

108TH CONGRESS
2D SESSION

S. 2358

To allow for the prosecution of members of criminal street gangs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2004

Mr. DURBIN (for himself, Mr. LEAHY, Mr. FEINGOLD, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To allow for the prosecution of members of criminal street gangs, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “American Neighborhoods Taking the Initiative—Guard-
6 ing Against Neighborhood Gangs Act of 2004” or the
7 “ANTI-GANG Act”.

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

TITLE I—CRIMINAL STREET GANGS

- Sec. 100. Findings.
 Sec. 101. Criminal street gangs; definitions.
 Sec. 102. Criminal street gangs prohibited acts, penalties, and forfeiture.
 Sec. 103. Clerical amendments.
 Sec. 104. Conforming amendments.
 Sec. 105. Designation of and assistance for “high intensity” interstate gang activity areas.
 Sec. 106. Gang prevention grants.
 Sec. 107. Gang prevention information grants.
 Sec. 108. Enhancement of Project Safe Neighborhoods Initiative to improve enforcement of criminal laws against violent gangs.
 Sec. 109. Additional resources needed by the Federal Bureau of Investigation to investigate and prosecute violent criminal street gangs.
 Sec. 110. Expansion of Federal witness relocation and protection program.
 Sec. 111. Grants to State and local prosecutors to protect witnesses and victims of crime.
 Sec. 112. Witness protection services.

TITLE II—RELATED MATTERS INVOLVING VIOLENT CRIME
PROSECUTION

- Sec. 201. Study on expanding Federal authority for juvenile offenders.
 Sec. 202. Prosecutors and Defenders Incentive Act.

1 **TITLE I—CRIMINAL STREET**
 2 **GANGS**

3 **SEC. 100. FINDINGS.**

4 Congress finds that—

5 (1) violent crime and drug trafficking are per-
 6 vasive problems at the national, State, and local
 7 level;

8 (2) the crime rate is exacerbated by the associa-
 9 tion of persons in gangs to commit acts of violence
 10 and drug offenses;

11 (3) according to the most recent National Drug
 12 Threat Assessment, criminal street gangs are re-
 13 sponsible for the distribution of much of the cocaine,
 14 methamphetamine, heroin, and other illegal drugs

1 being distributed in rural and urban communities
2 throughout the United States;

3 (4) gangs commit acts of violence or drug of-
4 fenses for numerous motives, such as membership in
5 or loyalty to the gang, for protecting gang territory,
6 and for profit;

7 (5) gang presence has a pernicious effect on the
8 free flow of commerce in local businesses and di-
9 rectly affects the freedom and security of commu-
10 nities plagued by gang activity;

11 (6) gangs often recruit and utilize minors to en-
12 gage in acts of violence and other serious offenses
13 out of a belief that the criminal justice systems are
14 more lenient on juvenile offenders;

15 (7) gangs often intimidate and threaten wit-
16 nesses to prevent successful prosecutions;

17 (8) gang recruitment can be deterred both
18 through increased vigilance, strong criminal pen-
19 alties, equal partnerships with State and local law
20 enforcement, and proactive intervention efforts, par-
21 ticularly targeted at juveniles, prior to gang involve-
22 ment; and

23 (9) State and local prosecutors, in hearings be-
24 fore the Committee on the Judiciary of the Senate,
25 enlisted Congress's help in the prevention, investiga-

1 tion, and prosecution of gang crimes and in the pro-
 2 tection of witnesses and victims of gang crimes.

3 **SEC. 101. CRIMINAL STREET GANGS; DEFINITIONS.**

4 Section 521 of title 18, United States Code, is
 5 amended to read as follows:

6 **“§ 521. Criminal street gang; definitions**

7 “As used in this chapter:

8 “(1) CRIMINAL STREET GANG.—

9 “(A) IN GENERAL.—The term ‘criminal
 10 street gang’ means an ongoing formal or infor-
 11 mal group, club, organization, or association of
 12 3 or more persons through or for which they in-
 13 dividually, jointly, or in combination, have com-
 14 mitted or attempted to commit, for the direct or
 15 indirect benefit of, at the direction of, or in as-
 16 sociation with the group, club, organization, or
 17 association, 3 or more unrelated predicate gang
 18 crimes, provided that—

19 “(i) one of the predicate gang crimes
 20 is a violent gang crime;

21 “(ii) one predicate gang crime must
 22 occur after the date of enactment of the
 23 ANTI-GANG Act, and the last of which
 24 must occur not later than 10 years (ex-
 25 cluding any period of imprisonment) after

1 the commission of a prior predicate gang
2 crime; and

3 “(iii) the activities of the criminal
4 street gang must substantially affect inter-
5 state or foreign commerce.

6 “(B) ONGOING.—

7 “(i) IN GENERAL.—As used in this
8 paragraph, the term ‘ongoing’, means that
9 the criminal street gang has an inde-
10 pendent identity and existence extending
11 beyond the planning or carrying out of any
12 offense or series of offenses which happen
13 to be predicate gang crimes.

14 “(ii) FACTORS.—The presence or ab-
15 sence of any of the following evidentiary
16 factors is relevant to show the existence or
17 nonexistence of an ongoing criminal street
18 gang, or to show that any predicate gang
19 crime was committed through or for a
20 criminal street gang:

21 “(I) A common name, insignia,
22 flag, means of recognition, secret sig-
23 nal or code.

24 “(II) A common creed, belief,
25 structure, leadership or command

1 structure, method of operation or
2 criminal enterprise, concentration or
3 specialty.

4 “(III) Membership, age or other
5 qualifications, initiation rites, geo-
6 graphical or territorial situs, bound-
7 ary, or location, or other unifying
8 mark, manner, protocol, or method of
9 expressing or indicating membership.

10 “(C) THREE OR MORE PERSONS.—As used
11 in this paragraph, the term ‘3 or more persons’,
12 shall not require that the same 3 or more per-
13 sons be involved in 2 or more predicate gang
14 crimes.

15 “(D) UNRELATED.—As used in this para-
16 graph, the term ‘unrelated’, means that the
17 predicate gang crimes are not part of a single
18 course of conduct with a single criminal objec-
19 tive, and do not represent essentially 1 com-
20 posite harm even if such gang crimes constitute
21 legally distinct offenses occurring at different
22 times. Violent gang crimes committed on dif-
23 ferent days shall always be considered to be un-
24 related.

1 “(2) PREDICATE GANG CRIME.—The term
2 ‘predicate gang crime’, means any act or threat, or
3 attempted act or threat, which is chargeable under
4 Federal or State law, and punishable by imprison-
5 ment for more than 1 year, involving—

6 “(A) a violent gang crime, which in-
7 cludes—

8 “(i) murder;

9 “(ii) attempted murder;

10 “(iii) manslaughter;

11 “(iv) kidnapping;

12 “(v) robbery;

13 “(vi) assault;

14 “(vii) extortion;

15 “(viii) arson;

16 “(ix) burglary;

17 “(x) sexual assault;

18 “(xi) carjacking; and

19 “(xii) explosive materials under sub-
20 section (d), (e), (f), or (i) of section 844;

21 “(B) a ‘serious drug offense’, as that term
22 is defined under section 924(e)(2)(A);

23 “(C) obstruction of justice (including of-
24 fenses under sections 1503 and 1510);

1 “(D) tampering with or retaliating against
2 a witness, victim, or informant (including of-
3 fenses under sections 1512 and 1513);

4 “(E) fraud and related activity in connec-
5 tion with identification documents or access de-
6 vices under sections 1028 and 1029;

7 “(F) interference with commerce by
8 threats of violence under section 1951;

9 “(G) money laundering under section
10 1956;

11 “(H) engaging in monetary transactions in
12 property derived from specified unlawful activ-
13 ity under section 1957;

14 “(I) the use of interstate commerce facili-
15 ties in the commission of murder-for-hire;

16 “(J) the interstate transportation, sale, or
17 receipt of stolen goods under sections 2312
18 through 2315;

19 “(K) the receipt, possession, and transfer
20 of firearms, except for violations of section
21 922(g); or

22 “(L) any act involving the Immigration
23 and Nationality Act, section 274 (relating to
24 bringing in and harboring certain aliens), sec-
25 tion 277 (relating to aiding or assisting certain

1 aliens to enter the United States), or section
 2 278 (relating to importation of aliens for im-
 3 moral purposes).

4 “(3) STATE.—The term ‘State’ means each of
 5 the several States of the United States, the District
 6 of Columbia, and any commonwealth, territory, or
 7 possession of the United States.”.

8 **SEC. 102. CRIMINAL STREET GANGS—PROHIBITED ACTS,**
 9 **PENALTIES, AND FORFEITURE.**

10 Chapter 26 of title 18, United States Code, is amend-
 11 ed by adding at the end the following:

12 **“§ 522. Prohibited acts; penalties and forfeiture**

13 “(a) RECRUITMENT AND RETENTION IN CRIMINAL
 14 STREET GANGS.—It shall be unlawful for any person—

15 “(1) to recruit, solicit, command, employ, per-
 16 suade, induce, entice, or coerce any person to be-
 17 come a member of or participate in, any criminal
 18 street gang with the intent that the person recruited
 19 will do any act to effect the criminal activities of a
 20 criminal street gang; or

21 “(2) by use of force, threat, or intimidation di-
 22 rected at any person, or by the infliction of bodily
 23 injury upon any person, to knowingly prevent a per-
 24 son from leaving a criminal street gang.

1 “(b) PARTICIPATION IN A CRIMINAL STREET
2 GANG.—It shall be unlawful for any person—

3 “(1) to do any act with the intent to effect the
4 criminal activities of a criminal street gang;

5 “(2) to commit, attempt to commit, aid or abet
6 the commission of, or conspire to commit any predi-
7 cate gang crime—

8 “(A) in furtherance or in aid of the activi-
9 ties of the criminal street gang;

10 “(B) for the direct or indirect benefit of
11 the criminal street gang, or in association with
12 the criminal street gang;

13 “(C) for the purpose of gaining entrance
14 to, or maintaining or increasing position in, the
15 criminal street gang;

16 while knowingly being a member of or participating
17 in a criminal street gang; or

18 “(3) to employ, use, command, counsel, per-
19 suade, induce, entice, or coerce any individual to
20 commit any predicate gang crime—

21 “(A) in furtherance or in aid of the activi-
22 ties of the criminal street gang;

23 “(B) for the direct or indirect benefit of
24 the criminal street gang, or in association with
25 the criminal street gang; or

1 “(C) for the purpose of gaining entrance to
2 or maintaining or increasing position in the
3 criminal street gang;
4 while knowingly being a member of or participating
5 in a criminal street gang.

6 “(c) WITNESS INTIMIDATION.—It shall be unlawful
7 for any person to travel in interstate or foreign commerce,
8 or use the mail or any facility in interstate or foreign com-
9 merce, or to employ, use, command, counsel, persuade, in-
10 duce, entice, or coerce any individual to do the same, to
11 threaten, influence, or prevent from testifying any witness
12 in a Federal or State criminal proceeding—

13 “(1) in furtherance or in aid of the activities of
14 a criminal street gang;

15 “(2) for the direct or indirect benefit of, at the
16 direction of, or in association with a criminal street
17 gang; or

18 “(3) for the purpose of gaining entrance to or
19 maintaining or increasing position in a criminal
20 street gang.

21 “(d) UNDERLYING OFFENSES.—

22 “(1) NO LIMITATION ON UNDERLYING OF-
23 FENSES.—Nothing in this section shall be construed
24 to prohibit the conviction or sentencing of any per-

1 son for an underlying offense that is included in the
2 definition of ‘predicate gang crimes’.

3 “(2) VENUE FOR UNDERLYING OFFENSES.—

4 Notwithstanding any other provision of law, venue
5 for any Federal underlying offense charged as a
6 predicate gang crime in a prosecution under this sec-
7 tion shall lie in the same district as a prosecution
8 under this section.

9 “(e) PENALTIES.—

10 “(1) Whoever violates subsection (a)(1) or
11 (b)(1) of this section shall be fined under this title,
12 or imprisoned not more than 3 years, or both; pro-
13 vided that if the person recruited under subsection
14 (a)(1) is a minor and the violator is 18 years of age
15 or older, then the violator shall be fined under this
16 title, imprisoned not more than 10 years, or both.

17 “(2) Whoever violates subsection (a)(2) or (c)
18 shall be fined under this title, or imprisoned not
19 more than 10 years, or both; provided that if the
20 person prevented from leaving under subsection
21 (a)(2) is a minor and the violator is 18 years of age
22 or older, then the violator shall be fined under this
23 title, imprisoned not more than 15 years, or both.

1 “(3) Whoever violates subsection (b)(2) or
2 (b)(3) shall be fined under this title, imprisoned not
3 more than 20 years, or both; except—

4 “(A) where the predicate gang crime is a
5 serious drug offense, then whoever violates
6 these subsections shall be fined under this title,
7 imprisoned not more than 30 years, or both; or

8 “(B) where the predicate gang crime is a
9 violent gang crime, whoever violates these sub-
10 sections shall be fined under this title, impris-
11 oned for any term of years or for life, or both.

12 “(f) FORFEITURE.—

13 “(1) IN GENERAL.—A person who violates any
14 provision of this section shall, in addition to any
15 other penalty and irrespective of any provision of
16 State law, forfeit to the United States—

17 “(A) any property constituting, or derived
18 from, any proceeds the person obtained, directly
19 or indirectly, as a result of the violation; and

20 “(B) any property used, or intended to be
21 used, in any manner or part, to commit, or to
22 facilitate the commission of the violation.

23 “(2) APPLICATION OF CONTROLLED SUB-
24 STANCES ACT.—Subsections (b), (c), (e), (f), (g),
25 (h), (i), (j), (k), (l), (m), (n), (o), and (p) of section

1 413 of the Controlled Substances Act (21 U.S.C.
2 853) shall apply to a forfeiture under this section.

3 “(g) CERTIFICATION BY THE UNITED STATES AT-
4 TORNEY.—No prosecution of any offense described under
5 this section involving a predicate gang crime that is other-
6 wise exclusively chargeable under State law shall be under-
7 taken by the United States except upon the certification
8 in writing of the Attorney General, the Deputy Attorney
9 General, the Associate Attorney General, any Assistant
10 Attorney General specially designated by the Attorney
11 General, or the United States attorney for the district in
12 which the offense will be prosecuted, after consultation
13 with State and local prosecutors, that in his judgment a
14 prosecution by the United States is in the public interest
15 and necessary to secure substantial justice, which function
16 of certification may not be delegated.”.

17 **SEC. 103. CLERICAL AMENDMENTS.**

18 The table of sections at the beginning of chapter 26
19 of title 18, United States Code, is amended to read as
20 follows:

“521. Criminal street gangs; definitions.

“522. Prohibited acts; penalties and forfeiture.”.

21 **SEC. 104. CONFORMING AMENDMENTS.**

22 (a) AUTHORIZATION OF INTERCEPTION OF WIRE,
23 ORAL, AND ELECTRONIC COMMUNICATIONS.—Section
24 2516(1) of title 18, United States Code, is amended—

1 (1) in paragraph (q), by striking “or”;

2 (2) by redesignating paragraph (r) as para-
3 graph (s); and

4 (3) by inserting after paragraph (q) the fol-
5 lowing:

6 “(r) any violation of section 522 (relating to
7 criminal street gangs); or”.

8 (b) ORDERS FOR RESTITUTION.—Section 3663(c)(4)
9 of title 18, United States Code, is amended by striking
10 “chapter 46 or chapter 96” and inserting “chapters 26,
11 46, or 96”.

12 (c) AMENDMENT OF SPECIAL SENTENCING PROVI-
13 SION PROHIBITING PRISONER COMMUNICATIONS.—Sec-
14 tion 3582(d) of title 18, United States Code, is amended—

15 (1) by inserting “chapter 26 (criminal street
16 gangs),” before “chapter 95”; and

17 (2) by inserting “a criminal street gang or” be-
18 fore “an illegal enterprise”.

19 **SEC. 105. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-**
20 **TENSITY” INTERSTATE GANG ACTIVITY**
21 **AREAS.**

22 (a) DEFINITIONS.—In this section:

23 (1) GOVERNOR.—The term “Governor” means
24 a Governor of a State or the mayor of the District
25 of Columbia.

1 (2) HIGH INTENSITY INTERSTATE GANG ACTIV-
2 ITY AREA.—The term “high intensity interstate
3 gang activity area” means an area within a State
4 that is designated as a high intensity interstate gang
5 activity area under subsection (b)(1).

6 (3) HIGH INTENSITY INTERSTATE GANG AND
7 DRUG TRAFFICKING AREA.—The term “high inten-
8 sity interstate gang and drug trafficking area”
9 means an area within a State that is cross-des-
10 ignated as a high intensity interstate gang and drug
11 trafficking area under subsection (b)(2).

12 (4) STATE.—The term “State” means a State
13 of the United States, the District of Columbia, and
14 any commonwealth, territory, or possession of the
15 United States. The term “State” shall include an
16 “Indian tribe”, as defined under section 102 of the
17 Federally Recognized Indian Tribe List Act of 1994
18 (25 U.S.C. 479a).

19 (b) HIGH INTENSITY INTERSTATE GANG ACTIVITY
20 AREAS.—

21 (1) DESIGNATION.—The Attorney General,
22 after consultation with the Governors of appropriate
23 States, may designate specific areas that are located
24 within 1 or more States as high intensity interstate
25 gang activity areas.

1 (2) CROSS-DESIGNATION.—The Attorney Gen-
2 eral, after consultation with the Governors of appro-
3 priate States and the Director of the Office of Na-
4 tional Drug Control Policy, may cross-designate spe-
5 cific areas already designated as high intensity inter-
6 state drug trafficking areas under section 707 of the
7 Office of National Drug Control Policy Reauthoriza-
8 tion Act of 1998 (21 U.S.C. 1706) as high intensity
9 interstate gang and drug trafficking areas.

10 (3) ASSISTANCE.—In order to provide Federal
11 assistance to high intensity interstate gang activity
12 areas or high intensity interstate gang and drug
13 trafficking areas, the Attorney General shall—

14 (A) establish criminal street gang enforce-
15 ment teams, consisting of Federal, State, and
16 local law enforcement authorities, for the co-
17 ordinated investigation, disruption, apprehen-
18 sion, and prosecution of criminal street gangs
19 and offenders in each high intensity interstate
20 gang activity area or high intensity interstate
21 gang and drug trafficking area;

22 (B) direct the reassignment or detailing
23 from any Federal department or agency (sub-
24 ject to the approval of the head of that depart-
25 ment or agency, in the case of a department or

1 agency other than the Department of Justice)
2 of personnel to each criminal street gang en-
3 forcement team; and

4 (C) provide all necessary funding for the
5 operation of the criminal street gang enforce-
6 ment team in each high intensity interstate
7 gang activity area or high intensity interstate
8 gang and drug trafficking area.

9 (4) COMPOSITION OF CRIMINAL STREET GANG
10 ENFORCEMENT TEAM.—The team established under
11 paragraph (2)(A) shall consist of agents and offi-
12 cers, where feasible, from—

13 (A) the Bureau of Alcohol, Tobacco, Fire-
14 arms, and Explosives;

15 (B) the Department of Homeland Security;

16 (C) the Department of Housing and Urban
17 Development;

18 (D) the Drug Enforcement Administration;

19 (E) the Internal Revenue Service;

20 (F) the Federal Bureau of Investigation;

21 (G) the United States Marshal's Service;

22 (H) the United States Postal Service;

23 (I) State and local law enforcement; and

24 (J) Federal, State, and local prosecutors.

1 (5) COORDINATION.—In each area cross-des-
2 ignated as a high intensity interstate gang and drug
3 trafficking area, the team established under para-
4 graph (2)(A) shall fully coordinate its antigang ac-
5 tivities with antidrug trafficking activities under-
6 taken by Federal, State, and local officials under
7 section 707 of the Office of National Drug Control
8 Policy Reauthorization Act of 1998 (21 U.S.C.
9 1706).

10 (6) CRITERIA FOR DESIGNATION.—In consid-
11 ering an area for designation as a high intensity
12 interstate gang activity area or high intensity inter-
13 state gang and drug trafficking area under this sec-
14 tion, the Attorney General shall consider—

15 (A) the current and predicted levels of
16 gang crime activity in the area;

17 (B) the extent to which violent crime in
18 the area appears to be related to criminal street
19 gang activity, such as drug trafficking, murder,
20 robbery, assaults, carjacking, arson, kidnap-
21 ping, extortion, and other criminal activity;

22 (C) the extent to which State and local law
23 enforcement agencies have committed resources
24 to—

1 (i) respond to the gang crime prob-
2 lem; and

3 (ii) participate in a gang enforcement
4 team;

5 (D) the extent to which a significant in-
6 crease in the allocation of Federal resources
7 would enhance local response to the gang crime
8 activities in the area; and

9 (E) any other criteria that the Attorney
10 General considers to be appropriate.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated \$40,000,000 for each
13 of fiscal years 2005 through 2009 to carry out this sec-
14 tion.

15 **SEC. 106. GANG PREVENTION GRANTS.**

16 (a) AUTHORITY TO MAKE GRANTS.—The Office of
17 Justice Programs of the Department of Justice shall make
18 grants, in accordance with such regulations as the Attor-
19 ney General may prescribe, to States, units of local gov-
20 ernment, tribal governments, and qualified private enti-
21 ties, to develop community-based programs that provide
22 crime prevention, research, and intervention services that
23 are designed for gang members and at-risk youth.

24 (b) USE OF GRANT AMOUNTS.—Amounts received by
25 a grantee under this section may be used by the grantee,

1 directly or through subgrants, only for 1 or more of the
2 following activities:

3 (1) Preventing initial gang recruitment and in-
4 volvement among younger teenagers.

5 (2) Reducing gang involvement through non-
6 violent and constructive activities, such as commu-
7 nity service programs, development of nonviolent
8 conflict resolution skills, employment and legal as-
9 sistance, family counseling, and other safe, commu-
10 nity-based alternatives for high-risk youth.

11 (3) Developing in-school and after-school gang
12 safety, control, education, and resistance procedures
13 and programs.

14 (4) Identifying and addressing early childhood
15 risk factors for gang involvement, including parent
16 training and childhood skills development.

17 (5) Identifying and fostering protective factors
18 that buffer children and adolescents from gang in-
19 volvement.

20 (c) GRANT REQUIREMENTS.—

21 (1) PERIOD.—A grant under this section shall
22 be made for a period of not more than 2 years.

23 (2) MAXIMUM.—The amount of a grant under
24 this section may not exceed \$1,000,000.

1 (d) ANNUAL REPORT.—Each recipient of a grant
2 under this section shall submit to the Attorney General,
3 for each year in which funds from a grant received under
4 this section are expended, a report containing—

5 (1) a summary of the activities carried out with
6 grant funds during that year;

7 (2) an assessment of the effectiveness of the
8 crime prevention, research, and intervention activi-
9 ties of the recipient;

10 (3) a strategic plan for the year following the
11 year covered under paragraph (1); and

12 (4) such other information as the Attorney
13 General may require.

14 (e) MINIMUM ALLOCATION.—Unless all eligible appli-
15 cations submitted by any State or unit of local government
16 within such State for a planning or implementation grant
17 under this section have been funded, such State, together
18 with grantees within the State (other than Indian tribes),
19 shall be allocated in each fiscal year under this section
20 not less than 0.75 percent of the total amount appro-
21 priated in the fiscal year for planning or implementation
22 grants under this section.

23 (f) DEFINITION.—In this section, the term “units of
24 local government” includes sheriffs, police agencies, and
25 local prosecutor offices.

1 (g) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There are authorized to be
3 appropriated for grants under this section
4 \$40,000,000 for each of the fiscal years 2005
5 through 2009.

6 (2) LIMITATION.—Of amounts made available
7 for grants under this section, not less than 50 per-
8 cent shall be available only for areas designated pur-
9 suant to section 105 as high intensity interstate
10 gang activity areas or high intensity interstate gang
11 and drug trafficking areas.

12 **SEC. 107. GANG PREVENTION INFORMATION GRANTS.**

13 (a) AUTHORITY TO MAKE GRANTS.—The Office of
14 Justice Programs of the Department of Justice shall make
15 grants, in accordance with such regulations as the Attor-
16 ney General may prescribe, to States, units of local gov-
17 ernment, and tribal governments to fund technology,
18 equipment, and training for State and local sheriffs, police
19 agencies, and prosecutor offices in order to—

20 (1) increase accurate identification of gang
21 members and violent offenders;

22 (2) maintain databases with such information
23 to facilitate coordination among law enforcement
24 and prosecutors; and

1 (3) otherwise improve the investigation and
2 prosecution of criminal street gangs.

3 (b) GRANT REQUIREMENTS.—

4 (1) PERIOD.—A grant under this section shall
5 be made for a period of not more than 2 years.

6 (2) MAXIMUM.—The amount of a grant under
7 this section may not exceed \$1,000,000.

8 (c) ANNUAL REPORT.—Each recipient of a grant
9 under this section shall submit to the Attorney General,
10 for each year in which funds from a grant received under
11 this section are expended, a report containing—

12 (1) a summary of the activities carried out with
13 grant funds during that year;

14 (2) an assessment of the effectiveness of the
15 crime prevention, research, and intervention activi-
16 ties of the recipient;

17 (3) a strategic plan for the year following the
18 year covered under paragraph (1); and

19 (4) such other information as the Attorney
20 General may require.

21 (d) MINIMUM ALLOCATION.—Unless all eligible appli-
22 cations submitted by any State or unit of local government
23 within such State for a planning or implementation grant
24 under this section have been funded, such State, together
25 with grantees within the State (other than Indian tribes),

1 shall be allocated in each fiscal year under this section
2 not less than 0.75 percent of the total amount appro-
3 priated in the fiscal year for planning or implementation
4 grants under this section.

5 (e) DEFINITION.—In this section, the term “units of
6 local government” includes sheriffs, police agencies, and
7 local prosecutor offices.

8 (f) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated for grants under this
10 section \$20,000,000 for each of the fiscal years 2005
11 through 2009.

12 **SEC. 108. ENHANCEMENT OF PROJECT SAFE NEIGHBOR-**
13 **HOODS INITIATIVE TO IMPROVE ENFORCE-**
14 **MENT OF CRIMINAL LAWS AGAINST VIOLENT**
15 **GANGS.**

16 (a) IN GENERAL.—The Attorney General shall ex-
17 pand the Project Safe Neighborhoods program to require
18 each United States attorney to—

19 (1) identify, investigate, and prosecute signifi-
20 cant criminal street gangs operating within their dis-
21 trict;

22 (2) coordinate the identification, investigation,
23 and prosecution of criminal street gangs among Fed-
24 eral, State, and local law enforcement agencies;

1 (3) consult with State and local prosecutors to
 2 determine how Federal, State, and local law enforce-
 3 ment resources can best be used to serve the public
 4 interest and secure substantial justice; and

5 (4) coordinate and establish criminal street
 6 gang enforcement teams, established under section
 7 105(b), in high intensity interstate gang activity
 8 areas within the district of the United States attor-
 9 ney.

10 (b) ADDITIONAL ASSISTANT UNITED STATES ATTOR-
 11 NEYS FOR PROJECT SAFE NEIGHBORHOODS.—

12 (1) IN GENERAL.—The Attorney General may
 13 hire 94 additional Assistant United States attorneys
 14 to carry out the provisions of this section.

15 (2) AUTHORIZATION OF APPROPRIATIONS.—
 16 There are authorized to be appropriated \$7,500,000
 17 for each of the fiscal years 2005 through 2009 to
 18 carry out this section.

19 **SEC. 109. ADDITIONAL RESOURCES NEEDED BY THE FED-**
 20 **ERAL BUREAU OF INVESTIGATION TO INVES-**
 21 **TIGATE AND PROSECUTE VIOLENT CRIMINAL**
 22 **STREET GANGS.**

23 (a) RESPONSIBILITIES OF ATTORNEY GENERAL.—
 24 The Attorney General shall require the Federal Bureau
 25 of Investigation to—

1 (1) increase funding for the Safe Streets Pro-
2 gram;

3 (2) support the criminal street gang enforce-
4 ment teams, established under section 105(b), in
5 designated high intensity interstate gang activity
6 areas; and

7 (3) consult with State and local prosecutors to
8 determine how Federal, State, and local law enforce-
9 ment resources can best be used to serve the public
10 interest and secure substantial justice.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—

12 (1) IN GENERAL.—In addition to amounts oth-
13 erwise authorized, there are authorized to be appro-
14 priated to the Federal Bureau of Investigation
15 \$5,000,000 for each of the fiscal years 2005 through
16 2009 to carry out the Safe Streets Program.

17 (2) AVAILABILITY.—Any amounts appropriated
18 under paragraph (1) shall remain available until ex-
19 pended.

20 **SEC. 110. EXPANSION OF FEDERAL WITNESS RELOCATION**
21 **AND PROTECTION PROGRAM.**

22 Section 3521(a)(1) of title 18 is amended by inserting
23 “, criminal street gang, serious drug offense, homicide,”
24 after “organized criminal activity”.

1 **SEC. 111. GRANTS TO STATE AND LOCAL PROSECUTORS TO**
2 **PROTECT WITNESSES AND VICTIMS OF**
3 **CRIME.**

4 (a) GRANTS AUTHORIZED.—

5 (1) IN GENERAL.—The Attorney General is au-
6 thORIZED to make grants to State and local prosecu-
7 tors and the United States attorney for the District
8 of Columbia for the purpose of providing short-term
9 protection to witnesses in trials involving an orga-
10 nized criminal activity, criminal street gang, serious
11 drug offense, homicide, or other serious offense.

12 (2) ALLOCATION.—Each prosecutor receiving a
13 grant under this section may either—

14 (A) use the grant to provide witness relo-
15 cation and protection; or

16 (B) pursuant to a cooperative agreement
17 with the Attorney General, credit the grant to
18 the United States Marshal's Service to cover
19 the costs of providing witness relocation and
20 protection on behalf of the prosecutor.

21 (b) APPLICATION.—

22 (1) IN GENERAL.—Each prosecutor desiring a
23 grant under this section shall submit an application
24 to the Attorney General at such time, in such man-
25 ner, and accompanied by such information as the
26 Attorney General may reasonably require.

1 (2) CONTENTS.—Each application submitted
2 pursuant to paragraph (1) shall—

3 (A) describe the activities for which assist-
4 ance under this section is sought; and

5 (B) provide such additional assurances as
6 the Attorney General determines to be essential
7 to ensure compliance with the requirements of
8 this section.

9 (c) MINIMUM ALLOCATION.—Unless all eligible appli-
10 cations submitted by State and local prosecutors within
11 a State for planning or implementation grants under this
12 section have been funded, the grantees within the State
13 shall be allocated in each fiscal year under this section
14 not less than 0.75 percent of the total amount appro-
15 priated in the fiscal year for planning or implementation
16 grants pursuant to this section.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to carry out this section
19 \$60,000,000 for each of the fiscal years 2005 through
20 2009.

21 **SEC. 112. WITNESS PROTECTION SERVICES.**

22 Section 3526 of title 18, United States Code (Co-
23 operation of other Federal agencies and State govern-
24 ments; reimbursement of expenses) shall be amended to
25 add the following subsection:

1 “(c) In any case in which a State government re-
 2 quests the Attorney General to provide temporary protec-
 3 tion under section 3521(e) of this title, the costs of pro-
 4 viding temporary protection are not reimbursable if the
 5 investigation or prosecution in any way relates to crimes
 6 of violence committed by a gang, as defined under the laws
 7 of the relevant State seeking assistance under this title.”.

8 **TITLE II—RELATED MATTERS IN-**
 9 **VOLVING VIOLENT CRIME**
 10 **PROSECUTION**

11 **SEC. 201. STUDY ON EXPANDING FEDERAL AUTHORITY FOR**
 12 **JUVENILE OFFENDERS.**

13 (a) IN GENERAL.—Not later than 9 months after the
 14 date of enactment of this Act, the Comptroller General
 15 of the United States shall submit to the Committees on
 16 the Judiciary of the Senate and the House of Representa-
 17 tives a report on the costs and benefits associated with
 18 expanding Federal authority to prosecute offenders under
 19 the age of 18 who are gang members who commit criminal
 20 offenses.

21 (b) CONTENTS.—The report submitted under sub-
 22 section (a) shall—

23 (1) examine the ability of the judicial systems
 24 of the States to respond effectively to juveniles who

1 are members of “criminal street gangs”, as defined
2 under section 521 of title 18, United States Code;

3 (2) examine the extent to which offenders who
4 are 16 and 17 years old are members of criminal
5 street gangs, and are accused of committing violent
6 crimes and prosecuted in the adult criminal justice
7 systems of the individual States;

8 (3) determine the percentage of crimes com-
9 mitted by members of “criminal street gangs” that
10 are committed by offenders who are 16 and 17 years
11 old;

12 (4) examine the extent to which United States
13 attorneys currently bring criminal indictments and
14 prosecute offenders under the age of 18, and the ex-
15 tent to which United States attorneys’ offices in-
16 clude prosecutors with experience prosecuting juve-
17 niles for adult criminal violations;

18 (5) examine the extent to which the Bureau of
19 Prisons houses offenders under the age of 18, and
20 has the ability and experience to meet the needs of
21 young offenders;

22 (6) estimate the cost to the Federal Govern-
23 ment of prosecuting and incarcerating 16 and 17
24 year olds who are members of criminal street gangs
25 and are accused of violent crimes; and

1 (7) detail any benefits for Federal prosecutions
 2 that would be realized by expanding Federal author-
 3 ity to bring charges against 16 and 17 year olds who
 4 are members of criminal street gangs and are ac-
 5 cused of violent crimes.

6 **SEC. 202. PROSECUTORS AND DEFENDERS INCENTIVE ACT.**

7 (a) SHORT TITLE.—This section may be cited as the
 8 “Prosecutors and Defenders Incentive Act”.

9 (b) LOAN REPAYMENT FOR PROSECUTORS AND PUB-
 10 LIC DEFENDERS.—Title I of the Omnibus Crime Control
 11 and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.)
 12 is amended by adding at the end the following:

13 **“PART CC—LOAN REPAYMENT FOR**
 14 **PROSECUTORS AND PUBLIC DEFENDERS**

15 **“SEC. 2901. GRANT AUTHORIZATION.**

16 “(a) PURPOSE.—The purpose of this section is to en-
 17 courage qualified individuals to enter and continue em-
 18 ployment as prosecutors and public defenders.

19 “(b) DEFINITIONS.—In this section:

20 “(1) PROSECUTOR.—The term ‘prosecutor’
 21 means a full-time employee of a State or local agen-
 22 cy who—

23 “(A) is continually licensed to practice law;
 24 and

1 “(B) prosecutes criminal cases at the State
2 or local level.

3 “(2) PUBLIC DEFENDER.—The term ‘public de-
4 fender’ means an attorney who—

5 “(A) is continually licensed to practice law;
6 and

7 “(B) is—

8 “(i) a full-time employee of a State or
9 local agency, or a nonprofit organization
10 operating under a contract with a State or
11 unit of local government, that provides
12 legal representation to indigent persons in
13 criminal cases; or

14 “(ii) employed as a full-time Federal
15 defender attorney in a defender organiza-
16 tion established pursuant to subsection (g)
17 of section 3006A of title 18, United States
18 Code, that provides legal representation to
19 indigent persons in criminal cases.

20 “(3) STUDENT LOAN.—The term ‘student loan’
21 means—

22 “(A) a loan made, insured, or guaranteed
23 under part B of title IV of the Higher Edu-
24 cation Act of 1965 (20 U.S.C. 1071 et seq.);

1 “(B) a loan made under part E or D of
2 title IV of the Higher Education Act of 1965
3 (20 U.S.C. 1087a et seq.); and

4 “(C) a loan made under section 428C of
5 the Higher Education Act of 1965 (20 U.S.C.
6 1078–3) to the extent that such loan was used
7 to repay a Federal Direct Stafford Loan, a
8 Federal Direct Unsubsidized Stafford Loan, or
9 a loan made under section 428 or 428H of such
10 Act.

11 “(c) PROGRAM AUTHORIZED.—The Attorney General
12 shall establish a program by which the Department of Jus-
13 tice shall assume the obligation to repay a student loan,
14 by direct payments on behalf of a borrower to the holder
15 of such loan, in accordance with subsection (d), for any
16 borrower who—

17 “(1) is employed as a prosecutor or public de-
18 fender; and

19 “(2) is not in default on a loan for which the
20 borrower seeks forgiveness.

21 “(d) TERMS OF AGREEMENT.—

22 “(1) IN GENERAL.—To be eligible to receive re-
23 payment benefits under subsection (c), a borrower
24 shall enter into a written agreement that specifies
25 that—

1 “(A) the borrower will remain employed as
2 a prosecutor or public defender for a required
3 period of service of not less than 3 years, unless
4 involuntarily separated from that employment;

5 “(B) if the borrower is involuntarily sepa-
6 rated from employment on account of mis-
7 conduct, or voluntarily separates from employ-
8 ment, before the end of the period specified in
9 the agreement, the borrower will repay the At-
10 torney General the amount of any benefits re-
11 ceived by such employee under this section;

12 “(C) if the borrower is required to repay
13 an amount to the Attorney General under sub-
14 paragraph (B) and fails to repay such amount,
15 a sum equal to that amount shall be recoverable
16 by the Federal Government from the employee
17 (or such employee’s estate, if applicable) by
18 such methods as are provided by law for the re-
19 covery of amounts owed to the Federal Govern-
20 ment;

21 “(D) the Attorney General may waive, in
22 whole or in part, a right of recovery under this
23 subsection if it is shown that recovery would be
24 against equity and good conscience or against
25 the public interest; and

1 “(E) the Attorney General shall make stu-
2 dent loan payments under this section for the
3 period of the agreement, subject to the avail-
4 ability of appropriations.

5 “(2) REPAYMENTS.—

6 “(A) IN GENERAL.—Any amount repaid
7 by, or recovered from, an individual or the es-
8 tate of an individual under this subsection shall
9 be credited to the appropriation account from
10 which the amount involved was originally paid.

11 “(B) MERGER.—Any amount credited
12 under subparagraph (A) shall be merged with
13 other sums in such account and shall be avail-
14 able for the same purposes and period, and sub-
15 ject to the same limitations, if any, as the sums
16 with which the amount was merged.

17 “(3) LIMITATIONS.—

18 “(A) STUDENT LOAN PAYMENT
19 AMOUNT.—Student loan repayments made by
20 the Attorney General under this section shall be
21 made subject to such terms, limitations, or con-
22 ditions as may be mutually agreed upon by the
23 borrower and the Attorney General in an agree-
24 ment under paragraph (1), except that the

1 amount paid by the Attorney General under
2 this section shall not exceed—

3 “(i) \$10,000 for any borrower in any
4 calendar year; or

5 “(ii) an aggregate total of \$60,000 in
6 the case of any borrower.

7 “(B) BEGINNING OF PAYMENTS.—Nothing
8 in this section shall authorize the Attorney Gen-
9 eral to pay any amount to reimburse a borrower
10 for any repayments made by such borrower
11 prior to the date on which the Attorney General
12 entered into an agreement with the borrower
13 under subsection (d).

14 “(e) ADDITIONAL AGREEMENTS.—

15 “(1) IN GENERAL.—On completion of the re-
16 quired period of service under an agreement under
17 subsection (d), the borrower and the Attorney Gen-
18 eral may, subject to paragraph (2), enter into an ad-
19 ditional agreement in accordance with subsection
20 (d).

21 “(2) TERM.—An agreement entered into under
22 paragraph (1) may require the borrower remain em-
23 ployed as a prosecutor or public defender for less
24 than 3 years.

25 “(f) AWARD BASIS; PRIORITY.—

1 “(1) AWARD BASIS.—Subject to paragraph (2),
2 the Attorney General shall provide repayment bene-
3 fits under this section on a first-come, first-served
4 basis, and subject to the availability of appropria-
5 tions.

6 “(2) PRIORITY.—The Attorney General shall
7 give priority in providing repayment benefits under
8 this section in any fiscal year to a borrower who—

9 “(A) received repayment benefits under
10 this section during the preceding fiscal year;
11 and

12 “(B) has completed less than 3 years of
13 the first required period of service specified for
14 the borrower in an agreement entered into
15 under subsection (e).

16 “(g) REGULATIONS.—The Attorney General is au-
17 thorized to issue such regulations as may be necessary to
18 carry out the provisions of this section.

19 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to carry out this section
21 \$25,000,000 for fiscal year 2005 and such sums as may
22 be necessary for each succeeding fiscal year.”.

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