial damage to property
25 or the environment, or such circumstances have

1 been represented to the defendant to exist;”;
2 and

3 (C) in paragraph (6), by inserting “or the
4 environment” after “property”;

5 (2) in subsection (c)—

6 (A) by amending paragraph (2) to read as
7 follows:

8 “(2) an offender or a victim is a national of the
9 United States or a United States corporation or
10 other legal entity;”;

11 (B) in paragraph (3)—

12 (i) by striking “at the time of the of-
13 fense the nuclear material is in use, stor-
14 age, or transport, for peaceful purposes,
15 and”;

16 (ii) by striking “or” at the end of the
17 paragraph;

18 (C) in paragraph (4)—

19 (i) by striking “nuclear material for
20 peaceful purposes” and inserting “nuclear
21 material or nuclear byproduct material”;
22 and

23 (ii) by striking the period at the end
24 of the paragraph and inserting “; or”; and

1 (D) by adding at the end the following new
2 paragraph:

3 “(5) the governmental entity under subsection
4 (a)(5) is the United States or the threat under sub-
5 section (a)(6) is directed at the United States.”; and

6 (3) in subsection (f)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A), by striking
9 “with an isotopic concentration not in ex-
10 cess of 80 percent plutonium 238”; and

11 (ii) in subparagraph (C), by striking
12 “(C) uranium” and inserting “(C) enriched
13 uranium, defined as uranium”;

14 (B) by redesignating paragraphs (2), (3),
15 and (4) as paragraphs (4), (5), and (6), respec-
16 tively;

17 (C) by inserting after paragraph (1) the
18 following new paragraph:

19 “(2) the term ‘nuclear byproduct material’
20 means any material containing any radioactive iso-
21 tope created through an irradiation process in the
22 operation of a nuclear reactor or accelerator;”;

23 (D) by striking “and” at the end of para-
24 graph (4), as redesignated;

1 (E) by striking the period at the end of
2 subsection (f)(5), as redesignated, and inserting
3 a semicolon; and

4 (F) by adding at the end the following new
5 paragraphs:

6 “(6) the term ‘national of the United States’
7 has the meaning given such term in section
8 101(a)(22) of the Immigration and Nationality Act
9 (8 U.S.C. 1101(a)(22)); and

10 “(7) the term ‘United States corporation or
11 other legal entity’ means any corporation or other
12 entity organized under the laws of the United States
13 or any State, Commonwealth, territory, possession,
14 or district of the United States.”.

15 **TITLE IX—MISCELLANEOUS**
16 **PROVISIONS**

17 **SEC. 901. PROHIBITION ON DISTRIBUTION OF INFORMA-**
18 **TION RELATING TO EXPLOSIVE MATERIALS**
19 **FOR A CRIMINAL PURPOSE.**

20 (a) Section 842 of title 18, United States Code, is
21 amended by adding at the end the following new sub-
22 section:

23 “(l) It shall be unlawful for any person to teach or
24 demonstrate the making of explosive materials, or to dis-
25 tribute by any means information pertaining to, in whole

1 or in part, the manufacture of explosive materials, if the
2 person intends or knows, that such explosive materials or
3 information will be used for, or in furtherance of, an activ-
4 ity that constitutes a Federal criminal offense or a crimi-
5 nal purpose affecting interstate commerce.”.

6 (b) Section 844 of title 18, United States Code, is
7 amended by designating subsection (a) as subsection
8 (a)(1) and by adding the following new subsection:

9 “(a)(2) Any person who violates subsection (l) of sec-
10 tion 842 of this chapter shall be fined under this title or
11 imprisoned not more than twenty years, or both.”.

12 **SEC. 902. DESIGNATION OF CARTNEY KOCH MCRAVEN**
13 **CHILD DEVELOPMENT CENTER.**

14 (a) DESIGNATION.—

15 (1) IN GENERAL.—The Federal building at
16 1314 LeMay Boulevard, Ellsworth Air Force Base,
17 South Dakota, shall be known and designated as the
18 “Cartney Koch McRaven Child Development Cen-
19 ter”.

20 (2) REPLACEMENT BUILDING.—If, after the
21 date of enactment of this Act, a new Federal build-
22 ing is built at the location described in paragraph
23 (1) to replace the building described in the para-
24 graph, the new Federal building shall be known and

1 designated as the “Cartney Koch McRaven Child
2 Development Center”.

3 (b) REFERENCES.—Any reference in a law, map, reg-
4 ulation, document, paper, or other record of the United
5 States to a Federal building referred to in subsection (a)
6 shall be deemed to be a reference to the “Cartney Koch
7 McRaven Child Development Center”.

8 **SEC. 903. FOREIGN AIR TRAVEL SAFETY.**

9 Section 44906 of title 49, United States Code, is
10 amended to read as follows:

11 **“§ 44906. Foreign air carrier security programs**

12 “The Administrator of the Federal Aviation Adminis-
13 tration shall continue in effect the requirement of section
14 129.25 of title 14, Code of Federal Regulations, that a
15 foreign air carrier must adopt and use a security program
16 approved by the Administrator. The Administrator shall
17 only approve a security program of a foreign air carrier
18 under section 129.25, or any successor regulation, if the
19 Administrator decides the security program provides pas-
20 sengers of the foreign air carrier a level of protection iden-
21 tical to the level those passengers would receive under the
22 security programs of air carriers serving the same airport.
23 The Administrator shall prescribe regulations to carry out
24 this section.”.

1 **SEC. 904. PROOF OF CITIZENSHIP.**

2 Notwithstanding any other provision of law, a Fed-
3 eral, State, or local government agency may not use a
4 voter registration card (or other related document) that
5 evidences registration for an election for Federal office,
6 as evidence to prove United States citizenship.

7 **SEC. 905. COOPERATION OF FERTILIZER RESEARCH CEN-**
8 **TERS.**

9 In conducting any portion of the study relating to the
10 regulation and use of fertilizer as a pre-explosive material,
11 the Secretary of the Treasury shall consult with and re-
12 ceive input from non-profit fertilizer research centers and
13 include their opinions and findings in the report required
14 under subsection (c).

15 **SEC. 906. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.**

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

18 (A) in subparagraph (A), by striking
19 “\$50” and inserting “not less than \$100”; and

20 (B) in subparagraph (B), by striking
21 “\$200” and inserting “not less than \$400”.

1 **SEC. 907. PROHIBITION ON ASSISTANCE UNDER ARMS EX-**
2 **PORT CONTROL ACT FOR COUNTRIES NOT**
3 **COOPERATING FULLY WITH UNITED STATES**
4 **ANTITERRORISM EFFORTS.**

5 Chapter 3 of the Arms Export Control Act (22
6 U.S.C. 2771 et seq.) is amended by adding at the end
7 the following:

8 **“Sec. 40A. Transactions with Countries**
9 **Not Fully Cooperating with United States**
10 **Antiterrorism Efforts.**

11 “(a) PROHIBITED TRANSACTIONS.—No defense arti-
12 cle or defense service may be sold or licensed for export
13 under this Act to a foreign country in a fiscal year unless
14 the President determines and certifies to Congress at the
15 beginning of that fiscal year, or at any other time in that
16 fiscal year before such sale or license, that the country
17 is cooperating fully with United States antiterrorism ef-
18 forts.

19 “(b) WAIVER.—The President may waive the prohibi-
20 tion set forth in subsection (a) with respect to a specific
21 transaction if the President determines that the trans-
22 action is essential to the national security interests of the
23 United States.”.

1 **SEC. 908. AUTHORITY TO REQUEST MILITARY ASSISTANCE**
2 **WITH RESPECT TO OFFENSES INVOLVING BI-**
3 **OLOGICAL AND CHEMICAL WEAPONS.**

4 (a) BIOLOGICAL WEAPONS OF MASS DESTRUC-
5 TION.—Section 175 of title 18, United States Code, is
6 amended by adding at the end the following:

7 “(c)(1) MILITARY ASSISTANCE.—The Attorney Gen-
8 eral may request that the Secretary of Defense provide
9 assistance in support of Department of Justice activities
10 relating to the enforcement of this section in an emergency
11 situation involving biological weapons of mass destruction.
12 Department of Defense resources, including personnel of
13 the Department of Defense, may be used to provide such
14 assistance if—

15 “(A) the Secretary of Defense and the Attorney
16 General determine that an emergency situation in-
17 volving biological weapons of mass destruction ex-
18 ists; and

19 “(B) the Secretary of Defense determines that
20 the provision of such assistance will not adversely af-
21 fect the military preparedness of the United States.

22 “(2) As used in this section, ‘emergency situation in-
23 volving biological weapons of mass destruction’ means a
24 circumstance involving a biological weapon of mass de-
25 struction—

1 “(A) that poses a serious threat to the interests
2 of the United States; and

3 “(B) in which—

4 “(i) civilian expertise is not readily avail-
5 able to provide the required assistance to
6 counter the threat posed by the biological weap-
7 on of mass destruction involved;

8 “(ii) Department of Defense special capa-
9 bilities and expertise are needed to counter the
10 threat posed by the biological weapon of mass
11 destruction involved; and

12 “(iii) enforcement of the law would be seri-
13 ously impaired if the Department of Defense
14 assistance were not provided.

15 “(3) The assistance referred to in paragraph (1) in-
16 cludes the operation of equipment (including equipment
17 made available under section 372 of title 10) to monitor,
18 contain, disable, or dispose of a biological weapon of mass
19 destruction or elements of the weapon.

20 “(4) The Attorney General and the Secretary of De-
21 fense shall jointly issue regulations concerning the types
22 of assistance that may be provided under this subsection.
23 Such regulations shall also describe the actions that De-
24 partment of Defense personnel may take in circumstances
25 incident to the provision of assistance under this sub-

1 section. Such regulations shall not authorize arrest or any
2 assistance in conducting searches and seizures that seek
3 evidence related to violations of this section, except for the
4 immediate protection of human life.

5 “(5) The Secretary of Defense shall require reim-
6 bursement as a condition for providing assistance under
7 this subsection in accordance with section 377 of title 10.

8 “(6)(A) Except to the extent otherwise provided by
9 the Attorney General, the Deputy Attorney General may
10 exercise the authority of the Attorney General under this
11 subsection. The Attorney General may delegate the Attor-
12 ney General’s authority under this subsection only to the
13 Associate Attorney General or an Assistant Attorney Gen-
14 eral and only if the Associate Attorney General or Assist-
15 ant Attorney General to whom delegated has been des-
16 igned by the Attorney General to act for, and to exercise
17 the general powers of, the Attorney General.

18 “(B) Except to the extent otherwise provided by the
19 Secretary of Defense, the Deputy Secretary of Defense
20 may exercise the authority of the Secretary of Defense
21 under this subsection. The Secretary of Defense may dele-
22 gate the Secretary’s authority under this subsection only
23 to an Under Secretary of Defense or an Assistant Sec-
24 retary of Defense and only if the Under Secretary or As-
25 sistant Secretary to whom delegated has been designated

1 by the Secretary to act for, and to exercise the general
2 powers of, the Secretary.”.

3 (b) CHEMICAL WEAPONS OF MASS DESTRUCTION.—
4 The chapter 113B of title 18, United States Code, that
5 relates to terrorism, is amended by inserting after section
6 2332a the following:

7 **“§ 2332b. Use of chemical weapons**

8 “(a) OFFENSE.—A person who without lawful au-
9 thority uses, or attempts or conspires to use, a chemical
10 weapon—

11 “(1) against a national of the United States
12 while such national is outside of the United States;

13 “(2) against any person within the United
14 States; or

15 “(3) against any property that is owned, leased
16 or used by the United States or by any department
17 or agency of the United States, whether the property
18 is within or outside of the United States,

19 shall be imprisoned for any term of years or for life, and
20 if death results, shall be punished by death or imprisoned
21 for any term of years or for life.

22 “(b) DEFINITIONS.—For purposes of this section—

23 “(1) the term ‘national of the United States’
24 has the meaning given in section 101(a)(22) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1101(a)(22)); and

3 “(2) the term ‘chemical weapon’ means any
4 weapon that is designed to cause widespread death
5 or serious bodily injury through the release, dissemi-
6 nation, or impact of toxic or poisonous chemicals or
7 their precursors.

8 “(c)(1) MILITARY ASSISTANCE.—The Attorney Gen-
9 eral may request that the Secretary of Defense provide
10 assistance in support of Department of Justice activities
11 relating to the enforcement of this section in an emergency
12 situation involving chemical weapons of mass destruction.
13 Department of Defense resources, including personnel of
14 the Department of Defense, may be used to provide such
15 assistance if—

16 “(A) the Secretary of Defense and the Attorney
17 General determine that an emergency situation in-
18 volving chemical weapons of mass destruction exists;
19 and

20 “(B) the Secretary of Defense determines that
21 the provision of such assistance will not adversely af-
22 fect the military preparedness of the United States.

23 “(2) As used in this section, ‘emergency situation in-
24 volving chemical weapons of mass destruction’ means a

1 circumstance involving a chemical weapon of mass de-
2 struction—

3 “(A) that poses a serious threat to the interests
4 of the United States; and

5 “(B) in which—

6 “(i) civilian expertise is not readily avail-
7 able to provide the required assistance to
8 counter the threat posed by the chemical weap-
9 on of mass destruction involved;

10 “(ii) Department of Defense special capa-
11 bilities and expertise are needed to counter the
12 threat posed by the biological weapon of mass
13 destruction involved; and

14 “(iii) enforcement of the law would be seri-
15 ously impaired if the Department of Defense
16 assistance were not provided.

17 “(3) The assistance referred to in paragraph (1) in-
18 cludes the operation of equipment (including equipment
19 made available under section 372 of title 10) to monitor,
20 contain, disable, or dispose of a chemical weapon of mass
21 destruction or elements of the weapon.

22 “(4) The Attorney General and the Secretary of De-
23 fense shall jointly issue regulations concerning the types
24 of assistance that may be provided under this subsection.
25 Such regulations shall also describe the actions that De-

1 partment of Defense personnel may take in circumstances
2 incident to the provision of assistance under this sub-
3 section. Such regulations shall not authorize arrest or any
4 assistance in conducting searches and seizures that seek
5 evidence related to violations of this section, except for the
6 immediate protection of human life.

7 “(5) The Secretary of Defense shall require reim-
8 bursement as a condition for providing assistance under
9 this subsection in accordance with section 377 of title 10.

10 “(6)(A) Except to the extent otherwise provided by
11 the Attorney General, the Deputy Attorney General may
12 exercise the authority of the Attorney General under this
13 subsection. The Attorney General may delegate the Attor-
14 ney General’s authority under this subsection only to the
15 Associate Attorney General or an Assistant Attorney Gen-
16 eral and only if the Associate Attorney General or Assist-
17 ant Attorney General to whom delegated has been des-
18 igned by the Attorney General to act for, and to exercise
19 the general powers of, the Attorney General.

20 “(B) Except to the extent otherwise provided by the
21 Secretary of Defense, the Deputy Secretary of Defense
22 may exercise the authority of the Secretary of Defense
23 under this subsection. The Secretary of Defense may dele-
24 gate the Secretary’s authority under this subsection only
25 to an Under Secretary of Defense or an Assistant Sec-

1 retary of Defense and only if the Under Secretary or As-
2 sistant Secretary to whom delegated has been designated
3 by the Secretary to act for, and to exercise the general
4 powers of, the Secretary.”.

5 (c)(1) CIVILIAN EXPERTISE.—The President shall
6 take reasonable measures to reduce civilian law enforce-
7 ment officials’ reliance on Department of Defense re-
8 sources to counter the threat posed by the use or potential
9 use of biological and chemical weapons of mass destruction
10 within the United States, including—

11 (A) increasing civilian law enforcement exper-
12 tise to counter such threat;

13 (B) improving coordination between civilian law
14 enforcement officials and other civilian sources of ex-
15 pertise, both within and outside the Federal Govern-
16 ment, to counter such threat.

17 (2) REPORT REQUIREMENT.—The President shall
18 submit to the Congress—

19 (A) ninety days after the date of enactment of
20 this Act, a report describing the respective policy
21 functions and operational roles of Federal agencies
22 in countering the threat posed by the use or poten-
23 tial use of biological and chemical weapons of mass
24 destruction within the United States;

1 (B) one year after the date of enactment of this
2 Act, a report describing the actions planned to be
3 taken and the attendant cost pertaining to para-
4 graph (1); and

5 (C) three years after the date of enactment of
6 this Act, a report updating the information provided
7 in the reports submitted pursuant to subparagraphs
8 (A) and (B), including measures taken pursuant to
9 paragraph (1).

10 (d) CLERICAL AMENDMENT.—The chapter analysis
11 for chapter 113B of title 18, United States Code, is
12 amended by inserting after the item relating to section
13 2332a the following:

“2332b. Use of chemical weapons.”.

14 (e) USE OF WEAPONS OF MASS DESTRUCTION.—
15 Section 2332a(a) of title 18, United States Code, is
16 amended by inserting “without lawful authority” after “A
17 person who”.

18 **SEC. 909. REVISION TO EXISTING AUTHORITY FOR**
19 **MULTIPOINT WIRETAPS.**

20 (a) Section 2518(11)(b)(ii) of title 18 is amended: by
21 deleting “of a purpose, on the part of that person, to
22 thwart interception by changing facilities.” and inserting
23 “that the person had the intent to thwart interception or
24 that the person’s actions and conduct would have the ef-
25 fect of thwarting interception from a specified facility.”.

1 (b) Section 2518(11)(b)(iii) is amended to read:

2 “(iii) the judge finds that such showing has
3 been adequately made.”.

4 **SEC. 910. AUTHORIZATION OF ADDITIONAL APPROPRIA-**
5 **TIONS FOR THE UNITED STATES PARK PO-**
6 **LICE.**

7 (a) IN GENERAL.—There are authorized to be appro-
8 priated from the General Fund of the Treasury for the
9 activities of the United States Park Police, to help meet
10 the increased needs of the United States Park Police,
11 \$1,000,000 for each of the fiscal years 1996, 1997, 1998,
12 1999, and 2000.

13 (b) AVAILABILITY OF FUNDS.—Funds made avail-
14 able pursuant to this section, in any fiscal year, shall re-
15 main available until expended.

16 **SEC. 911. AUTHORIZATION OF ADDITIONAL APPROPRIA-**
17 **TIONS FOR THE ADMINISTRATIVE OFFICE OF**
18 **THE UNITED STATES COURTS.**

19 (a) IN GENERAL.—There are authorized to be appro-
20 priated from the General Fund of the Treasury for the
21 activities of the Administrative Office of the United States
22 Courts, to help meet the increased needs of the Adminis-
23 trative Office of the United States Courts, \$4,000,000 for
24 each of the fiscal years 1996, 1997, 1998, 1999, and
25 2000.

1 (b) AVAILABILITY OF FUNDS.—Funds made avail-
2 able pursuant to this section, in any fiscal year, shall re-
3 main available until expended.

4 **SEC. 912. AUTHORIZATION OF ADDITIONAL APPROPRIA-**
5 **TIONS FOR THE UNITED STATES CUSTOMS**
6 **SERVICE.**

7 (a) IN GENERAL.—There are authorized to be appro-
8 priated from the General Fund of the Treasury for the
9 activities of the United States Customs Service, to help
10 meet the increased needs of the United States Customs
11 Service, \$10,000,000 for each of the fiscal years 1996,
12 1997, 1998, 1999, and 2000.

13 (b) AVAILABILITY OF FUNDS.—Funds made avail-
14 able pursuant to this section, in any fiscal year, shall re-
15 main available until expended.

16 **SEC. 913. SEVERABILITY.**

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

1 **TITLE X—VICTIMS OF**
2 **TERRORISM ACT**

3 **SEC. 1001. TITLE.**

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

6 **SEC. 1002. AUTHORITY TO PROVIDE ASSISTANCE AND COM-**
7 **PENSATION TO VICTIMS OF TERRORISM.**

8 The Victims of Crime Act of 1984 (42 U.S.C. 10601
9 et seq.) is amended by inserting after section 1404A the
10 following new section:

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

13 “(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE
14 UNITED STATES.—The Director may make supplemental
15 grants to States to provide compensation and assistance
16 to the residents of such States who, while outside the terri-
17 torial boundaries of the United States, are victims of a
18 terrorist act or mass violence and are not persons eligible
19 for compensation under title VIII of the Omnibus Diplo-
20 matic Security and Antiterrorism Act of 1986.

21 “(b) VICTIMS OF DOMESTIC TERRORISM.—The Di-
22 rector may make supplemental grants to States for eligible
23 crime victim compensation and assistance programs to
24 provide emergency relief, including crisis response efforts,
25 assistance, training, and technical assistance, for the bene-

1 fit of victims of terrorist acts or mass violence occurring
2 within the United States and may provide funding to
3 United States Attorney's Offices for use in coordination
4 with State victims compensation and assistance efforts in
5 providing emergency relief.”.

6 **SEC. 1003. FUNDING OF COMPENSATION AND ASSISTANCE**
7 **TO VICTIMS OF TERRORISM, MASS VIOLENCE,**
8 **AND CRIME.**

9 Section 1402(d)(4) of the Victims of Crime Act of
10 1984 (42 U.S.C. 10601(d)(4)) is amended to read as fol-
11 lows:

12 “(4)(A) If the sums available in the Fund are
13 sufficient to fully provide grants to the States pursu-
14 ant to section 1403(a)(1), the Director may retain
15 any portion of the Fund that was deposited during
16 a fiscal year that was in excess of 110 percent of the
17 total amount deposited in the Fund during the pre-
18 ceding fiscal year as an emergency reserve. Such re-
19 serve shall not exceed \$50,000,000.

20 “(B) The emergency reserve may be used for
21 supplemental grants under section 1404B and to
22 supplement the funds available to provide grants to
23 States for compensation and assistance in accord-
24 ance with sections 1403 and 1404 in years in which
25 supplemental grants are needed.”.

1 **SEC. 1004. CRIME VICTIMS FUND AMENDMENTS.**

2 (a) UNOBLIGATED FUNDS.—Section 1402 of the Vic-
3 tims of Crime Act of 1984 (42 U.S.C. 10601) is amend-
4 ed—

5 (1) in subsection (c), by striking “subsection”
6 and inserting “chapter”; and

7 (2) by amending subsection (e) to read as fol-
8 lows:

9 “(e) AMOUNTS AWARDED AND UNSPENT.—Any
10 amount awarded as part of a grant under this chapter
11 that remains unspent at the end of a fiscal year in which
12 the grant is made may be expended for the purpose for
13 which the grant is made at any time during the 2 succeed-
14 ing fiscal years, at the end of which period, any remaining
15 unobligated sums shall be returned to the Fund.”.

16 (b) BASE AMOUNT.—Section 1404(a)(5) of such Act
17 (42 U.S.C. 10603(a)(5)) is amended to read as follows:

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

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

1 “(B) for the territories of the Northern
2 Mariana Islands, Guam, American Samoa, and
3 Palau, \$200,000.”.

Passed the Senate June 7 (legislative day, June 5),
1995.

Attest:

Secretary.

- S 735 ES—2
- S 735 ES—3
- S 735 ES—4
- S 735 ES—5
- S 735 ES—6
- S 735 ES—7
- S 735 ES—8
- S 735 ES—9
- S 735 ES—10
- S 735 ES—11
- S 735 ES—12
- S 735 ES—13
- S 735 ES—14
- S 735 ES—15

104TH CONGRESS
1ST SESSION

S. 735

AN ACT

To prevent and punish acts of terrorism, and for
other purposes.