

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 816

To provide equal protection for victims of crime, to facilitate the exchange of information between Federal and State law enforcement and investigation entities, to reform criminal procedure, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 17 (legislative day, MAY 15), 1995

Mr. DEWINE (for himself, Mr. STEVENS, Mr. ASHCROFT, Mr. HATCH, and Mr. THURMOND) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide equal protection for victims of crime, to facilitate the exchange of information between Federal and State law enforcement and investigation entities, to reform criminal procedure, 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 “Local Law Enforce-  
5 ment Enhancement Act of 1995”.

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

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

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—PRISONS

- Sec. 101. Truth-in-sentencing.
- Sec. 102. Stopping abusive prisoner lawsuits.
- Sec. 103. Appropriate remedies for prison conditions.

TITLE II—POLICE OFFICERS

- Sec. 201. Cops on the beat.

TITLE III—LAW ENFORCEMENT

- Sec. 301. Block grant program.

TITLE IV—TECHNOLOGY

- Sec. 401. Funding for DNA identification.
- Sec. 402. State compatibility with Federal Bureau of Investigation systems.
- Sec. 403. Funding for Drugfire.
- Sec. 404. Funding for the FBI DNA system covering Federal crimes and crime committed in the District of Columbia.

TITLE V—TRIGGERLOCK

- Sec. 501. Congressional oversight.
- Sec. 502. Pretrial detention for possession of firearms or explosives by convicted felons.
- Sec. 503. Conforming scienter change for transferring a firearm to commit a crime of violence.
- Sec. 504. Firearms possession by violent felons and serious drug offenders.

TITLE VI—EQUAL PROTECTION FOR VICTIMS

- Sec. 601. Right of victims to restitution.
- Sec. 602. Right of victim to an impartial jury.
- Sec. 603. Rebuttal of attacks on the victim's character.
- Sec. 604. Rules of procedure and evidence; method of prescribing.
- Sec. 605. HIV testing of defendants in sexual assault cases.
- Sec. 606. Clarifying amendment to extraterritorial child pornography offense.

TITLE VII—MILITARY

- Sec. 701. Prohibition on accrual of pay and allowances by members of the Armed Forces who are confined pending dishonorable discharge.
- Sec. 702. Criminal offenses committed outside the United States by persons accompanying the Armed Forces.

TITLE VIII—EXCLUSIONARY RULE

- Sec. 801. Admissibility of certain evidence.

TITLE IX—HABEAS CORPUS REFORM

- Sec. 901. Filing deadlines.
- Sec. 902. Appeal.
- Sec. 903. Amendment of Federal Rules of Appellate Procedure.

Sec. 904. Section 2254 amendments.  
 Sec. 905. Section 2255 amendments.  
 Sec. 906. Limits on second or successive applications.  
 Sec. 907. Death penalty litigation procedures.  
 Sec. 908. Technical amendment.  
 Sec. 909. Severability.

1 **TITLE I—PRISONS**

2 **SEC. 101. TRUTH-IN-SENTENCING.**

3 (a) TRUTH-IN-SENTENCING GRANT PROGRAM.—

4 Title V of the Violent Crime Control and Law Enforce-  
 5 ment Act of 1994 is amended to read as follows:

6 **“TITLE V—TRUTH-IN-**  
 7 **SENTENCING GRANTS**

8 **“SEC. 50001. AUTHORIZATION OF GRANTS.**

9 “(a) IN GENERAL.—The Attorney General is author-  
 10 ized to provide grants to eligible States and to eligible  
 11 States organized as a regional compact—

12 “(1) to build or expand correctional facilities to  
 13 increase the prison bed capacity for the confinement  
 14 of persons convicted of a serious violent felony; and

15 “(2) to build, expand, and operate temporary or  
 16 permanent correctional facilities, including facilities  
 17 on military bases and boot camps, for the confine-  
 18 ment of convicted nonviolent offenders and criminal  
 19 aliens for the purpose of freeing suitable existing  
 20 prison space for the confinement of persons con-  
 21 victed of a serious violent felony.

1       “(b) LIMITATION.—An eligible State or eligible  
2 States organized as a regional compact may receive either  
3 a general grant under section 50002 or a truth-in-sentenc-  
4 ing incentive grant under section 50003.

5       **“SEC. 50002. GENERAL GRANTS.**

6       “(a) DISTRIBUTION.—50 percent of the total amount  
7 of funds made available pursuant to section 50007 for  
8 each of the fiscal years 1995 through 2000 shall be made  
9 available for general eligibility grants for each State or  
10 States organized as a regional compact that meets the re-  
11 quirements of subsection (b).

12       “(b) ELIGIBILITY.—To be eligible to receive funds  
13 under subsection (a), a State or States organized as a re-  
14 gional compact shall submit an application to the Attorney  
15 General that provides assurances that such State or States  
16 have, since 1990—

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

19               “(2) increased the average prison time actually  
20 to be served in prison by convicted violent offenders  
21 sentenced to prison; and

22               “(3) increased the percentage of sentence to be  
23 actually served in prison by violent offenders sen-  
24 tenced to prison.

1 **“SEC. 50003. TRUTH-IN-SENTENCING GRANTS.**

2       “(a) TRUTH-IN-SENTENCING INCENTIVE GRANTS.—  
3 50 percent of the total amount of funds made available  
4 pursuant to section 50007 for each of the fiscal years  
5 1995 through 2000 shall be made available for truth-in-  
6 sentencing incentive grants to each State or States orga-  
7 nized as a regional compact that meet the requirements  
8 of subsection (b).

9       “(b) ELIGIBILITY.—To be eligible to receive funds  
10 under subsection (a), a State or States organized as a re-  
11 gional compact shall submit an application to the Attorney  
12 General that provides assurances that each State applying  
13 has—

14               “(1)(A) enacted truth-in-sentencing laws that  
15 require persons convicted of a serious violent felony  
16 to serve not less than 85 percent of the sentence im-  
17 posed, or 85 percent of the court-ordered maximum  
18 sentence for States that practice indeterminate sen-  
19 tencing; or

20               “(B) enacted truth-in-sentencing laws that have  
21 been enacted, but not yet implemented, that require  
22 such State, not later than 3 years after such State  
23 submits an application to the Attorney General, to  
24 provide that persons convicted of a serious violent  
25 felony serve not less than 85 percent of the sentence  
26 imposed, or 85 percent of the court-ordered maxi-

1       mum sentence for States that practice indeterminate  
2       sentencing; and

3           “(2) enacted laws requiring that the sentencing  
4       or releasing authorities notify and allow the victims  
5       of the defendant or the family of such victims the  
6       opportunity to be heard regarding the issue of sen-  
7       tencing and any postconviction release.

8       **“SEC. 50004. SPECIAL RULES.**

9           “(a) ADDITIONAL REQUIREMENTS.—To be eligible to  
10      receive a grant under section 50002 or 50003, a State  
11      or States organized as a regional compact shall provide  
12      an assurance to the Attorney General that—

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

15           “(2) each State will involve counties and other  
16      units of local government, when appropriate, in the  
17      construction, development, expansion, modification,  
18      operation, or improvement of correctional facilities  
19      designed to ensure the incarceration of offenders;

20           “(3) each State will share funds received under  
21      this title with any county or other unit of local gov-  
22      ernment that is housing State prisoners, taking into  
23      account the burden placed on such county or unit of  
24      local government in confining prisoners due to over-

1 crowding in State prison facilities in furtherance of  
2 the purposes of this Act; and

3 “(4) the State has implemented or will imple-  
4 ment, not later than 18 months after the date of the  
5 enactment of the Local Law Enforcement Enhance-  
6 ment Act of 1995, policies to determine the veteran  
7 status of inmates and to ensure that incarcerated  
8 veterans receive the veterans benefits to which they  
9 are entitled.

10 “(b) INDETERMINATE SENTENCING EXCEPTION.—  
11 Notwithstanding section 50002(b)(3), a State shall be eli-  
12 gible for grants under this title if the State, not later than  
13 the date of the enactment of this title—

14 “(1) practices indeterminate sentencing; and

15 “(2) the average time served in such State for  
16 the offenses of murder, rape, robbery, and assault  
17 exceed, by 10 percent or more, the national average  
18 of time served for such offenses.

19 “(c) EXCEPTION.—Notwithstanding section  
20 50002(b), a State may provide that the Governor of the  
21 State may allow for earlier release of a geriatric prisoner  
22 or a prisoner whose medical condition precludes the pris-  
23 oner from posing a threat to the public after a public hear-  
24 ing in which representatives of the public and the pris-

1 oner's victims have an opportunity to be heard regarding  
2 a proposed release.

3 **"SEC. 50005. FORMULA FOR GRANTS.**

4 "To determine the amount of funds that each eligible  
5 State or eligible States organized as a regional compact  
6 may receive to carry out programs under section 50002  
7 or 50003, the Attorney General shall apply the following  
8 formula:

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

12 "(2) Of the total amount of funds remaining  
13 after the allocation under paragraph (1), there shall  
14 be allocated to each State or compact, as the case  
15 may be, an amount which bears the same ratio to  
16 the amount of remaining funds described in this  
17 paragraph as the population of such State or com-  
18 pact, as the case may be, bears to the population of  
19 all the States.

20 **"SEC. 50006. ACCOUNTABILITY.**

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



1       “(b) REPORTING.—Beginning on January 1, 1996,  
2 and each January 1 thereafter, each State that receives  
3 funds under this title shall submit an annual report to  
4 the Congress regarding compliance with the requirements  
5 of this title.

6       “(c) ADMINISTRATIVE PROVISIONS.—The adminis-  
7 trative provisions of sections 801 and 802 of the Omnibus  
8 Crime Control and Safe Streets Act of 1968 shall apply  
9 to the Attorney General in the same manner as such provi-  
10 sions apply to the officials listed in such sections.

11 **“SEC. 50007. AUTHORIZATION OF APPROPRIATIONS.**

12       “(a) IN GENERAL.—There are authorized to be ap-  
13 propriated from the Violent Crime Reduction Trust Fund  
14 to carry out this title—

15               “(1) \$900,000,000 for fiscal year 1996;

16               “(2) \$1,150,000,000 for fiscal year 1997;

17               “(3) \$2,200,000,000 for fiscal year 1998;

18               “(4) \$2,300,000,000 for fiscal year 1999; and

19               “(5) \$2,400,000,000 for fiscal year 2000.

20       “(b) LIMITATIONS ON FUNDS.—

21               “(1) USES OF FUNDS.—Funds made available  
22 under this title shall be used only to carry out the  
23 purposes stated in section 50001(a).

24               “(2) NONSUPPLANTING REQUIREMENT.—Funds  
25 made available pursuant to this section shall not be

1 used to supplant State funds, but shall be used to  
2 increase the amount of funds that would, in the ab-  
3 sence of Federal funds, be made available from  
4 State sources.

5 “(3) ADMINISTRATIVE COSTS.—Not more than  
6 3 percent of the funds made available pursuant to  
7 this section shall be used for administrative costs.

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

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

16 **“SEC. 50008. DEFINITIONS.**

17 “As used in this title—

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

20 “(A) the court has discretion with respect  
21 to the actual length of the sentence imposed, up  
22 to the statutory maximum; and

23 “(B) an administrative agency, generally  
24 the parole board, controls release between court  
25 ordered minimum and maximum sentences;

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

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

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

13 “(C) murder, assault with intent to commit  
14 murder, arson, armed burglary, rape, assault  
15 with intent to commit rape, kidnapping, and  
16 armed robbery; and

17 “(3) the term ‘State’ means a State of the  
18 United States, the District of Columbia, or any com-  
19 monwealth, territory, or possession of the United  
20 States.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) OMNIBUS CRIME CONTROL AND SAFE  
23 STREETS ACT OF 1968.—

1 (A) PART V.—Part V of title I of the Om-  
2 nibus Crime Control and Safe Streets Act of  
3 1968 is repealed.

4 (B) FUNDING.—(A) Section 1001(a) of the  
5 Omnibus Crime Control and Safe Streets Act of  
6 1968 is amended by striking paragraph (20).

7 (C) Notwithstanding subparagraph (A),  
8 any funds that remain available to an applicant  
9 under paragraph (20) of title I of the Omnibus  
10 Crime Control and Safe Streets Act of 1968 on  
11 the date of enactment of this Act shall be used  
12 in accordance with part V of such Act as such  
13 Act was in effect on the day preceding the date  
14 of enactment of this Act.

15 (2) VIOLENT CRIME CONTROL AND LAW EN-  
16 FORCEMENT ACT OF 1994.—

17 (A) REPEAL.—(i) Subtitle A of title II of  
18 the Violent Crime Control and Law Enforce-  
19 ment Act of 1994 is repealed.

20 (ii) The table of contents of the Violent  
21 Crime Control and Law Enforcement Act of  
22 1994 is amended by striking the matter relating  
23 to subtitle A of title II.

24 (B) COMPLIANCE.—Notwithstanding the  
25 provisions of subparagraph (A), any funds that

1 remain available to an applicant under subtitle  
 2 A of title II of the Violent Crime Control and  
 3 Law Enforcement Act of 1994 on the date of  
 4 enactment of this Act shall be used in accord-  
 5 ance with such subtitle as such subtitle was in  
 6 effect on the day preceding the date of enact-  
 7 ment of this Act.

8 (C) TRUTH-IN-SENTENCING.—The table of  
 9 contents of the Violent Crime Control and Law  
 10 Enforcement Act of 1994 is amended by strik-  
 11 ing the matter relating to title V and inserting  
 12 the following:

“TITLE V—TRUTH-IN-SENTENCING GRANTS

- “Sec. 50001. Authorization of grants.
- “Sec. 50002. General grants.
- “Sec. 50003. Truth-in-sentencing grants.
- “Sec. 50004. Special rules.
- “Sec. 50005. Formula for grants.
- “Sec. 50006. Accountability.
- “Sec. 50007. Authorization of appropriations.
- “Sec. 50008. Definitions.”.

13 **SEC. 102. STOPPING ABUSIVE PRISONER LAWSUITS.**

14 (a) EXHAUSTION REQUIREMENT.—Section 7(a)(1) of  
 15 the Civil Rights of Institutionalized Persons Act (42  
 16 U.S.C. 1997e) is amended—

17 (1) by striking “in any action brought” and in-  
 18 sserting “no action shall be brought”;

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

1           (3) by inserting “are exhausted” after “avail-  
2           able”.

3           (b) FRIVOLOUS ACTIONS.—Section 7(a) of the Civil  
4 Rights of Institutionalized Persons Act (42 U.S.C.  
5 1997e(a)) is amended by adding at the end the following:  
6           “(3) The court shall on its own motion or on motion  
7 of a party dismiss any action brought pursuant to section  
8 1979 of the Revised Statutes of the United States by an  
9 adult convicted of a crime and confined in any jail, prison,  
10 or other correctional facility, if the court is satisfied that  
11 the action fails to state a claim upon which relief can be  
12 granted or is frivolous or malicious.”.

13           (c) MODIFICATION OF REQUIREMENT MINIMUM  
14 STANDARDS.—Section 7(b)(2) of the Civil Rights of Insti-  
15 tutionalized Persons Act (42 U.S.C. 1997e(b)(2)) is  
16 amended by striking subparagraph (A) and redesignating  
17 subparagraphs (B) through (E) as subparagraphs (A)  
18 through (D), respectively.

19           (d) PROCEEDINGS IN FORMA PAUPERIS.—

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

22           (A) by inserting “at any time” after  
23 “counsel and may”;

24           (B) by striking “and may” and inserting  
25 “and shall”;

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

4 (D) by inserting “, even if partial filing  
5 fees have been imposed by the court” before the  
6 period.

7 (2) PRISONER’S STATEMENT OF ASSETS.—Sec-  
8 tion 1915 of title 28, United States Code, is amend-  
9 ed by adding at the end the following new sub-  
10 section:

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

20 **SEC. 103. APPROPRIATE REMEDIES FOR PRISON CONDI-**  
21 **TIONS.**

22 (a) IN GENERAL.—Section 3626 of title 18, United  
23 States Code (as added by section 20409 of the Violent  
24 Crime Control and Law Enforcement Act of 1994), is  
25 amended to read as follows:

1 **“§ 3626. Appropriate remedies with respect to prison**  
2 **conditions**

3 “(a) REQUIREMENTS FOR RELIEF.—

4 “(1) LIMITATIONS ON PROSPECTIVE RELIEF.—

5 Prospective relief in a civil action with respect to  
6 prison conditions shall extend no further than nec-  
7 essary to remove the conditions that are causing the  
8 deprivation of the Federal rights of individual plain-  
9 tiffs in the civil action. The court shall not grant or  
10 approve any prospective relief unless the court finds  
11 that such relief is narrowly drawn and the least in-  
12 trusive means to remedy the violation of the Federal  
13 right. In determining the intrusiveness of the relief,  
14 the court shall give substantial weight to any ad-  
15 verse impact on public safety or the operation of a  
16 criminal justice system caused by the relief.

17 “(2) PRISON POPULATION REDUCTION RE-  
18 LIEF.—In any civil action with respect to prison con-  
19 ditions, the court shall not grant or approve any re-  
20 lief the purpose or effect of which is to reduce or  
21 limit the prison population, unless the plaintiff  
22 proves that crowding is the primary cause of the  
23 deprivation of the Federal right and no other relief  
24 will remedy that deprivation.

25 “(b) TERMINATION OF RELIEF.—



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

6           “(A) the date the court issued the judg-  
7 ment finding a violation of a Federal right that  
8 was the basis for the relief; or

9           “(B) the date of the enactment of the  
10 Local Law Enforcement Enhancement Act of  
11 1995.

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

19           “(c) PROCEDURE FOR MOTIONS AFFECTING PRO-  
20 SPECTIVE RELIEF.—

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

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

4                   “(A) beginning on the 30th day after such  
5                   motion is filed, in the case of a motion made  
6                   under subsection (b); or

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

10           and ending on the date the court enters a final order  
11           ruling on that motion.

12           “(d) STANDING.—Any Federal, State, or local gov-  
13           ernment whose jurisdiction or function includes the pros-  
14           ecution or custody of persons in a prison subject to any  
15           relief whose purpose or effect is to reduce or limit the pris-  
16           on population shall have standing to oppose the imposition  
17           or continuation in effect of that relief and may intervene  
18           in any proceeding relating to that relief. Standing shall  
19           be liberally conferred under this subsection so as to effec-  
20           tuate the remedial purposes of this section.

21           “(e) SPECIAL MASTERS.—In any civil action in a  
22           Federal court with respect to prison conditions, any spe-  
23           cial master or monitor shall be a United States magistrate  
24           and shall make proposed findings on the record on com-  
25           plicated factual issues submitted to the special master or

1 monitor by the court, but shall have no other function.  
2 The parties may not by consent extend the function of  
3 a special master beyond the function permitted under this  
4 subsection.

5 “(f) ATTORNEY’S FEES.—No attorney’s fee under  
6 section 722 of the Revised Statutes of the United States  
7 (42 U.S.C. 1988) may be granted to a plaintiff in a civil  
8 action with respect to prison conditions except to the ex-  
9 tent such fee is—

10 “(1) directly and reasonably incurred in proving  
11 an actual violation of the plaintiff’s Federal rights;  
12 and

13 “(2) proportionally related to the extent the  
14 plaintiff obtains court ordered relief for that viola-  
15 tion.

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

17 “(1) the term ‘prison’ means any Federal,  
18 State, or local facility that incarcerates or detains  
19 juveniles or adults accused of, convicted of, sen-  
20 tenced for, or adjudicated delinquent for, violations  
21 of criminal law;

22 “(2) the term ‘relief’ means all relief in any  
23 form which may be granted or approved by the  
24 court, and includes consent decrees and settlement  
25 agreements; and

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

3           (b) APPLICATION OF AMENDMENT.—Section 3626 of  
4 title 18, United States Code, as amended by this section,  
5 shall apply with respect to all relief (as defined in such  
6 section) whether such relief was originally granted or ap-  
7 proved before, on, or after the date of the enactment of  
8 this Act.

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

## 14           **TITLE II—POLICE OFFICERS**

### 15           **SEC. 201. COPS ON THE BEAT.**

16           (a) IN GENERAL.—Part Q of title I of the Omnibus  
17 Crime Control and Safe Streets Act of 1968 (42 U.S.C.  
18 3796dd et seq.) is amended to read as follows:

#### 19           **“PART Q—PUBLIC SAFETY AND COMMUNITY**

#### 20                           **POLICING; COPS ON THE BEAT**

#### 21           **“SEC. 1701. AUTHORITY TO MAKE PUBLIC SAFETY AND** 22                           **COMMUNITY POLICING GRANTS.**

23           “(a) GRANT AUTHORIZATION.—The Attorney Gen-  
24 eral may make grants to cities to increase police presence,  
25 to expand and improve cooperative efforts between law en-

1 enforcement agencies and members of the community to ad-  
2 dress crime and disorder problems, and otherwise to en-  
3 hance public safety.

4 “(b) REHIRING, HIRING, AND INITIAL REDEPLOY-  
5 MENT GRANT PROJECTS.—

6 “(1) IN GENERAL.—Grants made under sub-  
7 section (a) may be used for programs, projects, and  
8 other activities to—

9 “(A) rehire law enforcement officers who  
10 have been laid off as a result of State and local  
11 budget reductions for deployment in commu-  
12 nity-oriented policing;

13 “(B) hire and train new, additional career  
14 law enforcement officers for deployment in com-  
15 munity-oriented policing across the Nation; and

16 “(C) procure equipment, technology, or  
17 support systems, or pay overtime, if the appli-  
18 cant for such a grant demonstrates to the satis-  
19 faction of the Attorney General that expendi-  
20 tures for such purposes would result in an in-  
21 crease in the number of officers deployed in  
22 community-oriented policing equal to or greater  
23 than the increase in the number of officers that  
24 would result from a grant for a like amount for

1 the purposes specified in subparagraph (A) or  
2 (B).

3 “(2) GRANTS FOR EQUIPMENT, TECHNOLOGY,  
4 AND SUPPORT SYSTEMS.—Grants pursuant to para-  
5 graph (1)(C)—

6 “(A) may not exceed—

7 “(i) 20 percent of the funds available  
8 for grants pursuant to this subsection in  
9 fiscal year 1995;

10 “(ii) 20 percent of the funds available  
11 for grants pursuant to this subsection in  
12 fiscal year 1996; or

13 “(iii) 10 percent of the funds available  
14 for grants pursuant to this subsection in  
15 fiscal years 1997, 1998, 1999, and 2000;  
16 and

17 “(B) may not be awarded in fiscal years  
18 1998, 1999, or 2000 unless the Attorney Gen-  
19 eral has certified that grants awarded in fiscal  
20 years 1995, 1996, and 1997 pursuant to sub-  
21 paragraph (1)(C) have resulted in an increase  
22 in the number of officers deployed in commu-  
23 nity-oriented policing equal to or greater than  
24 the increase in the number of officers that have  
25 resulted from the grants in like amounts award-

1 ed in fiscal years 1995, 1996, and 1997 pursu-  
2 ant to paragraph (1) (A) and (B).

3 “(c) TROOPS-TO-COPS PROGRAMS.—

4 “(1) IN GENERAL.—Grants made under sub-  
5 section (a) may be used to hire former members of  
6 the Armed Forces to serve as career law enforce-  
7 ment officers for deployment in community-oriented  
8 policing, particularly in communities that are ad-  
9 versely affected by a recent military base closing.

10 “(2) DEFINITION.—In this subsection, ‘former  
11 member of the Armed Forces’ means a member of  
12 the Armed Forces of the United States who is invol-  
13 untarily separated from the Armed Forces within  
14 the meaning of section 1141 of title 10, United  
15 States Code.

16 “(d) TECHNICAL ASSISTANCE.—

17 “(1) IN GENERAL.—The Attorney General may  
18 provide technical assistance to cities in furtherance  
19 of the purposes of the Public Safety Partnership and  
20 Community Policing Act of 1994.

21 “(2) MODEL.—The technical assistance pro-  
22 vided by the Attorney General may include the de-  
23 velopment of a flexible model that will define for  
24 State and local governments, and other public and  
25 private entities, definitions and strategies associated

1 with community or problem-oriented policing and  
2 methodologies for its implementation.

3 “(3) TRAINING CENTERS AND FACILITIES.—

4 The technical assistance provided by the Attorney  
5 General may include the establishment and oper-  
6 ation of training centers or facilities, either directly  
7 or by contracting or cooperative arrangements. The  
8 functions of the centers or facilities established  
9 under this paragraph may include instruction and  
10 seminars for police executives, managers, trainers,  
11 supervisors, and such others as the Attorney General  
12 considers to be appropriate concerning community or  
13 problem-oriented policing and improvements in po-  
14 lice-community interaction and cooperation that fur-  
15 ther the purposes of the Public Safety Partnership  
16 and Community Policing Act of 1994.

17 “(e) UTILIZATION OF COMPONENTS.—The Attorney  
18 General may utilize any component or components of the  
19 Department of Justice in carrying out this part.

20 “(f) ALLOCATION OF FUNDS.—The funds available  
21 under this part shall be allocated as provided in section  
22 1703.

23 “(g) TERMINATION OF GRANTS FOR HIRING OFFI-  
24 CERS.—The authority under subsection (a) of this section  
25 to make grants for the hiring and rehiring of additional



1 career law enforcement officers shall lapse at the conclu-  
2 sion of 6 years from the date of enactment of this part.  
3 Prior to the expiration of this grant authority, the Attor-  
4 ney General shall submit a report to Congress concerning  
5 the experience with and effects of such grants. The report  
6 may include any recommendations the Attorney General  
7 may have for amendments to this part and related provi-  
8 sions of law in light of the termination of the authority  
9 to make grants for the hiring and rehiring of additional  
10 career law enforcement officers.

11 **“SEC. 1702. AUTHORIZATION OF APPROPRIATIONS.**

12 “There are authorized to be appropriated from the  
13 Violent Crime Reduction Trust Fund to carry out this  
14 part, \$1,000,000,000 in each of the fiscal years 1995  
15 through 2000, to remain available until expended.

16 **“SEC. 1703. ALLOCATION AND DISTRIBUTION OF FUNDS.**

17 “The Attorney General shall allocate funds made  
18 available pursuant to this part shall be allocated using the  
19 following formula:

20 “(1) For each city reporting part 1 violent  
21 crimes to the Federal Bureau of Investigation, the  
22 Attorney General shall multiply the population of  
23 the city by the number of part 1 violent crimes re-  
24 ported in the previous year to calculate the crime  
25 weighted population.

1           “(2) The Attorney General shall allocate funds  
2           to each of the 250 cities with the highest crime  
3           weighted populations under paragraph (1) an  
4           amount bearing the same ratio as the crime weight-  
5           ed population of such city bears to the total crime  
6           weighted population of such 250 cities.

7   **“SEC. 1704. RENEWAL OF GRANTS.**

8           “(a) IN GENERAL.—Except for grants made for hir-  
9           ing or rehiring additional career law enforcement officers,  
10          a grant under this part may be renewed for up to 4 addi-  
11          tional years after the first fiscal year during which a recip-  
12          ient receives its initial grant, if the Attorney General de-  
13          termines that the funds made available to the recipient  
14          were used in a manner required under an approved appli-  
15          cation and if the recipient can demonstrate significant  
16          progress in achieving the objectives of the initial applica-  
17          tion.

18          “(b) GRANTS FOR HIRING.—Grants made for hiring  
19          or rehiring additional career law enforcement officers may  
20          be renewed for up to 4 years, subject to the requirements  
21          of subsection (a), but notwithstanding the limitation in  
22          that subsection concerning the number of years for which  
23          grants may be renewed.

24          “(c) MULTIYEAR GRANTS.—A grant for a period ex-  
25          ceeding 1 year may be renewed as provided in this section,

1 except that the total duration of such a grant including  
2 any renewals may not exceed 5 years.

3 **“SEC. 1705. LIMITATION ON USE OF FUNDS.**

4 “Funds made available under this part to cities shall  
5 not be used to supplant State or local funds, but shall  
6 be used to increase the amount of funds that would, in  
7 the absence of Federal funds received under this part, be  
8 made available from State or local sources.

9 **“SEC. 1706. PERFORMANCE EVALUATION.**

10 “(a) MONITORING COMPONENTS.—Each program,  
11 project, or activity funded under this part shall contain  
12 a monitoring component, developed pursuant to guidelines  
13 established by the Attorney General. The monitoring re-  
14 quired by this subsection shall include systematic identi-  
15 fication and collection of data about activities, accomplish-  
16 ments, and programs throughout the life of the program,  
17 project, or activity and presentation of such data in a usa-  
18 ble form.

19 “(b) EVALUATION COMPONENTS.—Selected grant re-  
20 cipients shall be evaluated on the local level or as part  
21 of a national evaluation, pursuant to guidelines established  
22 by the Attorney General. Such evaluations may include as-  
23 sessments of individual program implementations. In se-  
24 lected jurisdictions that are able to support outcome eval-  
25 uations, the effectiveness of funded programs, projects,

1 and activities may be required. Outcome measures may  
2 include crime and victimization indicators, quality of life  
3 measures, community perceptions, and police perceptions  
4 of their own work.

5 “(c) PERIODIC REVIEW AND REPORTS.—The Attor-  
6 ney General may require a grant recipient to submit to  
7 the Attorney General the results of the monitoring and  
8 evaluations required under subsections (a) and (b) and  
9 such other data and information as the Attorney General  
10 deems reasonably necessary.

11 **“SEC. 1707. REVOCATION OR SUSPENSION OF FUNDING.**

12 “If the Attorney General determines, as a result of  
13 the reviews required by section 1706, or otherwise, that  
14 a grant recipient under this part is not in substantial com-  
15 pliance with the terms and requirements of an approved  
16 grant application submitted under section 1702, the Attor-  
17 ney General may revoke or suspend funding of that grant,  
18 in whole or in part.

19 **“SEC. 1708. ACCESS TO DOCUMENTS.**

20 “(a) BY THE ATTORNEY GENERAL.—The Attorney  
21 General shall have access for the purpose of audit and ex-  
22 amination to any pertinent books, documents, papers, or  
23 records of a grant recipient under this part and to the  
24 pertinent books, documents, papers, or records of State  
25 and local governments, persons, businesses, and other en-

1 titles that are involved in programs, projects, or activities  
2 for which assistance is provided under this part.

3 “(b) BY THE COMPTROLLER GENERAL.—Subsection  
4 (a) shall apply with respect to audits and examinations  
5 conducted by the Comptroller General of the United  
6 States or by an authorized representative of the Comptrol-  
7 ler General.

8 **“SEC. 1709. GENERAL REGULATORY AUTHORITY.**

9 “The Attorney General may promulgate regulations  
10 and guidelines to carry out this part.

11 **“SEC. 1710. DEFINITION.**

12 “In this part, the term ‘career law enforcement offi-  
13 cer’ means a person hired on a permanent basis who is  
14 authorized by law or by a State or local public agency to  
15 engage in or supervise the prevention, detection, or inves-  
16 tigation of violations of criminal laws.”.

17 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

18 (1) TABLE OF CONTENTS.—The table of con-  
19 tents of title I of the Omnibus Crime Control and  
20 Safe Streets Act of 1968 (42 U.S.C. 3711, et seq.)  
21 is amended by striking the item relating to part Q  
22 and inserting the following:

“PART Q—PUBLIC SAFETY AND COMMUNITY POLICING; COPS AND THE  
BEAT

“Sec. 1701. Authority to make public safety and community policing  
grants.

“Sec. 1702. Authorization of appropriations.

“Sec. 1703. Allocation and distribution of funds.

“Sec. 1704. Renewal of grants.

“Sec. 1705. Limitation on use of funds.  
 “Sec. 1706. Performance evaluation.  
 “Sec. 1707. Revocation or suspending of funding.  
 “Sec. 1708. Access to documents.  
 “Sec. 1709. General regulatory authority.  
 “Sec. 1710. Definitions.”.

1           (2) CONFORMING AMENDMENTS.—Section  
 2           1001(a) of title I of the Omnibus Crime Control and  
 3           Safe Streets Act of 1968 (42 U.S.C. 3793) is  
 4           amended—

5                   (A) in paragraph (3) by striking “O, P,  
 6                   and Q” and inserting “O, and P”; and

7                   (B) by striking paragraph (11).

## 8       **TITLE III—LAW ENFORCEMENT**

### 9       **SEC. 301. BLOCK GRANT PROGRAM.**

10       (a) BLOCK GRANT PROGRAM.—Title I of the Violent  
 11       Crime Control and Law Enforcement Act of 1994 is  
 12       amended to read as follows:

## 13       **“TITLE I—LAW ENFORCEMENT** 14       **BLOCK GRANTS**

### 15       **“SEC. 101. PAYMENTS TO LOCAL GOVERNMENTS.**

16       “(a) PAYMENT AND USE.—

17               “(1) PAYMENT.—The Director of the Bureau of  
 18       Justice Assistance shall pay to each unit of local  
 19       government that qualifies for a payment under this  
 20       title an amount equal to the sum of any amounts al-  
 21       located to such unit under this title for each pay-

1       ment period. The Director shall pay such amount  
2       from amounts appropriated to carry out this title.

3           “(2) USE.—Amounts paid to a unit of local  
4       government under this section shall be used by the  
5       unit of local government for reducing crime and im-  
6       proving public safety, including 1 or more of the fol-  
7       lowing purposes:

8           “(A)(i) Hiring, training, and employing on  
9       a continuing basis new law enforcement officers  
10      and necessary support personnel.

11          “(ii) Paying overtime to presently em-  
12      ployed law enforcement officers and necessary  
13      support personnel for the purpose of increasing  
14      the number of hours worked by such personnel.

15          “(iii) Procuring equipment, technology,  
16      and other material directly related to basic law  
17      enforcement functions.

18          “(B) Enhancing school security measures  
19      by—

20           “(i) providing increased law enforce-  
21      ment patrols in and around schools, wheth-  
22      er through the hiring of additional law en-  
23      forcement officers or paying overtime to  
24      presently employed officers;

1           “(ii) purchasing law enforcement  
2           equipment necessary to carry out normal  
3           law enforcement functions in and around  
4           schools;

5           “(iii) equipping schools with metal de-  
6           tectors, fences, closed circuit cameras, and  
7           other physical safety measures;

8           “(iv) establishing gun hotlines de-  
9           signed to facilitate the reporting of weap-  
10          ons possession by students and other indi-  
11          viduals in and around schools; and

12          “(v) preventing and suppressing vio-  
13          lent youth gang activity.

14          “(C) Establishing crime prevention pro-  
15          grams that may involve law enforcement offi-  
16          cials and that are intended to discourage, dis-  
17          rupt, or interfere with the commission of crimi-  
18          nal activity, including neighborhood watch and  
19          citizen patrol programs, sexual assault and do-  
20          mestic violence programs, and programs in-  
21          tended to prevent juvenile crime.

22          “(D) Establishing or supporting drug  
23          courts.



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

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

8           “(3) DEFINITIONS.—For purposes of this sub-  
9 section—

10           “(A) the term ‘violent offender’ means a  
11 person charged with committing a part I violent  
12 crime; and

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

15           “(i) continuing judicial supervision of  
16 offenders with substance abuse problems  
17 who are not violent offenders; and

18           “(ii) the integrated administration of  
19 other sanctions and services, including—

20           “(I) mandatory periodic testing  
21 for the use of controlled substances or  
22 other addictive substances during any  
23 period of supervised release or proba-  
24 tion for each participant;

1                   “(II) substance abuse treatment  
2                   for each participant;

3                   “(III) probation, or other super-  
4                   vised release involving the possibility  
5                   of prosecution, confinement, or incar-  
6                   ceration based on noncompliance with  
7                   program requirements or failure to  
8                   show satisfactory progress; and

9                   “(IV) programmatic, offender  
10                  management, and aftercare services  
11                  such as relapse prevention, vocational  
12                  job training, job placement, and hous-  
13                  ing placement.

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

18               “(1) tanks or armored personnel carriers;

19               “(2) fixed wing aircraft;

20               “(3) limousines;

21               “(4) real estate; or

22               “(5) yachts,

23               unless the Attorney General certifies that extraordinary  
24               and exigent circumstances exist that make the use of  
25               funds for such purposes essential to the maintenance of

1 public safety and good order in such unit of local govern-  
2 ment.

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

6 “(1) 90 days after the date that the amount is  
7 available; or

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

12 “(d) ADJUSTMENTS.—

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

18 “(2) CONSIDERATIONS.—The Director may in-  
19 crease or decrease a payment to a unit of local gov-  
20 ernment only if the Director determines the need for  
21 the increase or decrease, or if the unit requests the  
22 increase or decrease, not later than 1 year after the  
23 end of the payment period for which a payment was  
24 made.

1       “(e) RESERVATION FOR ADJUSTMENT.—The Direc-  
2 tor may reserve a percentage of not more than 2 percent  
3 of the amount under this section for a payment period  
4 for all units of local government in a State if the Director  
5 considers the reserve is necessary to ensure the availability  
6 of sufficient amounts to pay adjustments after the final  
7 allocation of amounts among the units of local government  
8 in the State.

9       “(f) REPAYMENT OF UNEXPENDED AMOUNTS.—

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

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

16                   “(B) not expended by the unit within 2  
17 years after receipt of such funds from the Di-  
18 rector.

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

23           “(3) DEPOSIT OF AMOUNTS REPAID.—Amounts  
24 received by the Director as repayments under this

1 subsection shall be deposited in a designated fund  
2 for future payments to units of local government.

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

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

10 “(a) AUTHORIZATION OF APPROPRIATIONS.—There  
11 are authorized to be appropriated from the Violent Crime  
12 Reduction Trust Fund to carry out this title  
13 \$1,130,000,000 for each of the fiscal years 1996, 1997,  
14 1998, 1999, and 2000, to remain available until expended.

15 “(b) ADMINISTRATIVE COSTS.—Not more than 2.5  
16 percent of the amount authorized to be appropriated  
17 under subsection (a) for each of the fiscal years 1996  
18 through 2000 shall be available to the Director for admin-  
19 istrative costs to carry out this title. Such sums shall re-  
20 main available until expended.

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

22 “(a) IN GENERAL.—The Director shall issue regula-  
23 tions establishing procedures under which a unit of local  
24 government is required to provide notice to the Director

1 regarding the proposed use of funds made available under  
2 this title.

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

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

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

13 “(A) includes a representative from—

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

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

17 “(iii) the local court system;

18 “(iv) the local public school system;

19 and

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

24 “(B) has reviewed the application; and

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

4           “(2) the chief executive officer of the State has  
5           had not less than 45 days to review and comment  
6           on the application prior to submission to the Direc-  
7           tor;

8           “(3) the unit of local government will establish  
9           a trust fund in which the government will deposit all  
10          payments received under this title;

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

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

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

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

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

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

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

18 “(d) SANCTIONS FOR NONCOMPLIANCE.—

19 “(1) IN GENERAL.—If the Director determines  
20 that a unit of local government has not complied  
21 substantially with the requirements or regulations  
22 prescribed under subsections (a) and (c), the Direc-  
23 tor shall notify the unit of local government that if  
24 the unit of local government does not take corrective  
25 action within 60 days of such notice, the Director



1 will withhold additional payments to the unit of local  
2 government for the current and future payment peri-  
3 ods until the Director is satisfied that the unit of  
4 local government—

5 “(A) has taken the appropriate corrective  
6 action; and

7 “(B) will comply with the requirements  
8 and regulations prescribed under subsections  
9 (a) and (c).

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

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

15 “(a) STATE SET-ASIDE.—

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

1       ported by all States to the Federal Bureau of Inves-  
2       tigation for such years.

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

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

20      “(b) LOCAL DISTRIBUTION.—

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

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

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

7           “(2) AMOUNTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7                   “(i) 0 through 9,999.

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

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

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

11                  “(v) 300,000 or more.

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

21           “(8) SPECIAL RULES.—

22                   “(A) If a unit of local government in a  
23 State that has been incorporated since the date  
24 of the collection of the data used by the Direc-  
25 tor in making allocations pursuant to this sec-

1           tion, such unit shall be treated as a nonreport-  
2           ing unit of local government for purposes of  
3           this subsection.

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

11          “(c) UNAVAILABILITY OF INFORMATION.—For pur-  
12         poses of this section, if data regarding part 1 violent  
13         crimes in any State for the 3 most recent calendar years  
14         is unavailable or substantially inaccurate, the Director  
15         shall utilize the best available comparable data regarding  
16         the number of violent crimes for such years for such State  
17         for the purposes of allocation of any funds under this title.

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

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

23         **“SEC. 106. PUBLIC PARTICIPATION.**

24           “(a) IN GENERAL.—A unit of local government ex-  
25         pending payments under this title shall hold not less than

1 1 public hearing on the proposed use of the payment from  
2 the Director in relation to its entire budget.

3 “(b) VIEWS.—At the hearing, persons shall be given  
4 an opportunity to provide written and oral views to the  
5 unit of local government authority responsible for enacting  
6 the budget and to ask questions about the entire budget  
7 and the relation of the payment from the Director to the  
8 entire budget.

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

12 **“SEC. 107. ADMINISTRATIVE PROVISIONS.**

13 “The administrative provisions of part H of the Om-  
14 nibus Crime Control and Safe Streets Act of 1968, shall  
15 apply to this title and for purposes of this section any ref-  
16 erence in such provisions to title I of the Omnibus Crime  
17 Control and Safe Streets Act of 1968 shall be deemed to  
18 be a reference to this title.

19 **“SEC. 108. DEFINITIONS.**

20 “For the purposes of this title:

21 “(1) The term ‘unit of local government’  
22 means—

23 “(A) a county, township, city, or political  
24 subdivision of a county, township, or city, that  
25 is a unit of local government as determined by



1 the Secretary of Commerce for general statis-  
2 tical purposes; and

3 “(B) the District of Columbia and the rec-  
4 ognized governing body of an Indian tribe or  
5 Alaska Native village that carries out substan-  
6 tial governmental duties and powers.

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

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

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

22 “(5) The term ‘part 1 violent crimes’ means  
23 murder and nonnegligent manslaughter, forcible  
24 rape, robbery, and aggravated assault as reported to

1 the Federal Bureau of Investigation for purposes of  
2 the Uniform Crime Reports.

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

5 (b) CONFORMING AMENDMENTS.—

6 (1) OUNCE OF PREVENTION COUNCIL.—

7 (A) IN GENERAL.—Subtitle A of title III  
8 of the Violent Crime Control and Law Enforce-  
9 ment Act of 1994 is repealed.

10 (B) FUNDING.—Notwithstanding subpara-  
11 graph (A), any funds that remain available to  
12 an applicant under subtitle A of title III of the  
13 Violent Crime Control and Law Enforcement  
14 Act of 1994 on the date of enactment of this  
15 Act shall be used in accordance with such sub-  
16 title as in effect on the day preceding the date  
17 of enactment of this Act.

18 (2) LOCAL CRIME PREVENTION BLOCK GRANT  
19 PROGRAM.—Subtitle B of title III of the Violent  
20 Crime Control and Law Enforcement Act of 1994 is  
21 repealed.

22 (3) MODEL INTENSIVE BLOCK GRANT PRO-  
23 GRAMS.—Subtitle C of title III of the Violent Crime  
24 Control and Law Enforcement Act of 1994 is re-  
25 pealed.

1           (4) FAMILY AND COMMUNITY ENDEAVOR  
2 SCHOOLS GRANT PROGRAM.—

3           (A) IN GENERAL.—Subtitle D of title III  
4 of the Violent Crime Control and Law Enforce-  
5 ment Act of 1994 is repealed.

6           (B) FUNDING.—Notwithstanding subpara-  
7 graph (A), any funds that remain available to  
8 an applicant under subtitle D of title III of the  
9 Violent Crime Control and Law Enforcement  
10 Act of 1994 on the date of enactment of this  
11 Act shall be used in accordance with such sub-  
12 title as in effect on the day preceding the date  
13 of enactment of this Act.

14          (5) ASSISTANCE FOR DELINQUENT AND AT-  
15 RISK YOUTH.—Subtitle G of title III of the Violent  
16 Crime Control and Law Enforcement Act of 1994 is  
17 repealed.

18          (6) POLICE RETIREMENT.—Subtitle H of title  
19 III of the Violent Crime Control and Law Enforce-  
20 ment Act of 1994 is repealed.

21          (7) LOCAL PARTNERSHIP ACT.—

22           (A) SUBTITLE J.—Subtitle J of title III of  
23 the Violent Crime Control and Law Enforce-  
24 ment Act of 1994 is repealed.

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

3 (C) TABLE OF CHAPTERS.—The table of  
4 chapters at the beginning of subtitle V of title  
5 31, United States Code, is amended by striking  
6 the matter relating to chapter 67.

7 (D) FUNDING.—Notwithstanding subpara-  
8 graph (B), any funds that remain available to  
9 an applicant under chapter 67 of title 31,  
10 United States Code, on the date of enactment  
11 of this Act shall be used in accordance with  
12 such chapter as in effect on the day preceding  
13 the date of enactment of this Act.

14 (8) NATIONAL COMMUNITY ECONOMIC PART-  
15 NERSHIP.—Subtitle K of title III of the Violent  
16 Crime Control and Law Enforcement Act of 1994 is  
17 repealed.

18 (9) URBAN RECREATION AND AT-RISK  
19 YOUTH.—

20 (A) RECREATION.—Subtitle O of title III  
21 of the Violent Crime Control and Law Enforce-  
22 ment Act of 1994 is repealed.

23 (B) URBAN PARK AND RECREATION RE-  
24 COVERY.—The Urban Park and Recreation Re-

1 covery Act of 1978 (16 U.S.C. 2501 et seq.) is  
2 amended—

3 (i) in section 1004—

4 (I) by striking subsection (d);

5 and

6 (II) by redesignating subsections

7 (e) through (k) as subsection (d)

8 through (j), respectively;

9 (ii) in section 1005(c)—

10 (I) by inserting “and” at the end

11 of paragraph (6);

12 (II) in paragraph (7), by striking

13 “; and” and inserting a period; and

14 (III) by striking paragraph (8);

15 (iii) in section 1007(b), by striking

16 the last 2 sentences; and

17 (iv) in section 1013—

18 (I) by striking “(a) IN GEN-

19 ERAL.—”; and

20 (II) by striking subsection (b).

21 (c) COMMUNITY-BASED JUSTICE GRANTS FOR PROS-

22 ECUTORS.—Subtitle Q of title III of the Violent Crime

23 Control and Law Enforcement Act of 1994 is repealed.

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

4 (e) GANG RESISTANCE AND EDUCATION TRAIN-  
 5 ING.—(1) Subtitle X of title III of the Violent Crime Con-  
 6 trol and Law Enforcement Act of 1994 is repealed.

7 (2) Notwithstanding paragraph (1), any funds that  
 8 remain available to an applicant under subtitle X of title  
 9 III of the Violent Crime Control and Law Enforcement  
 10 Act of 1994 on the date of enactment of this Act shall  
 11 be used in accordance with such subtitle as in effect on  
 12 the day preceding the date of enactment of this Act.

13 (f) CLERICAL AMENDMENTS.—

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

“TITLE I—LAW ENFORCEMENT BLOCK GRANTS

“Sec. 101. Payments to local governments.

“Sec. 102. Authorization of appropriations.

“Sec. 103. Qualification for payment.

“Sec. 104. Allocation and distribution of funds.

“Sec. 105. Utilization of private sector.

“Sec. 106. Public participation.

“Sec. 107. Administrative provisions.

“Sec. 108. Definitions.”.

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

1           **TITLE IV—TECHNOLOGY**

2   **SEC. 401. FUNDING FOR DNA IDENTIFICATION.**

3           Section 1001(a)(22) of the Omnibus Crime Control  
4 and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(22)) is  
5 amended to read as follows:

6           “(22) There are authorized to be appropriated to  
7 carry out part X—

8                   “(A) \$8,000,000 for fiscal year 1996;

9                   “(B) \$12,000,000 for fiscal year 1997;

10                  “(C) \$10,000,000 for fiscal year 1998;

11                  “(D) \$6,000,000 for fiscal year 1999; and

12                  “(E) \$4,000,000 for fiscal year 2000.”.

13   **SEC. 402. STATE COMPATIBILITY WITH FEDERAL BUREAU**  
14                   **OF INVESTIGATION SYSTEMS.**

15           (a) GRANT AUTHORIZATION.—

16                   (1) IN GENERAL.—The Attorney General shall  
17 make funds available to the chief executive officer of  
18 each State to carry out the activities described in  
19 paragraph (2).

20                   (2) USES.—The executive officer of each State  
21 shall use the funds made available under this section  
22 in conjunction with units of local government, other  
23 States, or combinations thereof, to carry out all or  
24 part of a program to establish, develop, update, or  
25 upgrade—

1 (A) computerized identification systems  
2 that are compatible and integrated with the  
3 databases of the National Crime Information  
4 Center of the Federal Bureau of Investigation;

5 (B) ballistics identification programs that  
6 are compatible and integrated with the Drugfire  
7 Program of the Federal Bureau of Investiga-  
8 tion;

9 (C) the capability to analyze  
10 deoxyribonucleic acid (DNA) in a forensic lab-  
11 oratory in ways that are compatible and inte-  
12 grated with the combined DNA Identification  
13 System (CODIS) of the Federal Bureau of In-  
14 vestigation; and

15 (D) automated fingerprint identification  
16 systems that are compatible and integrated with  
17 the Integrated Automated Fingerprint Identi-  
18 fication System (IAFIS) of the Federal Bureau  
19 of Investigation.

20 (b) ELIGIBILITY.—To be eligible to receive a grant  
21 under this section, a State shall require that each person  
22 convicted of a felony of a sexual nature shall provide a  
23 sample of blood, saliva, or other specimen necessary to  
24 conduct a DNA analysis consistent with the standards es-



1 tablished for DNA testing by the Director of the Federal  
2 Bureau of Investigation.

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

6 (d) ALLOCATION.—The Attorney General shall allo-  
7 cate the funds made available pursuant to subsection (d)  
8 to each State based on the population of the State as re-  
9 ported in the most recent decennial census of the popu-  
10 lation.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated from the Violent Crime  
13 Reduction Trust Fund to carry out this section—

- 14 (1) \$200,000,000 in fiscal year 1996;
- 15 (2) \$200,000,000 in fiscal year 1997;
- 16 (3) \$250,000,000 in fiscal year 1998;
- 17 (4) \$250,000,000 in fiscal year 1999; and
- 18 (5) \$100,000,000 in fiscal year 2000.

19 **SEC. 403. FUNDING FOR DRUGFIRE.**

20 There are authorized to be appropriated \$2,050,000  
21 for fiscal year 1995 to carry out the Drugfire Program  
22 of the Federal Bureau of Investigation established under  
23 section 210501(a)(2)(D) of the Violent Crime Control and  
24 Law Enforcement Act of 1994.

1 **SEC. 404. FUNDING FOR THE FBI DNA SYSTEM COVERING**  
2 **FEDERAL CRIMES AND CRIME COMMITTED IN**  
3 **THE DISTRICT OF COLUMBIA.**

4 (a) EXPANSION OF SYSTEM.—The Director of the  
5 Federal Bureau of Investigation shall expand the Com-  
6 bined DNA Identification System (CODIS) to include  
7 Federal crimes and crimes committed in the District of  
8 Columbia.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated from the Violent Crime  
11 Reduction Trust Fund to carry out this section—

- 12 (1) \$8,500,000 for fiscal year 1996;
- 13 (2) \$1,600,000 for fiscal year 1997;
- 14 (3) \$1,600,000 for fiscal year 1998;
- 15 (4) \$1,600,000 for fiscal year 1999; and
- 16 (5) \$1,600,000 for fiscal year 2000.

17 **TITLE V—TRIGGERLOCK**

18 **SEC. 501. CONGRESSIONAL OVERSIGHT.**

19 (a) REPORT TO ATTORNEY GENERAL.—Not later  
20 than 90 days after the date of the enactment of this Act,  
21 the Attorney General shall require each United States At-  
22 torney to—

- 23 (1) establish an armed violent criminal appre-  
24 hension task force comprised of appropriate law en-  
25 forcement representatives which shall be responsible

1 for developing strategies for removing armed violent  
2 criminals from the streets; and

3 (2) not less frequently than monthly, report to  
4 the Attorney General on the number of defendants  
5 charged with, or convicted of, violating section  
6 922(g) or 924 of title 18, United States Code, in the  
7 district for which the United States Attorney is ap-  
8 pointed.

9 (b) REPORT TO CONGRESS.—The Attorney General  
10 shall prepare and submit a report to Congress every 6  
11 months detailing the contents of the reports submitted  
12 pursuant to subsection (a).

13 **SEC. 502. PRETRIAL DETENTION FOR POSSESSION OF FIRE-**  
14 **ARMS OR EXPLOSIVES BY CONVICTED FEL-**  
15 **ONS.**

16 Section 3156(a)(4) of title 18, United States Code,  
17 is amended—

18 (1) by striking “or” at the end of subparagraph

19 (B);

20 (2) by striking the period at the end of sub-  
21 paragraph (C) and inserting “; or”; and

22 (3) by adding after subparagraph (C) the fol-  
23 lowing new subparagraph:

1           “(D) an offense that is a violation of sec-  
2           tion 842(i) or 922(g) (relating to possession of  
3           explosives or firearms by convicted felons).”.

4 **SEC. 503. CONFORMING SCIENTER CHANGE FOR TRANS-**  
5           **FERRING A FIREARM TO COMMIT A CRIME OF**  
6           **VIOLENCE.**

7           Section 924(h) of title 18, United States Code, is  
8           amended by inserting “or having reasonable cause to be-  
9           lieve” after “knowing”.

10 **SEC. 504. FIREARMS POSSESSION BY VIOLENT FELONS AND**  
11           **SERIOUS DRUG OFFENDERS.**

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

14           (1) by striking “(2) Whoever” and inserting  
15           “(2)(A) Subject to subparagraphs (B) and (C), who-  
16           ever”;

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

18           “(B) If the violation is of section 922(g)(1) by a per-  
19           son who has a previous conviction for a violent felony (as  
20           defined in subsection (e)(2)(B)) or a serious drug offense  
21           (as defined in subsection (a)(2)(A)), a sentence imposed  
22           under this paragraph shall include a term of imprisonment  
23           of not less than 5 years.

24           “(C)(i) Notwithstanding subparagraph (B), if the vio-  
25           lation is of section 922(g)(1) by a person who has more

1 than 1 previous conviction for a violent felony or a serious  
2 drug offense, committed under different circumstances,  
3 such person shall be fined under this title, imprisoned not  
4 less than 10 years and not more than 20 years, or both.

5 “(ii) Notwithstanding any other provision of law, the  
6 court shall not grant a probationary sentence to a person  
7 described in clause (i) with respect to the conviction under  
8 section 922(g).”.

## 9 **TITLE VI—EQUAL PROTECTION** 10 **FOR VICTIMS**

### 11 **SEC. 601. RIGHT OF VICTIMS TO RESTITUTION.**

12 (a) ORDER OF RESTITUTION.—Section 3663 of title  
13 18, United States Code, is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1)—

16 (i) by striking “may order, in addition  
17 to or, in the case of a misdemeanor, in lieu  
18 of any other penalty authorized by law,”  
19 and inserting “shall order”; and

20 (ii) by adding at the end the follow-  
21 ing: “This paragraph does not affect the  
22 power of the court to impose any other  
23 penalty authorized by law. In the case of  
24 a misdemeanor, the court may impose res-

1                   titution in lieu of any other penalty author-  
2                   ized by law.”;

3                   (B) by adding at the end the following new  
4                   paragraph:

5           “(4) In addition to ordering restitution to the victim  
6 of the offense for which a defendant is convicted, a court  
7 may order restitution to any person who, as shown by a  
8 preponderance of evidence, was harmed physically, emo-  
9 tionally, or pecuniarily, by unlawful conduct of the defend-  
10 ant during—

11                   “(A) the criminal episode during which the of-  
12                   fense occurred;

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

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

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

19                   (4) in subsection (c) by striking “If the court  
20                   decides to order restitution under this section, the”  
21                   and inserting “The”;

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

24                   (6) by redesignating subsection (i) as subsection  
25                   (m); and

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

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

6           “(A) the economic circumstances of the of-  
7           fender; or

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

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

15          “(A) the financial resources and other assets of  
16          the offender;

17          “(B) projected earnings and other income of  
18          the offender; and

19          “(C) any financial obligations of the offender,  
20          including obligations to dependents.

21          “(3) A restitution order may direct the offender to  
22          make a single, lump-sum payment, partial payment at  
23          specified intervals, or such in-kind payments as may be  
24          agreeable to the victim and the offender. A restitution  
25          order shall direct the offender to give appropriate notice

1 to victims and other persons in cases where there are mul-  
2 tiple victims or other persons who may receive restitution,  
3 and where the identity of such victims and other persons  
4 can be reasonably determined.

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

7 “(A) return of property;

8 “(B) replacement of property; or

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

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

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

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



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

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

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

16               “(A) any Federal civil proceeding; and

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

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

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

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

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

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

14          “(B) notify the court and the interested  
15      parties when an offender is 30 days in arrears  
16      in meeting those obligations; and

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

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

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

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

19               “(1) by the United States—

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

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

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

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

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

11           (1) by striking subsection (a);

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

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

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

1 presentence investigation or in a separate report, as the  
2 court directs.”; and

3 (4) by adding at the end the following new sub-  
4 section:

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

10 **SEC. 602. RIGHT OF VICTIM TO AN IMPARTIAL JURY.**

11 Rule 24(b) of the Federal Rules of Criminal Proce-  
12 dure is amended by striking “the government is entitled  
13 to 6 peremptory challenges and the defendant or defend-  
14 ants jointly to 10 peremptory challenges” and inserting  
15 “each side is entitled to 6 peremptory challenges”.

16 **SEC. 603. REBUTTAL OF ATTACKS ON THE VICTIM’S CHAR-**  
17 **ACTER.**

18 Rule 404(a)(1) of the Federal Rules of Evidence is  
19 amended by inserting before the semicolon the following:  
20 “, or, if an accused offers evidence of a pertinent trait  
21 of character of the victim of the crime, evidence of a perti-  
22 nent trait of character of the accused offered by the pros-  
23 ecution.”.

1 **SEC. 604. RULES OF PROCEDURE AND EVIDENCE; METHOD**  
2 **OF PRESCRIBING.**

3 Section 2073 of title 28, United States Code, is  
4 amended—

5 (1) in subsection (a)(2), by adding at the end  
6 the following: “On each such committee that makes  
7 recommendations concerning rules that affect crimi-  
8 nal cases, including the Federal Rules of Criminal  
9 Procedure, the Federal Rules of Evidence, the Fed-  
10 eral Rules of Appellate Procedure, the Rules Govern-  
11 ing Section 2254 Cases, and the Rules Governing  
12 Section 2255 Cases, the number of members who  
13 represent or supervise the representation of defend-  
14 ants in the trial, direct review, or collateral review  
15 of criminal cases shall not exceed the number of  
16 members who represent or supervise the representa-  
17 tion of the Government or a State in the trial, direct  
18 review, or collateral review of criminal cases.”; and

19 (2) in subsection (b), by adding at the end the  
20 following: “The number of members of the standing  
21 committee who represent or supervise the represen-  
22 tation of defendants in the trial, direct review, or  
23 collateral review of criminal cases shall not exceed  
24 the number of members who represent or supervise  
25 the representation of the Government or a State in

1 the trial, direct review, or collateral review of crimi-  
2 nal cases.”.

3 **SEC. 605. HIV TESTING OF DEFENDANTS IN SEXUAL AS-**  
4 **SAULT CASES.**

5 (a) IN GENERAL.—Chapter 109A of title 18, United  
6 States Code, is amended by adding at the end the follow-  
7 ing new section:

8 **“§ 2249. Testing for human immunodeficiency virus;**  
9 **disclosure of test results to victim; effect**  
10 **on penalty**

11 “(a) TESTING AT TIME OF PRETRIAL RELEASE DE-  
12 TERMINATION.—In a case in which a person is charged  
13 with an offense under this chapter, a judicial officer issu-  
14 ing an order pursuant to section 3142(a) shall include in  
15 the order a requirement that a test for the human  
16 immunodeficiency virus be performed upon the person,  
17 and that followup tests for the virus be performed 6  
18 months and 12 months following the date of the initial  
19 test, unless the judicial officer determines that the conduct  
20 of the person created no risk of transmission of the virus  
21 to the victim, and so states in the order. The order shall  
22 direct that the initial test be performed within 24 hours,  
23 or as soon thereafter as feasible after the order is issued.  
24 The person shall not be released from custody until the  
25 test is performed.

1       “(b) TESTING AT LATER TIME.—If a person charged  
2 with an offense under this chapter was not tested for the  
3 human immunodeficiency virus pursuant to subsection (a),  
4 the court may at a later time direct that such a test be  
5 performed upon the person, and that followup tests be per-  
6 formed 6 months and 12 months following the date of the  
7 initial test, if it appears to the court that the conduct of  
8 the person may have risked transmission of the virus to  
9 the victim. A testing requirement under this subsection  
10 may be imposed at any time while the charge is pending,  
11 or following conviction at any time prior to the person’s  
12 completion of service of the sentence.

13       “(c) TERMINATION OF TESTING REQUIREMENT.—A  
14 requirement of followup testing imposed under this section  
15 shall be canceled if any test is positive for the virus or  
16 the person obtains an acquittal on, or dismissal of, all  
17 charges under this chapter.

18       “(d) DISCLOSURE OF TEST RESULTS.—The results  
19 of any test for the human immunodeficiency virus per-  
20 formed pursuant to an order under this section shall be  
21 provided to the judicial officer or court. The judicial offi-  
22 cer or court shall ensure that the results are disclosed to  
23 the victim (or to the victim’s parent or legal guardian, as  
24 appropriate), the attorney for the government, and the  
25 person tested.



1       “(e) EFFECT ON PENALTY.—The United States Sen-  
2 tencing Commission shall amend existing guidelines for  
3 sentences for offenses under this chapter to enhance the  
4 sentence if the offender knew or had reason to know that  
5 the offender was infected with the human  
6 immunodeficiency virus, except where the offender did not  
7 engage or attempt to engage in conduct creating a risk  
8 of transmission of the virus to the victim.”.

9       (b) CLERICAL AMENDMENT.—The table of sections  
10 for chapter 109A of title 18, United States Code, is  
11 amended by inserting at the end the following new item:

“2249. Testing for human immunodeficiency virus; disclosure of test results to  
victim; effect on penalty.”.

12       (c) REPEAL OF SUPERSEDED PROVISIONS.—Sub-  
13 section (b) of section 40503 of the Violent Crime Control  
14 and Law Enforcement Act of 1994 is repealed.

15 **SEC. 606. CLARIFYING AMENDMENT TO EXTRATERRI-**  
16 **TORIAL CHILD PORNOGRAPHY OFFENSE.**

17       Subsections (a) and (b) of section 2258 of title 18,  
18 United States Code, are each amended by inserting “by  
19 any means, including by computer or mails,” after “im-  
20 ported”.

## TITLE VII—MILITARY

1                                   **TITLE VII—MILITARY**  
2 **SEC. 701. PROHIBITION ON ACCRUAL OF PAY AND ALLOW-**  
3                                   **ANCES BY MEMBERS OF THE ARMED FORCES**  
4                                   **WHO ARE CONFINED PENDING DISHONOR-**  
5                                   **ABLE DISCHARGE.**

6           (a) REVISION OF PROHIBITION.—

7                   (1) IN GENERAL.—Section 804 of title 37,  
8           United States Code, is amended to read as follows:

9           **“§ 804. Prohibition of accrual of pay and allowances**  
10                                   **during confinement pending dishonor-**  
11                                   **able discharge**

12           “(a) PAY AND ALLOWANCES NOT TO ACCRUE.—A  
13           member of the Armed Forces sentenced by a court-martial  
14           to a dishonorable discharge is not entitled to pay and al-  
15           lowances for any period during which the member is in  
16           confinement after the adjournment of the court-martial  
17           that adjudged the sentence.

18           “(b) RESTORATION OF ENTITLEMENT.—If a sen-  
19           tence of a member of the Armed Forces to dishonorable  
20           discharge is disapproved, mitigated, changed, or set aside  
21           by an official authorized to do so, the prohibition in sub-  
22           section (a) shall cease to apply to the member on the basis  
23           of that sentence. In such cases, the member shall be enti-  
24           tled to receive the pay and allowances retroactive to the  
25           date of the sentence.”.

1           (2) CLERICAL AMENDMENT.—The item relating  
 2           to section 804 in the table of sections at the begin-  
 3           ning of chapter 15 of such title is amended to read  
 4           as follows:

“804. Prohibition of accrual of pay and allowances during confinement pending  
 dishonorable discharge.”.

5           (b) PROSPECTIVE APPLICABILITY.—The amendment  
 6           made by subsection (a)(1) shall not apply to pay periods  
 7           beginning before the date of the enactment of this Act.

8           **SEC. 702. CRIMINAL OFFENSES COMMITTED OUTSIDE THE**  
 9                           **UNITED STATES BY PERSONS ACCOM-**  
 10                          **PANYING THE ARMED FORCES.**

11          (a) IN GENERAL.—Title 18, United States Code, is  
 12          amended by inserting after chapter 211 the following new  
 13          chapter:

14          **“CHAPTER 212—CRIMINAL OFFENSES**  
 15               **COMMITTED OUTSIDE THE UNITED**  
 16               **STATES**

“Sec.

“3261. Criminal offenses committed by persons formerly serving with, or pres-  
 ently employed by or accompanying, the armed forces outside  
 the United States.

“3262. Delivery to authorities of foreign countries.

“3263. Regulations.

“3264. Definitions for chapter.

1 **“§ 3261. Criminal offenses committed by persons for-**  
2 **merly serving with, or presently em-**  
3 **ployed by or accompanying, the Armed**  
4 **Forces outside the United States**

5 “(a) Whoever, while serving with, employed by, or ac-  
6 companying the Armed Forces outside the United States,  
7 engages in conduct that would constitute an offense pun-  
8 ishable by imprisonment for more than 1 year if the con-  
9 duct had been engaged in within the special maritime and  
10 territorial jurisdiction of the United States, shall be guilty  
11 of a like offense and subject to a like punishment.

12 “(b) Nothing contained in this chapter deprives  
13 courts-martial, military commissions, provost courts, or  
14 other military tribunals of concurrent jurisdiction with re-  
15 spect to offenders or offenses that by statute or by the  
16 law of war may be tried by courts-martial, military com-  
17 missions, provost courts, or other military tribunals.

18 “(c) No prosecution may be commenced under this  
19 section if a foreign government, in accordance with juris-  
20 diction recognized by the United States, has prosecuted  
21 or is prosecuting such person for the conduct constituting  
22 such offense, except upon the approval of the Attorney  
23 General of the United States or the Deputy Attorney Gen-  
24 eral of the United States (or a person acting in either such  
25 capacity), which function of approval shall not be dele-  
26 gated.

1       “(d)(1) The Secretary of Defense may designate and  
2 authorize any person serving in a law enforcement position  
3 in the Department of Defense to arrest outside the United  
4 States any person described in subsection (a) who there  
5 is probable cause to believe engaged in conduct which con-  
6 stitutes a criminal offense under such subsection.

7       “(2) A person arrested under paragraph (1) shall be  
8 released to the custody of civilian law enforcement authori-  
9 ties of the United States for removal to the United States  
10 for judicial proceedings in relation to conduct referred to  
11 in such paragraph unless—

12           “(A) such person is delivered to authorities of  
13 a foreign country under section 3262; or

14           “(B) such person has had charges brought  
15 against him or her under chapter 47 of title 10 for  
16 such conduct.

17 **“§ 3262. Delivery to authorities of foreign countries**

18       “(a) Any person designated and authorized under  
19 section 3261(d) may deliver a person described in section  
20 3261(a) to the appropriate authorities of a foreign country  
21 in which the person is alleged to have engaged in conduct  
22 described in subsection (a) if—

23           “(1) the appropriate authorities of that country  
24 request the delivery of the person to such country

1 for trial for such conduct as an offense under the  
2 laws of that country; and

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

6 “(b) The Secretary of Defense shall determine which  
7 officials of a foreign country constitute appropriate au-  
8 thorities for the purpose of this section.

9 **“§ 3263. Regulations**

10 “The Secretary of Defense shall issue regulations  
11 governing the apprehension, detention, and removal of  
12 persons under this chapter. Such regulations shall be uni-  
13 form throughout the Department of Defense.

14 **“§ 3264. Definitions for chapter**

15 “As used in this chapter—

16 “(1) a person is ‘employed by the Armed  
17 Forces outside the United States’—

18 “(A) if the person is employed as a civilian  
19 employee of a military department or of the De-  
20 partment of Defense, as a Department of De-  
21 fense contractor, or as an employee of a De-  
22 partment of Defense contractor;

23 “(B) is present or residing outside the  
24 United States in connection with such employ-  
25 ment; and

1 “(C) is not a national of the host nation;

2 “(2) a person is ‘accompanying the Armed  
3 Forces outside the United States’ if the person—

4 “(A) is a dependent of a member of the  
5 Armed Forces;

6 “(B) is a dependent of a civilian employee  
7 of a military department or of the Department  
8 of Defense; and

9 “(C) is residing with the member or civil-  
10 ian employee outside the United States.”.

11 (b) CLERICAL AMENDMENT.—The table of chapters  
12 at the beginning of part II of title 18, United States Code,  
13 is amended by inserting after the item relating to chapter  
14 211 the following:

“**212. Criminal Offenses Committed Outside the United  
States ..... 3261**”.

15 **TITLE VIII—EXCLUSIONARY**  
16 **RULE**

17 **SEC. 801. ADMISSIBILITY OF CERTAIN EVIDENCE.**

18 (a) IN GENERAL.—Chapter 223 of title 18, United  
19 States Code, is amended by adding at the end the follow-  
20 ing new section:

21 **“§ 3510. Admissibility of evidence obtained by search**  
22 **or seizure**

23 “(a) EVIDENCE OBTAINED BY OBJECTIVELY REA-  
24 SONABLE SEARCH OR SEIZURE.—Evidence that is ob-

1 tained as a result of a search or seizure shall not be ex-  
2 cluded in a proceeding in a court of the United States  
3 on the ground that the search or seizure was in violation  
4 of the fourth amendment to the Constitution of the United  
5 States if the search or seizure was carried out in cir-  
6 cumstances justifying an objectively reasonable belief that  
7 it was in conformity with the fourth amendment. The fact  
8 that evidence was obtained pursuant to, and within the  
9 scope of, a warrant constitutes prima facie evidence of the  
10 existence of such circumstances.

11 “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR  
12 RULE.—

13 “(1) GENERALLY.—Evidence shall not be ex-  
14 cluded in a proceeding in a court of the United  
15 States on the ground that it was obtained in viola-  
16 tion of a statute, an administrative rule or regula-  
17 tion, or a rule of procedure unless exclusion is ex-  
18 pressly authorized by statute or by a rule prescribed  
19 by the Supreme Court pursuant to statutory author-  
20 ity.

21 “(2) SPECIAL RULE RELATING TO OBJECTIVELY  
22 REASONABLE SEARCHES AND SEIZURES.—Evidence  
23 that is otherwise excludable under paragraph (1)  
24 shall not be excluded if the search or seizure was  
25 carried out in circumstances justifying an objectively



1 reasonable belief that the search or seizure was in  
2 conformity with the statute, administrative rule or  
3 regulation, or rule of procedure.

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

7 (b) CLERICAL AMENDMENT.—The table of sections  
8 at the beginning of chapter 223 of title 18, United States  
9 Code, is amended by adding at the end the following:

“3510. Admissibility of evidence obtained by search or seizure.”.

10 **TITLE IX—HABEAS CORPUS**  
11 **REFORM**

12 **SEC. 901. FILING DEADLINES.**

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

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

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

23 “(B) the date on which the impediment to filing  
24 an application created by State action in violation of  
25 the Constitution or laws of the United States is re-

1 moved, if the applicant was prevented from filing by  
2 such State action;

3 “(C) the date on which the constitutional right  
4 asserted was initially recognized by the Supreme  
5 Court, if the right has been newly recognized by the  
6 Supreme Court and is made retroactively applicable;  
7 or

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

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

16 **SEC. 902. APPEAL.**

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

19 **“§ 2253. Appeal**

20 “(a) In a habeas corpus proceeding or a proceeding  
21 under section 2255 before a district judge, the final order  
22 shall be subject to review, on appeal, by the court of ap-  
23 peals for the circuit in which the proceeding is held.

24 “(b) There shall be no right of appeal from a final  
25 order in a proceeding to test the validity of a warrant to

1 remove to another district or place for commitment or trial  
2 a person charged with a criminal offense against the  
3 United States, or to test the validity of such person's de-  
4 tention pending removal proceedings.

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

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

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

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

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

19 **SEC. 903. AMENDMENT OF FEDERAL RULES OF APPELLATE**  
20 **PROCEDURE.**

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

23 **“Rule 22. Habeas corpus and section 2255 pro-**  
24 **ceedings**

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

11       “(b) CERTIFICATE OF APPEALABILITY.—In a habeas  
12 corpus proceeding in which the detention complained of  
13 arises out of process issued by a State court, an appeal  
14 by the applicant for the writ may not proceed unless a  
15 district or a circuit judge issues a certificate of  
16 appealability pursuant to section 2253(c) of title 28,  
17 United States Code. If an appeal is taken by the applicant,  
18 the district judge who rendered the judgment shall either  
19 issue a certificate of appealability or state the reasons why  
20 such a certificate should not issue. The certificate or the  
21 statement shall be forwarded to the court of appeals with  
22 the notice of appeal and the file of the proceedings in the  
23 district court. If the district judge has denied the certifi-  
24 cate, the applicant for the writ may then request issuance  
25 of the certificate by a circuit judge. If such a request is

1 addressed to the court of appeals, it shall be deemed ad-  
2 dressed to the judges thereof and shall be considered by  
3 a circuit judge or judges as the court deems appropriate.  
4 If no express request for a certificate is filed, the notice  
5 of appeal shall be deemed to constitute a request ad-  
6 dressed to the judges of the court of appeals. If an appeal  
7 is taken by a State or its representative, a certificate of  
8 appealability is not required.”.

9 **SEC. 904. SECTION 2254 AMENDMENTS.**

10 Section 2254 of title 28, United States Code, is  
11 amended—

12 (1) by amending subsection (b) to read as fol-  
13 lows:

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

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

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

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

24 “(2) An application for a writ of habeas corpus may  
25 be denied on the merits, notwithstanding the failure of the

1 applicant to exhaust the remedies available in the courts  
2 of the State.

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

7 (2) by redesignating subsections (d), (e), and  
8 (f) as subsections (e), (f), and (g), respectively;

9 (3) by inserting after subsection (c) the follow-  
10 ing new subsection:

11 “(d) An application for a writ of habeas corpus on  
12 behalf of a person in custody pursuant to the judgment  
13 of a State court shall not be granted with respect to any  
14 claim that was adjudicated on the merits in State court  
15 proceedings unless the adjudication of the claim—

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

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

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

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

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

12               “(A) the claim relies on—

13                       “(i) a new rule of constitutional law, made  
14 retroactive by the Supreme Court, that was pre-  
15 viously unavailable; or

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

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

24               (5) by adding at the end the following new sub-  
25 sections:

1       “(h) Notwithstanding any other provision of law, in  
2 all proceedings brought under this section, and any subse-  
3 quent proceedings on review, appointment of counsel for  
4 an applicant who is or becomes financially unable to afford  
5 counsel shall be in the discretion of the court, except as  
6 provided by a rule promulgated by the Supreme Court  
7 pursuant to statutory authority. Appointment of counsel  
8 under this section shall be governed by section 3006A of  
9 title 18.

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

14       **SEC. 905. SECTION 2255 AMENDMENTS.**

15       Section 2255 of title 28, United States Code, is  
16 amended—

17               (1) by striking the second and fifth paragraphs;

18       and

19               (2) by adding at the end the following new  
20 paragraphs:

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

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



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

6           “(3) the date on which the right asserted was  
7           initially recognized by the Supreme Court, if that  
8           right has been newly recognized by the Supreme  
9           Court and is made retroactively applicable; or

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

13           “In all proceedings brought under this section, and  
14           any subsequent proceedings on review, appointment of  
15           counsel for a movant who is or becomes financially unable  
16           to afford counsel shall be in the discretion of the court,  
17           except as provided by a rule promulgated by the Supreme  
18           Court pursuant to statutory authority. Appointment of  
19           counsel under this section shall be governed by section  
20           3006A of title 18.

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

24           “(1) newly discovered evidence that, if proven  
25           and viewed in light of the evidence as a whole, would

1 be sufficient to establish by clear and convincing evi-  
2 dence that no reasonable factfinder would have  
3 found the movant guilty of the offense; or

4 “(2) a new rule of constitutional law, made ret-  
5 roactive by the Supreme Court, that was previously  
6 unavailable.”.

7 **SEC. 906. LIMITS ON SECOND OR SUCCESSIVE APPLICA-**  
8 **TIONS.**

9 (a) CONFORMING AMENDMENT TO SECTION  
10 2244(a).—Section 2244(a) of title 28, United States  
11 Code, is amended by striking “and the petition” and all  
12 that follows through “by such inquiry.” and inserting “,  
13 except as provided in section 2255.”.

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

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

20 “(2) A claim presented in a second or successive ha-  
21 beas corpus application under section 2254 that was not  
22 presented in a prior application shall be dismissed un-  
23 less—

24 “(A) the applicant shows that the claim relies  
25 on a new rule of constitutional law, made retroactive

1 by the Supreme Court, that was previously unavail-  
2 able; or

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

6 “(ii) the facts underlying the claim, if proven  
7 and viewed in light of the evidence as a whole, would  
8 be sufficient to establish by clear and convincing evi-  
9 dence that, but for constitutional error, no reason-  
10 able factfinder would have found the applicant guilty  
11 of the underlying offense.

12 “(3)(A) Before a second or successive application per-  
13 mitted by this section is filed in the district court, the ap-  
14 plicant shall move in the appropriate court of appeals for  
15 an order authorizing the district court to consider the ap-  
16 plication.

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

21 “(C) The court of appeals may authorize the filing  
22 of a second or successive application only if it determines  
23 that the application makes a prima facie showing that the  
24 application satisfies the requirements of this subsection.

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

4       “(E) The grant or denial of an authorization by a  
5 court of appeals to file a second or success application  
6 shall not be appealable and shall not be the subject of a  
7 petition for rehearing or for a writ of certiorari.

8       “(4) A district court shall dismiss any claim pre-  
9 sented in a second or successive application that the court  
10 of appeals has authorized to be filed unless the applicant  
11 shows that the claim satisfies the requirements of this sec-  
12 tion.”.

13 **SEC. 907. DEATH PENALTY LITIGATION PROCEDURES.**

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

17 **“CHAPTER 154—SPECIAL HABEAS CORPUS**  
18 **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.

1 **“§ 2261. Prisoners in State custody subject to capital**  
2 **sentence; appointment of counsel; re-**  
3 **quirement of rule of court or statute; pro-**  
4 **cedures for appointment**

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

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

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

25 “(1) appointing one or more counsel to rep-  
26 resent the prisoner upon a finding that the prisoner

1 is indigent and accepted the offer or is unable com-  
2 petently to decide whether to accept or reject the  
3 offer;

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

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

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

16 “(e) The ineffectiveness or incompetence of counsel  
17 during State or Federal post-conviction proceedings in a  
18 capital case shall not be a ground for relief in a proceeding  
19 arising under section 2254. This limitation shall not pre-  
20 clude the appointment of different counsel, on the court’s  
21 own motion or at the request of the prisoner, at any phase  
22 of State or Federal post-conviction proceedings on the  
23 basis of the ineffectiveness or incompetence of counsel in  
24 such proceedings.

1 **“§ 2262. Mandatory stay of execution; duration; limits**  
2 **on stays of execution; successive peti-**  
3 **tions**

4 “(a) Upon the entry in the appropriate State court  
5 of record of an order under section 2261(c), a warrant  
6 or order setting an execution date for a State prisoner  
7 shall be stayed upon application to any court that would  
8 have jurisdiction over any proceedings filed under section  
9 2254. The application shall recite that the State has in-  
10 voked the post-conviction review procedures of this chapter  
11 and that the scheduled execution is subject to stay.

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

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

17 “(2) before a court of competent jurisdiction, in  
18 the presence of counsel, unless the prisoner has com-  
19 petently and knowingly waived such counsel, and  
20 after having been advised of the consequences, a  
21 State prisoner under capital sentence waives the  
22 right to pursue habeas corpus review under section  
23 2254; or

24 “(3) a State prisoner files a habeas corpus peti-  
25 tion under section 2254 within the time required by  
26 section 2263 and fails to make a substantial showing

1 of the denial of a Federal right or is denied relief  
2 in the district court or at any subsequent stage of  
3 review.

4 “(c) If one of the conditions in subsection (b) has  
5 occurred, no Federal court thereafter shall have the au-  
6 thority to enter a stay of execution in the case, unless the  
7 court of appeals approves the filing of a second or succes-  
8 sive application under section 2244(b).

9 **“§ 2263. Filing of habeas corpus application; time re-  
10 requirements; tolling rules**

11 “(a) Any application under this chapter for habeas  
12 corpus relief under section 2254 must be filed in the ap-  
13 propriate district court not later than 180 days after final  
14 State court affirmance of the conviction and sentence on  
15 direct review or the expiration of the time for seeking such  
16 review.

17 “(b) The time requirements established by subsection  
18 (a) shall be tolled—

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



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

5           “(3) during an additional period not to exceed  
6 30 days, if—

7           “(A) a motion for an extension of time is  
8 filed in the Federal district court that would  
9 have jurisdiction over the case upon the filing  
10 of a habeas corpus application under section  
11 2254; and

12           “(B) a showing of good cause is made for  
13 the failure to file the habeas corpus application  
14 within the time period established by this sec-  
15 tion.

16 **“§ 2264. Scope of Federal review; district court adju-**  
17 **dications**

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

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



1 must provide standards of competency for the appoint-  
2 ment of such counsel.

3       “(b) To qualify under this section, a unitary review  
4 procedure must include an offer of counsel following trial  
5 for the purpose of representation on unitary review, and  
6 entry of an order, as provided in section 2261(c), concern-  
7 ing appointment of counsel or waiver or denial of appoint-  
8 ment of counsel for that purpose. No counsel appointed  
9 to represent the prisoner in the unitary review proceedings  
10 shall have previously represented the prisoner at trial in  
11 the case for which the appointment is made unless the  
12 prisoner and counsel expressly request continued represen-  
13 tation.

14       “(c) Sections 2262, 2263, 2264, and 2266 shall apply  
15 in relation to cases involving a sentence of death from any  
16 State having a unitary review procedure that qualifies  
17 under this section. References to State ‘post-conviction re-  
18 view’ and ‘direct review’ in such sections shall be under-  
19 stood as referring to unitary review under the State proce-  
20 dure. The reference in section 2262(a) to ‘an order under  
21 section 2261(c)’ shall be understood as referring to the  
22 post-trial order under subsection (b) concerning represen-  
23 tation in the unitary review proceedings, but if a tran-  
24 script of the trial proceedings is unavailable at the time  
25 of the filing of such an order in the appropriate State

1 court, then the start of the 180-day limitation period  
2 under section 2263 shall be deferred until a transcript is  
3 made available to the prisoner or counsel of the prisoner.

4 **“§ 2266. Limitation periods for determining applica-**  
5 **tions and motions**

6 “(a) The adjudication of any application under sec-  
7 tion 2254 that is subject to this chapter, and the adjudica-  
8 tion of any motion under section 2255 by a person under  
9 sentence of death, shall be given priority by the district  
10 court and by the court of appeals over all noncapital mat-  
11 ters.

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

17 “(B) A district court shall afford the parties at least  
18 120 days in which to complete all actions, including the  
19 preparation of all pleadings and briefs, and if necessary,  
20 a hearing, prior to the submission of the case for decision.

21 “(C)(i) A district court may delay for not more than  
22 one additional 30-day period beyond the period specified  
23 in subparagraph (A), the rendering of a determination of  
24 an application for a writ of habeas corpus if the court is-  
25 sues a written order making a finding, and stating the

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

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

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

10 “(II) Whether the case is so unusual or so com-  
11 plex, due to the number of defendants, the nature of  
12 the prosecution, or the existence of novel questions  
13 of fact or law, that it is unreasonable to expect ade-  
14 quate briefing within the time limitations established  
15 by subparagraph (A).

16 “(III) Whether the failure to allow a delay in  
17 a case, that, taken as a whole, is not so unusual or  
18 so complex as described in subclause (II), but would  
19 otherwise deny the applicant reasonable time to ob-  
20 tain counsel, would unreasonably deny the applicant  
21 or the government continuity of counsel, or would  
22 deny counsel for the applicant or the government the  
23 reasonable time necessary for effective preparation,  
24 taking into account the exercise of due diligence.

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

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

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

9           “(A) an initial application for a writ of habeas  
10 corpus;

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

13           “(C) any redetermination of an application for  
14 a writ of habeas corpus following a remand by the  
15 court of appeals or the Supreme Court for further  
16 proceedings, in which case the limitation period shall  
17 run from the date the remand is ordered.

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

23       “(B) No amendment to an application for a writ of  
24 habeas corpus under this chapter shall be permitted after

1 the filing of the answer to the application, except on the  
2 grounds specified in section 2244(b).

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

7 “(B) The State may enforce a time limitation under  
8 this section by petitioning for a writ of mandamus to the  
9 court of appeals. The court of appeals shall act on the  
10 petition for a writ or mandamus not later than 30 days  
11 after the filing of the petition.

12 “(5)(A) The Administrative Office of United States  
13 Courts shall submit to Congress an annual report on the  
14 compliance by the district courts with the time limitations  
15 under this section.

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

19 “(c)(1)(A) A court of appeals shall hear and render  
20 a final determination of any appeal of an order granting  
21 or denying, in whole or in part, an application brought  
22 under this chapter in a capital case not later than 120  
23 days after the date on which the reply brief is filed, or  
24 if no reply brief is filed, not later than 120 days after  
25 the date on which the answering brief is filed.

1       “(B)(i) A court of appeals shall decide whether to  
2 grant a petition for rehearing or other request for rehear-  
3 ing en banc not later than 30 days after the date on which  
4 the petition for rehearing is filed unless a responsive  
5 pleading is required, in which case the court shall decide  
6 whether to grant the petition not later than 30 days after  
7 the date on which the responsive pleading is filed.

8       “(ii) If a petition for rehearing or rehearing en banc  
9 is granted, the court of appeals shall hear and render a  
10 final determination of the appeal not later than 120 days  
11 after the date on which the order granting rehearing or  
12 rehearing en banc is entered.

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

15           “(A) an initial application for a writ of habeas  
16 corpus;

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

19           “(C) any redetermination of an application for  
20 a writ of habeas corpus or related appeal following  
21 a remand by the court of appeals en banc or the Su-  
22 preme Court for further proceedings, in which case  
23 the limitation period shall run from the date the re-  
24 mand is ordered.



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

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

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

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

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

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

20 **SEC. 908. TECHNICAL AMENDMENT.**

21       Section 408(q) of the Controlled Substances Act (21  
22 U.S.C. 848(q)) is amended—

23               (1) in paragraph (4)(A), by striking “shall” and  
24       inserting “may”;

1           (2) in paragraph (4)(B), by striking “shall”  
2           and inserting “may”; and

3           (3) by amending paragraph (9) to read as fol-  
4           lows:

5           “(9) Upon a finding that investigative, expert, or  
6 other services are reasonably necessary for the representa-  
7 tion of the defendant, whether in connection with issues  
8 relating to guilt or the sentence, the court may authorize  
9 the defendant’s attorneys to obtain such services on behalf  
10 of the defendant and, if so authorized, shall order the pay-  
11 ment of fees and expenses therefor under paragraph (10).  
12 No ex parte proceeding, communication, or request may  
13 be considered pursuant to this section unless a proper  
14 showing is made concerning the need for confidentiality.  
15 Any such proceeding, communication, or request shall be  
16 transcribed and made a part of the record available for  
17 appellate review.”.

18 **SEC. 909. SEVERABILITY.**

19           If any provision of this title, an amendment made by  
20 this title, or the application of such provision or amend-  
21 ment to any person or circumstance is held to be unconsti-  
22 tutional, the remainder of this title, the amendments made  
23 by this title, and the application of the provisions of such

1 to any person or circumstance shall not be affected there-  
2 by.

○

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S 816 IS—6

S 816 IS—7

S 816 IS—8