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109TH CONGRESS
1ST SESSION

H. R. 1279

[Report No. 109-74]

To amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2005

Mr. FORBES (for himself, Mr. WOLF, Mr. GOODLATTE, Mr. GOODE, Mrs. JO ANN DAVIS of Virginia, Mrs. DRAKE, Mr. TOM DAVIS of Virginia, and Mr. ALEXANDER) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 5, 2005

Additional sponsors: Mr. CANTOR, Mr. GALLEGLY, Mr. SOUDER, Mrs. CAPITO, Mr. GENE GREEN of Texas, Mr. ETHERIDGE, Mr. KING of New York, and Mr. TIBERI

MAY 5, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on March 14, 2005]

A BILL

To amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, 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 “Gang Deterrence and*
 5 *Community Protection Act of 2005”.*

6 **TITLE I—CRIMINAL LAW RE-**
 7 **FORMS AND ENHANCED PEN-**
 8 **ALTIES TO DETER AND PUN-**
 9 **ISH ILLEGAL STREET GANG**
 10 **ACTIVITY AND RELATED**
 11 **CRIMINAL LAW REFORMS**

12 **SEC. 101. REVISION AND EXTENSION OF PENALTIES RE-**
 13 **LATED TO CRIMINAL STREET GANG ACTIVITY.**

14 *(a) IN GENERAL.—Chapter 26 of title 18, United*
 15 *States Code, is amended to read as follows:*

16 **“CHAPTER 26—CRIMINAL STREET GANGS**

“Sec.

“521. Criminal street gang prosecutions.

17 **“§ 521. Criminal street gang prosecutions**

18 *“(a) STREET GANG CRIME.—Whoever commits, or*
 19 *conspires, threatens or attempts to commit, a gang crime*
 20 *for the purpose of furthering the activities of a criminal*
 21 *street gang, or gaining entrance to or maintaining or in-*
 22 *creasing position in such a gang, shall, in addition to being*
 23 *subject to a fine under this title—*

1 “(1) if the gang crime results in the death of any
2 person, be sentenced to death or life in prison;

3 “(2) if the gang crime is kidnapping, aggravated
4 sexual abuse, or maiming, be imprisoned for life or
5 any term of years not less than 30;

6 “(3) if the gang crime is assault resulting in se-
7 rious bodily injury (as defined in section 1365), be
8 imprisoned for life or any term of years not less than
9 20; and

10 “(4) in any other case, be imprisoned for life or
11 for any term of years not less than 10.

12 “(b) FORFEITURE.—

13 “(1) IN GENERAL.—The court, in imposing sen-
14 tence on any person convicted of a violation of this
15 section, shall order, in addition to any other sentence
16 imposed and irrespective of any provision of State
17 law, that such person shall forfeit to the United States
18 such person’s interest in—

19 “(A) any property used, or intended to be
20 used, in any manner or part, to commit, or to
21 facilitate the commission of, the violation; and

22 “(B) any property constituting, or derived
23 from, any proceeds the person obtained, directly
24 or indirectly, as a result of the violation.

1 “(2) *APPLICATION OF CONTROLLED SUBSTANCES*
2 *ACT.*—Subsections (b), (c), (e), (f), (g), (h), (i), (j),
3 (k), (l), (m), (n), (o), and (p) of section 413 of the
4 *Controlled Substances Act* (21 U.S.C. 853) shall
5 apply to a forfeiture under this section as though it
6 were a forfeiture under that section.

7 “(c) *DEFINITIONS.*—The following definitions apply in
8 this section:

9 “(1) *CRIMINAL STREET GANG.*—The term ‘crimi-
10 *nal street gang*’ means a formal or informal group or
11 *association of 3 or more individuals, who commit 2*
12 *or more gang crimes (one of which is a crime of vio-*
13 *lence other than an offense punishable under subpara-*
14 *graphs (A), (B), or (C) of section 401(b)(1) of the*
15 *Controlled Substances Act), in 2 or more separate*
16 *criminal episodes, in relation to the group or associa-*
17 *tion, if any of the activities of the criminal street*
18 *gang affects interstate or foreign commerce.*

19 “(2) *GANG CRIME.*—The term ‘gang crime’
20 *means conduct constituting any Federal or State*
21 *crime, punishable by imprisonment for more than one*
22 *year, in any of the following categories:*

23 “(A) *A crime of violence.*

1 “(B) A crime involving obstruction of jus-
2 tice, tampering with or retaliating against a
3 witness, victim, or informant, or burglary.

4 “(C) A crime involving the manufacturing,
5 importing, distributing, possessing with intent to
6 distribute, or otherwise dealing in a controlled
7 substance or listed chemical (as those terms are
8 defined in section 102 of the Controlled Sub-
9 stances Act (21 U.S.C. 802)).

10 “(D) Any conduct punishable under section
11 844 (relating to explosive materials), subsection
12 (a)(1), (d), (g)(1) (where the underlying convic-
13 tion is a violent felony (as defined in section
14 924(e)(2)(B) of this title) or is a serious drug of-
15 fense (as defined in section 924(e)(2)(A))), (g)(2),
16 (g)(3), (g)(4), (g)(5), (g)(8), (g)(9), (i), (j), (k),
17 (n), (o), (p), (q), (u), or (x) of section 922 (relat-
18 ing to unlawful acts), or subsection (b), (c), (g),
19 (h), (k), (l), (m), or (n) of section 924 (relating
20 to penalties), section 930 (relating to possession
21 of firearms and dangerous weapons in Federal
22 facilities), section 931 (relating to purchase,
23 ownership, or possession of body armor by vio-
24 lent felons), sections 1028 and 1029 (relating to
25 fraud and related activity in connection with

1 *identification documents or access devices), section*
2 *1952 (relating to interstate and foreign*
3 *travel or transportation in aid of racketeering*
4 *enterprises), section 1956 (relating to the laun-*
5 *dering of monetary instruments), section 1957*
6 *(relating to engaging in monetary transactions*
7 *in property derived from specified unlawful ac-*
8 *tivity), or sections 2312 through 2315 (relating*
9 *to interstate transportation of stolen motor vehi-*
10 *cles or stolen property).*

11 *“(E) Any conduct punishable under section*
12 *274 (relating to bringing in and harboring cer-*
13 *tain aliens), section 277 (relating to aiding or*
14 *assisting certain aliens to enter the United*
15 *States), or section 278 (relating to importation*
16 *of alien for immoral purpose) of the Immigra-*
17 *tion and Nationality Act.*

18 *“(3) AGGRAVATED SEXUAL ABUSE.—The term*
19 *‘aggravated sexual abuse’ means an offense that, if*
20 *committed in the special maritime and territorial ju-*
21 *risdiction would be an offense under section 2241(a).*

22 *“(4) STATE.—The term ‘State’ means each of the*
23 *several States of the United States, the District of Co-*
24 *lumbia, and any commonwealth, territory, or posses-*
25 *sion of the United States.”.*

1 (b) *AMENDMENT RELATING TO PRIORITY OF FOR-*
2 *FEITURE OVER ORDERS FOR RESTITUTION.*—Section
3 3663(c)(4) of title 18, United States Code, is amended by
4 striking “chapter 46 or chapter 96 of this title” and insert-
5 ing “section 521, under chapter 46 or 96,”.

6 (c) *MONEY LAUNDERING.*—Section 1956(c)(7)(D) of
7 title 18, United States Code, is amended by inserting “,
8 section 521 (relating to criminal street gang prosecutions)”
9 before “, section 541”.

10 **SEC. 102. INCREASED PENALTIES FOR INTERSTATE AND**
11 **FOREIGN TRAVEL OR TRANSPORTATION IN**
12 **AID OF RACKETEERING.**

13 (a) *SUBSTANTIVE CHANGES TO OFFENSE.*—Section
14 1952(a) of title 18, United States Code, is amended—

15 (1) so that the heading for the section reads as
16 follows:

17 **“§ 1952. Interstate or foreign commerce-related aid to**
18 **racketeering”;**

19 (2) by inserting “(1)” after “(a)”;

20 (3) by striking “travels” and all that follows
21 through “intent to” and inserting “, in or affecting
22 interstate or foreign commerce”;

23 (4) by striking “(1) distribute” and inserting
24 “(A) distributes”;

1 (5) by striking “(2) commit” and inserting “(B)
2 commits”;

3 (6) by striking “(3) otherwise promote, manage,
4 establish, carry on, or facilitate” and inserting “(C)
5 otherwise promotes, manages, establishes, carries on,
6 or facilitates”; and

7 (7) by striking “and thereafter” and all that fol-
8 lows through the end of the subsection and inserting
9 the following:

10 “or attempts or conspires to do so, shall be punished as pro-
11 vided in paragraph (2).

12 “(2) The punishment for an offense under this sub-
13 section is—

14 “(A) in the case of a violation of subparagraph
15 (A) or (C) of paragraph (1), a fine under this title
16 and imprisonment for not less than 5 nor more than
17 20 years; and

18 “(B) in the case of a violation of subparagraph
19 (B) of paragraph (1), a fine under this title and im-
20 prisonment for not less than 10 nor more than 30
21 years, but if death results the offender shall be sen-
22 tenced to death, or to imprisonment for any term of
23 years or for life.”.

24 (b) CLERICAL AMENDMENT.—The item relating to sec-
25 tion 1952 in the table of sections at the beginning of chapter

1 95 of title 18, United States Code, is amended to read as
2 follows:

“1952. Interstate or foreign commerce-related aid to racketeering.”.

3 **SEC. 103. AMENDMENTS RELATING TO VIOLENT CRIME.**

4 (a) *CARJACKING*.—Section 2119 of title 18, United
5 States Code, is amended—

6 (1) by striking “, with the intent to cause death
7 or serious bodily harm” in the matter preceding
8 paragraph (1);

9 (2) by inserting “or conspires” after “attempts”
10 in the matter preceding paragraph (1);

11 (3) by striking “15” and inserting “20” in para-
12 graph (1); and

13 (4) by striking “or imprisoned not more than 25
14 years, or both” and inserting “and imprisoned not
15 less than 10 years nor more than 30 years” in para-
16 graph (2).

17 (b) *CLARIFICATION OF ILLEGAL GUN TRANSFERS TO*
18 *COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIO-*
19 *LENCE*.—Section 924(h) of title 18, United States Code, is
20 amended to read as follows:

21 “(h) Whoever, in or affecting interstate or foreign com-
22 merce, knowingly transfers a firearm, knowing or intending
23 that the firearm will be used to commit, or possessed in
24 furtherance of, a crime of violence or drug trafficking crime,

1 *shall be fined under this title and imprisoned not less than*
2 *5 years nor more than 20 years.”.*

3 *(c) AMENDMENT OF SPECIAL SENTENCING PROVISION*
4 *RELATING TO LIMITATIONS ON CRIMINAL ASSOCIATION.—*
5 *Section 3582(d) of title 18, United States Code, is amend-*
6 *ed—*

7 *(1) by inserting “section 521 (criminal street*
8 *gang prosecutions), in” after “felony set forth in”;*

9 *(2) by striking “specified person, other than his*
10 *attorney, upon” and inserting “specified person*
11 *upon”; and*

12 *(3) by inserting “a criminal street gang or” be-*
13 *fore “an illegal enterprise”.*

14 *(d) CONSPIRACY PENALTY.—Section 371 of title 18,*
15 *United States Code, is amended by striking “five” and in-*
16 *serting “20”.*

17 **SEC. 104. INCREASED PENALTIES FOR USE OF INTERSTATE**
18 **COMMERCE FACILITIES IN THE COMMISSION**
19 **OF MURDER-FOR-HIRE AND OTHER FELONY**
20 **CRIMES OF VIOLENCE.**

21 *(a) IN GENERAL.—Section 1958 of title 18, United*
22 *States Code, is amended—*

23 *(1) by striking the section heading and inserting*
24 *the following:*

1 ***“§1958. Use of interstate commerce facilities in the***
2 ***commission of murder-for-hire and other***
3 ***felony crimes of violence”;***

4 (2) *in subsection (a), by inserting “or other*
5 *crime of violence, punishable by imprisonment for*
6 *more than one year,” after “intent that a murder”;*
7 *and*

8 (3) *in subsection (a), by striking “shall be fined”*
9 *the first place it appears and all that follows through*
10 *the end of such subsection and inserting the following:*

11 *“shall, in addition to being subject to a fine under this title*

12 *“(1) if the crime of violence or conspiracy results*
13 *in the death of any person, be sentenced to death or*
14 *life in prison;*

15 *“(2) if the crime of violence is kidnapping, ag-*
16 *gravated sexual abuse (as defined in section 521), or*
17 *maiming, or a conspiracy to commit such a crime of*
18 *violence, be imprisoned for life or any term of years*
19 *not less than 30;*

20 *“(3) if the crime of violence is an assault, or a*
21 *conspiracy to assault, that results in serious bodily*
22 *injury (as defined in section 1365), be imprisoned for*
23 *life or any term of years not less than 20; and*

24 *“(4) in any other case, be imprisoned for life or*
25 *for any term of years not less than 10.”.*

1 (b) *CLERICAL AMENDMENT.*—*The item relating to sec-*
2 *tion 1958 in the table of sections at the beginning of chapter*
3 *95 of title 18, United States Code, is amended to read as*
4 *follows:*

 “1958. *Use of interstate commerce facilities in the commission of murder-for-hire*
 and other felony crimes of violence.”.

5 ***SEC. 105. INCREASED PENALTIES FOR VIOLENT CRIMES IN***
6 ***AID OF RACKETEERING ACTIVITY.***

7 (a) *OFFENSE.*—*Section 1959(a) of title 18, United*
8 *States Code, is amended to read as follows:*

9 “(a) *Whoever commits, or conspires, threatens, or at-*
10 *tempts to commit, a crime of violence for the purpose of*
11 *furthering the activities of an enterprise engaged in racket-*
12 *eering activity, or for the purpose of gaining entrance to*
13 *or maintaining or increasing position in, such an enter-*
14 *prise, shall, unless the death penalty is otherwise imposed,*
15 *in addition and consecutive to the punishment provided for*
16 *any other violation of this chapter and in addition to being*
17 *subject to a fine under this title—*

18 “(1) *if the crime of violence results in the death*
19 *of any person, be sentenced to death or life in prison;*

20 “(2) *if the crime of violence is kidnapping, ag-*
21 *gravated sexual abuse (as defined in section 521), or*
22 *maiming, be imprisoned for life or any term of years*
23 *not less than 30;*

1 “(3) if the crime of violence is assault resulting
2 in serious bodily injury (as defined in section 1365),
3 be imprisoned for life or for any term of years not
4 less than 20; and

5 “(4) in any other case, be imprisoned for life or
6 for any term of years not less than 10.”.

7 (b) *VENUE*.—Section 1959 of title 18, United States
8 Code, is amended by adding at the end the following: —

9 “(c) A prosecution for a violation of this section may
10 be brought in—

11 “(1) the judicial district in which the crime of
12 violence occurred; or

13 “(2) any judicial district in which racketeering
14 activity of the enterprise occurred.”.

15 **SEC. 106. MURDER AND OTHER VIOLENT CRIMES COM-**
16 **MITTED DURING AND IN RELATION TO A**
17 **DRUG TRAFFICKING CRIME.**

18 (a) *IN GENERAL*.—Part D of the Controlled Substances
19 Act (21 U.S.C. 841 et seq.) is amended by adding at the
20 end the following:

21 “*MURDER AND OTHER VIOLENT CRIMES COMMITTED*
22 *DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME*

23 “*SEC. 424. (a) IN GENERAL*.—Whoever commits, or
24 conspires, or attempts to commit, a crime of violence during
25 and in relation to a drug trafficking crime, shall, unless
26 the death penalty is otherwise imposed, in addition and

1 *consecutive to the punishment provided for the drug traf-*
2 *ficking crime and in addition to being subject to a fine*
3 *under this title—*

4 “(1) *if the crime of violence results in the death*
5 *of any person, be sentenced to death or life in prison;*

6 “(2) *if the crime of violence is kidnapping, ag-*
7 *gravated sexual abuse (as defined in section 521), or*
8 *maiming, be imprisoned for life or any term of years*
9 *not less than 30;*

10 “(3) *if the crime of violence is assault resulting*
11 *in serious bodily injury (as defined in section 1365),*
12 *be imprisoned for life or any term of years not less*
13 *than 20; and*

14 “(4) *in any other case, be imprisoned for life or*
15 *for any term of years not less than 10.*

16 “(b) *VENUE.—A prosecution for a violation of this sec-*
17 *tion may be brought in—*

18 “(1) *the judicial district in which the murder or*
19 *other crime of violence occurred; or*

20 “(2) *any judicial district in which the drug traf-*
21 *ficking crime may be prosecuted.*

22 “(c) *DEFINITIONS.—As used in this section—*

23 “(1) *the term ‘crime of violence’ has the meaning*
24 *given that term in section 16 of title 18, United*
25 *States Code; and*

1 “(2) the term ‘drug trafficking crime’ has the
2 meaning given that term in section 924(c)(2) of title
3 18, United States Code.”.

4 (b) *CLERICAL AMENDMENT.*—*The table of contents for*
5 *the Comprehensive Drug Abuse Prevention and Control Act*
6 *of 1970 is amended by inserting after the item relating to*
7 *section 423, the following:*

*“Sec. 424. Murder and other violent crimes committed during and in relation to
a drug trafficking crime.”.*

8 **SEC. 107. MULTIPLE INTERSTATE MURDER.**

9 (a) *OFFENSE.*—*Chapter 51 of title 18, United States*
10 *Code, is amended by adding at the end the following new*
11 *section:*

12 **“§ 1123. Use of interstate commerce facilities in the**
13 **commission of multiple murder**

14 “(a) *IN GENERAL.*—*Whoever travels in or causes an-*
15 *other (including the intended victim) to travel in interstate*
16 *or foreign commerce, or uses or causes another (including*
17 *the intended victim) to use the mail or any facility of inter-*
18 *state or foreign commerce, or who conspires or attempts to*
19 *do so, with intent that 2 or more intentional homicides be*
20 *committed in violation of the laws of any State or the*
21 *United States shall, in addition to being subject to a fine*
22 *under this title—*

23 “(1) *if the offense results in the death of any per-*
24 *son, be sentenced to death or life in prison;*

1 “(2) if the offense results is assault resulting in
2 serious bodily injury (as defined in section 1365), be
3 imprisoned for life or any term of years not less than
4 20; and

5 “(3) in any other case, be imprisoned for life or
6 for any term of years not less than 10.

7 “(b) *DEFINITION.*—The term ‘State’ means each of the
8 several States of the United States, the District of Columbia,
9 and any commonwealth, territory, or possession of the
10 United States.”.

11 (b) *CLERICAL AMENDMENT.*—The table of sections at
12 the beginning of chapter 51 of title 18, United States Code,
13 is amended by adding at the end the following:

“1123. Use of interstate commerce facilities in the commission of multiple murder.”.

14 **SEC. 108. ADDITIONAL RACKETEERING ACTIVITY.**

15 Section 1961(1) of title 18, United States Code, is
16 amended—

17 (1) in subparagraph (A), by inserting “, or
18 would have been so chargeable if the act or threat had
19 not been committed in Indian country (as defined in
20 section 1151) or in any other area of exclusive Fed-
21 eral jurisdiction,” after “chargeable under State law”;
22 and

23 (2) in subparagraph (B), by inserting “section
24 1123 (relating to interstate murder),” after “section

1 1084 (relating to the transmission of gambling infor-
2 mation),”.

3 **SEC. 109. EXPANSION OF REBUTTABLE PRESUMPTION**
4 **AGAINST RELEASE OF PERSONS CHARGED**
5 **WITH FIREARMS OFFENSES.**

6 Section 3142 of title 18, United States Code, is amend-
7 *ed—*

8 (1) in subsection (e), in the matter following
9 paragraph (3), by inserting “an offense under sub-
10 section (g)(1) (where the underlying conviction is a
11 drug trafficking crime (as defined in section 924(c)),
12 (g)(2), (g)(4), (g)(5), (g)(8), or (g)(9) of section 922,
13 or a crime of violence,” after “that the person com-
14 mitted”; and

15 (2) in subsection (g), by amending paragraph
16 (1) to read as follows:

17 “(1) the nature and circumstances of the offense
18 charged, including whether the offense is a crime of
19 violence, or involves a controlled substance, firearm,
20 explosive, or destructive devise;”.

21 **SEC. 110. VENUE IN CAPITAL CASES.**

22 Section 3235 of title 18, United States Code, is amend-
23 *ed to read as follows:*

1 **“§ 3235. Venue in capital cases**

2 “(a) *The trial for any offense punishable by death shall*
3 *be held in the district where the offense was committed or*
4 *in any district in which the offense began, continued, or*
5 *was completed.*”

6 “(b) *If the offense, or related conduct, under subsection*
7 *(a) involves activities which affect interstate or foreign com-*
8 *merce, or the importation of an object or person into the*
9 *United States, such offense may be prosecuted in any dis-*
10 *trict in which those activities occurred.*”

11 **SEC. 111. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

12 (a) *IN GENERAL.*—Chapter 213 of title 18, United
13 States Code, is amended by adding at the end the following:

14 **“§ 3298. Violent crime offenses**

15 “*No person shall be prosecuted, tried, or punished for*
16 *any noncapital felony, crime of violence, including any*
17 *racketeering activity or gang crime which involves any*
18 *crime of violence, unless the indictment is found or the in-*
19 *formation is instituted not later than 15 years after the*
20 *date on which the alleged violation occurred or the con-*
21 *tinuing offense was completed.*”

22 (b) *CLERICAL AMENDMENT.*—The table of sections at
23 the beginning of chapter 213 of title 18, United States Code,
24 is amended by adding at the end the following:

“3298. *Violent crime offenses.*”

1 **SEC. 112. MODIFICATION OF DEFINITION OF CRIME OF VIO-**
2 **LENCE.**

3 *Section 16(b) of title 18, United States Code, is amend-*
4 *ed to read as follows:*

5 *“(b) any other offense that is an offense punish-*
6 *able by imprisonment for more than one year and*
7 *that, by its nature, involves a substantial risk that*
8 *physical force may be used against the person or*
9 *property of another, or is an offense punishable under*
10 *subparagraphs (A), (B), or (C) of section 401(b)(1) of*
11 *the Controlled Substances Act.”.*

12 **SEC. 113. CLARIFICATION TO HEARSAY EXCEPTION FOR**
13 **FORFEITURE BY WRONGDOING.**

14 *Rule 804(b)(6) of the Federal Rules of Evidence is*
15 *amended to read as follows:*

16 *“(6) FORFEITURE BY WRONGDOING.—A state-*
17 *ment offered against a party who has engaged or ac-*
18 *quiesced in wrongdoing, or who could reasonably fore-*
19 *see such wrongdoing would take place, if the wrong-*
20 *doing was intended to, and did, procure the unavail-*
21 *ability of the declarant as a witness.”.*

22 **SEC. 114. INCREASED PENALTIES FOR CRIMINAL USE OF**
23 **FIREARMS IN CRIMES OF VIOLENCE AND**
24 **DRUG TRAFFICKING.**

25 *(a) IN GENERAL.—Section 924(c) of title 18, United*
26 *States Code, is amended—*

1 (1) *in paragraph (1)(A)—*

2 (A) *by striking “shall” and inserting “or*
3 *conspires to commit any of the above acts, shall,*
4 *for each instance in which the firearm is used,*
5 *carried, or possessed”;*

6 (B) *in clause (i), by striking “5 years” and*
7 *inserting “7 years”; and*

8 (C) *by striking clauses (ii) and (iii) and in-*
9 *serting the following:*

10 “*(ii) if the firearm is discharged, be sen-*
11 *tenced to a term of imprisonment of not less*
12 *than 15 years; and*

13 “*(iii) if the firearm is used to wound, in-*
14 *jure, or maim another person, be sentenced to a*
15 *term of imprisonment of not less than 20*
16 *years.”; and*

17 (2) *by striking paragraph (4).*

18 (b) *CONFORMING AMENDMENT.—Section 924 of title*
19 *18, United States Code, is amended by striking subsection*
20 *(o).*

21 **SEC. 115. TRANSFER OF JUVENILES.**

22 *The 4th undesignated paragraph of section 5032 of*
23 *title 18, United States Code, is amended—*

1 (1) by striking “A juvenile” where it appears at
2 the beginning of the paragraph and inserting “Except
3 as otherwise provided in this chapter, a juvenile” ;

4 (2) by striking “as an adult, except that, with”
5 and inserting “as an adult. With”; and

6 (3) by striking “However, a juvenile” and all
7 that follows through “criminal prosecution.” at the
8 end of the paragraph and inserting “The Attorney
9 General may prosecute as an adult a juvenile who is
10 alleged to have committed an act after that juvenile’s
11 16th birthday which if committed by an adult would
12 be a crime of violence that is a felony, an offense de-
13 scribed in subsection (d), (i), (j), (k), (o), (p), (q), (u),
14 or (x) of section 922 (relating to unlawful acts), or
15 subsection (b), (c), (g), (h), (k), (l), (m), or (n) of sec-
16 tion 924 (relating to penalties), section 930 (relating
17 to possession of firearms and dangerous weapons in
18 Federal facilities), or section 931 (relating to pur-
19 chase, ownership, or possession of body armor by vio-
20 lent felons). The decision whether or not to prosecute
21 a juvenile as an adult under the immediately pre-
22 ceding sentence is not subject to judicial review in
23 any court. In a prosecution under that sentence, the
24 juvenile may be prosecuted and convicted as an adult
25 for any other offense which is properly joined under

1 *the Federal Rules of Criminal Procedure, and may*
 2 *also be convicted as an adult of any lesser included*
 3 *offense.”.*

4 **TITLE II—INCREASED FEDERAL**
 5 **RESOURCES TO DETER AND**
 6 **PREVENT AT-RISK YOUTH**
 7 **FROM JOINING ILLEGAL**
 8 **STREET GANGS**

9 **SEC. 201. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-**
 10 **TENSITY” INTERSTATE GANG ACTIVITY**
 11 **AREAS.**

12 *(a) DEFINITIONS.—In this section the following defini-*
 13 *tions shall apply:*

14 *(1) GOVERNOR.—The term “Governor” means a*
 15 *Governor of a State or the Mayor of the District of*
 16 *Columbia.*

17 *(2) HIGH INTENSITY INTERSTATE GANG ACTIVITY*
 18 *AREA.—The term “high intensity interstate gang ac-*
 19 *tivity area” means an area within a State that is*
 20 *designated as a high intensity interstate gang activity*
 21 *area under subsection (b)(1).*

22 *(3) STATE.—The term “State” means a State of*
 23 *the United States, the District of Columbia, and any*
 24 *commonwealth, territory, or possession of the United*
 25 *States.*

1 (b) *HIGH INTENSITY INTERSTATE GANG ACTIVITY*
2 *AREAS.*—

3 (1) *DESIGNATION.*—*The Attorney General, after*
4 *consultation with the Governors of appropriate*
5 *States, may designate as high intensity interstate*
6 *gang activity areas, specific areas that are located*
7 *within 1 or more States.*

8 (2) *ASSISTANCE.*—*In order to provide Federal*
9 *assistance to high intensity interstate gang activity*
10 *areas, the Attorney General shall—*

11 (A) *establish criminal street gang enforce-*
12 *ment teams, consisting of Federal, State, and*
13 *local law enforcement authorities, for the coordi-*
14 *nated investigation, disruption, apprehension,*
15 *and prosecution of criminal street gangs and of-*
16 *fenders in each high intensity interstate gang ac-*
17 *tivity area;*

18 (B) *direct the reassignment or detailing*
19 *from any Federal department or agency (subject*
20 *to the approval of the head of that department*
21 *or agency, in the case of a department or agency*
22 *other than the Department of Justice) of per-*
23 *sonnel to each criminal street gang enforcement*
24 *team;*

1 (C) provide all necessary funding for the
2 operation of the criminal street gang enforcement
3 team in each high intensity interstate gang ac-
4 tivity area; and

5 (D) provide all necessary funding for na-
6 tional and regional meetings of criminal street
7 gang enforcement teams, and all other related or-
8 ganizations, as needed, to ensure effective oper-
9 ation of such teams through the sharing of intel-
10 ligence, best practices and for any other related
11 purpose.

12 (3) COMPOSITION OF CRIMINAL STREET GANG
13 ENFORCEMENT TEAM.—The team established pursuant
14 to paragraph (2)(A) shall consist of agents and offi-
15 cers, where feasible, from—

16 (A) the Federal Bureau of Investigation;

17 (B) the Drug Enforcement Administration;

18 (C) the Bureau of Alcohol, Tobacco, Fire-
19 arms, and Explosives;

20 (D) the United States Marshals Service;

21 (E) the Directorate of Border and Trans-
22 portation Security of the Department of Home-
23 land Security;

24 (F) the Department of Housing and Urban
25 Development;

1 (G) State and local law enforcement; and

2 (H) Federal, State, and local prosecutors.

3 (4) *CRITERIA FOR DESIGNATION.*—*In consid-*
4 *ering an area for designation as a high intensity*
5 *interstate gang activity area under this section, the*
6 *Attorney General shall consider—*

7 (A) *the current and predicted levels of gang*
8 *crime activity in the area;*

9 (B) *the extent to which violent crime in the*
10 *area appears to be related to criminal street*
11 *gang activity, such as drug trafficking, murder,*
12 *robbery, assaults, carjacking, arson, kidnapping,*
13 *extortion, and other criminal activity;*

14 (C) *the extent to which State and local law*
15 *enforcement agencies have committed resources*
16 *to—*

17 (i) *respond to the gang crime problem;*

18 *and*

19 (ii) *participate in a gang enforcement*
20 *team;*

21 (D) *the extent to which a significant in-*
22 *crease in the allocation of Federal resources*
23 *would enhance local response to the gang crime*
24 *activities in the area; and*

1 (E) any other criteria that the Attorney
2 General considers to be appropriate.

3 (c) *ADDITIONAL ASSISTANT U.S. ATTORNEYS.*—The
4 *Attorney General is authorized to hire 94 additional Assist-*
5 *ant United States attorneys to carry out the provisions of*
6 *this section. Each attorney hired under this subsection shall*
7 *be assigned to a high intensity interstate gang activity area.*

8 (d) *AUTHORIZATION OF APPROPRIATIONS.*—There are
9 *authorized to be appropriated—*

10 (1) \$50,000,000 for each of the fiscal years 2006
11 through 2010 to carry out subsection (b); and

12 (2) \$7,500,000 for each of the fiscal years 2006
13 through 2010 to carry out subsection (c).

14 **SEC. 202. GRANTS TO STATE AND LOCAL PROSECUTORS TO**
15 **COMBAT VIOLENT CRIME AND TO PROTECT**
16 **WITNESSES AND VICTIMS OF CRIMES.**

17 (a) *IN GENERAL.*—Section 31702 of the Violent Crime
18 *Control and Law Enforcement Act of 1994 (42 U.S.C.*
19 *13862) is amended —*

20 (1) *in paragraph (3), by striking “and” at the*
21 *end;*

22 (2) *in paragraph (4), by striking the period at*
23 *the end and inserting a semicolon; and*

24 (3) *by adding at the end the following:*

25 “(5) *to hire additional prosecutors to—*

1 “(A) allow more cases to be prosecuted; and

2 “(B) reduce backlogs;

3 “(6) to fund technology, equipment, and training
4 for prosecutors and law enforcement in order to in-
5 crease accurate identification of gang members and
6 violent offenders, and to maintain databases with
7 such information to facilitate coordination among
8 law enforcement and prosecutors; and

9 “(7) to fund technology, equipment, and training
10 for prosecutors to increase the accurate identification
11 and successful prosecution of young violent offend-
12 ers.”.

13 (b) *AUTHORIZATION OF APPROPRIATIONS.*—Section
14 31707 of the *Violent Crime Control and Law Enforcement*
15 *Act of 1994 (42 U.S.C. 13867)* is amended to read as fol-
16 lows:

17 “**SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

18 “*There are authorized to be appropriated \$20,000,000*
19 *for each of the fiscal years 2006 through 2010 to carry out*
20 *this subtitle.*”.

Union Calendar No. 35

109TH CONGRESS
1ST Session

H. R. 1279

[Report No. 109-74]

A BILL

To amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes.

MAY 5, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed