

States Code, if a computer was used to transmit the notice or advertisement to the intended recipient or to transport or ship the visual depiction.

**SEC. 4. INCREASED PENALTIES FOR TRANSPORTATION OF CHILDREN WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.**

The United States Sentencing Commission shall amend the sentencing guidelines to increase the base offense level for an offense under section 2423(a) of title 18, United States Code, by at least 3 levels.

**SEC. 5. TECHNICAL CORRECTION.**

Section 2423(b) of title 18, United States Code, is amended by striking "2245" and inserting "2246".

**SEC. 6. REPORT BY THE UNITED STATES SENTENCING COMMISSION.**

Not later than 180 days after the date of the enactment of this Act, the United States Sentencing Commission shall submit a report to Congress concerning offenses involving child pornography and other sex offenses against children. The Commission shall include in the report—

(1) an analysis of the sentences imposed for offenses under sections 2251, 2252, and 2423 of title 18, United States Code, and recommendations regarding any modifications to the sentencing guidelines that may be appropriate with respect to those offenses;

(2) an analysis of the sentences imposed for offenses under sections 2241, 2242, 2243, and 2244 of title 18, United States Code, in cases in which the victim was under the age of 18 years, and recommendations regarding any modifications to the sentencing guidelines that may be appropriate with respect to those offenses;

(3) an analysis of the type of substantial assistance that courts have recognized as warranting a downward departure from the sentencing guidelines relating to offenses under section 2251 or 2252 of title 18, United States Code;

(4) a survey of the recidivism rate for offenders convicted of committing sex crimes against children, an analysis of the impact on recidivism of sexual abuse treatment provided during or after incarceration or both, and an analysis of whether increased penalties would reduce recidivism for those crimes; and

(5) such other recommendations with respect to the offenses described in this section as the Commission deems appropriate.

Mr. MCCOLLUM (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I hope I do not have to object, and I yield to the gentleman from Florida [Mr. MCCOLLUM] to explain to us what is going on here.

Mr. MCCOLLUM. Mr. Speaker, we are waiving the right at the moment for the reading of the amendment. The gentleman from New York [Mr. SCHUMER] is going to reserve the right to object to the bill and we will discuss the bill. Right now we are just waiving the reading of Senate amendment.

Mr. WATT of North Carolina. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Florida?

Mr. SCHUMER. Mr. Speaker, reserving the right to object, I will not object. I yield to the gentleman from Florida [Mr. MCCOLLUM] to explain the purpose of the request.

(Mr. SCHUMER asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Mr. Speaker, this bill strengthens the punishment for sexual crimes involving children by directing the United States Sentencing Commission to make specific modifications to its sentencing guidelines with respect to these crimes. The House passed this bill last April by a vote of 417-0. The other body has also passed this legislation, but in a slightly different form. On behalf of the Crime Subcommittee, I am satisfied that the changes made in the other body actually strengthen the bill and I have no objection to them.

Accordingly, I bring the bill to the floor today for the purpose of agreeing to the Senate amendment to the bill and to send it to the President for his prompt signature.

Mr. SCHUMER. Mr. Speaker, continuing my reservation of objection, I rise in support of the legislation. I commend the gentleman for proceeding with this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Florida?

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I will not object. I want to make sure I understand what the Senate amendment does.

I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, it is a very technical change of the time that is involved in this. I do not have it in front of me.

Mr. WATT of North Carolina. Mr. Speaker, continuing my reservation of objection, it seems to me that we deserve to know what we are voting on.

Mr. MCCOLLUM. Mr. Speaker, if the gentleman will continue to yield, it changes the short title of the bill, is my understanding. It expands the increased penalties for possession of child pornography.

Mr. WATT of North Carolina. Mr. Speaker, it actually expands the bill that we passed?

Mr. MCCOLLUM. Mr. Speaker, by a very slight amount, in the actual definitions that are involved, child pornography, as far as the penalties are concerned.

Mr. WATT of North Carolina. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, as I understand it, and the gentleman from Florida can correct me if I am wrong,

there are three changes. Two are very technical. They change the short title of the bill; that is one. The second takes two sentences and makes it into one run-on sentence, which is characteristic of the other body on occasion. And the third one, which is the more serious change, although also technical, makes possession of such pornographic materials subject to the penalty as well as trafficking in them.

Mr. WATT of North Carolina. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

**DNA IDENTIFICATION GRANTS IMPROVEMENT ACT OF 1995**

Mr. MCCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2418) to improve the capability to analyze deoxyribonucleic acid, as amended.

The Clerk read as follows:

H.R. 2418

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "DNA Identification Grants Improvement Act of 1995".

**SEC. 2. DNA IDENTIFICATION GRANTS.**

Paragraph (22) of section 1001(a) of the Omnibus Crime Control and Safe Streets Act is amended to read as follows:

"(22) There are authorized to be appropriated to carry out part X—

"(A) \$1,000,000 for fiscal year 1996;

"(B) \$15,000,000 for fiscal year 1997;

"(C) \$14,000,000 for fiscal year 1998;

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

"(E) \$4,000,000 for fiscal year 2000."

**SEC. 3. RESTRICTION ON GRANT USE.**

Section 210304 of the Violent Crime Control and Law Enforcement Act of 1994 is amended by adding at the end the following:

"(d) DNA PROFILES PROHIBITED.—In no event shall DNA identification records contained in this index be compiled or analyzed in order to formulate statistical profiles for use in predicting criminal behavior."

**SEC. 4. TECHNICAL AMENDMENT.**

Effective on the date of the enactment of the Violent Crime Control and Law Enforcement Act of 1994, section 210302(c)(3) of such Act is amended by inserting "(a)" after "Section 1001" and after "3793".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentleman from New York [Mr. SCHUMER] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I introduced this bill, the DNA Identification Grants Improvements Act of 1995, at the request of the FBI and the American Society of Crime Laboratory Directors.

Nearly everyone is aware by now of the tremendous utility of DNA identification to the Nation's criminal justice process. Some of the most horrendous crimes, the ones that scream out

for justice, often involve few if any witnesses. Child abduction and violent sexual assaults are just two categories of crimes in which the identification of the perpetrator and proof of the crime is extremely difficult. DNA has proven to be a useful tool in establishing investigative leads and as admissible evidence of the commission of a crime.

In addition, DNA analysis has proven to be a useful tool for those accused of committing crimes. In a limited number of cases, defendants have used DNA evidence to prove that they were not the perpetrators of particular crimes. Thus, the DNA identification process is a highly valuable, dual purpose, law enforcement tool.

This is why last year's crime bill, while containing several features I opposed, wisely included a provision to encourage and assist the development of DNA identification procedures. H.R. 2418 will reorder the funding levels of the DNA identification grants authorized in the bill. Those grants provide funding to the FBI to operate its combined DNA index system and to the States to develop and improve DNA testing. H.R. 2418 would merely reorder the amounts authorized to be made available to States over the next several fiscal years so that funds are available to States sooner than is authorized in current law. The total amount authorized is unchanged by this bill.

The FBI has requested that Congress front-load the funds to the States because of the significant start-up costs States incur in creating DNA testing programs and databases. As I have already stated, DNA analysis is an important and rapidly developing area of law enforcement. This bill will help States develop and implement DNA testing capabilities sooner. The result will be that more crimes will be solved, some who have been wrongly accused of crimes will be better able to prove their innocence, and many crimes will be solved sooner than would be the case without this bill.

I hope that in next year's appropriations bill for the Department of Justice, we will be able to fully fund this effort. I realize that there are many competing priorities, but I believe we must be equipping ourselves with the most effective technologies if we are going to cope with the coming storm of violent crime. I intend to work with the gentleman from Kentucky [Mr. ROGERS], who chairs the Commerce-Justice-State Appropriations Subcommittee, to secure the necessary funding.

I also want to point out that this bill contains a restriction on the use of the authorized funds with regard to the practice of criminal profiling. This language was offered successfully by the gentleman from North Carolina [Mr. WATT] in subcommittee. I supported this amendment because I agree with Mr. WATT as a matter of principle and because I am not aware of any attempts by law enforcement authorities

to engage in the practice of using DNA data to identify genetic traits associated with criminal behavior. Such scientific endeavors may occur in other academic disciplines, but it is not the role of law enforcement authorities.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of this bill.

(Mr. SCHUMER asked and was given permission to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, this bill, as has been mentioned, amends the DNA grant program that was passed as part of the 1994 crime bill. The DNA grant program provides \$40 million in grants to State and local law enforcement agencies to improve their ability to analyze DNA samples, and I am glad that the majority, in their headlong effort to repeal so many sensible parts of the crime bill, is still in favor of this one.

The bill makes a sensible adjustment in the schedule under which the funds will become available for the grant program. Since startup costs are heavier in the early years, it redistributes funding to those years tapering off toward the end of the program. It does not change the total amount of funds available and as the gentleman from Florida [Mr. MCCOLLUM] mentioned, it includes the amendment of the gentleman from North Carolina [Mr. WATT] about profiles using this DNA information.

DNA information can be a serious tool in crime fighting, and one of our goals in passing the 1994 crime bill was to help the localities do better in fighting crime but not just give them an empty-ended block grant that would let them do whatever they want with the money.

I do not want to get into the debate on the crime bill now. Well, I do, but I will not.

Mr. MCCOLLUM. Mr. Speaker, I reserve the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT] distinguished member of our Subcommittee on Crime.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

I rise in reluctant opposition to this bill, not because I feel that what I say is going to influence anybody to vote against the bill.

When this DNA bank was set up several years ago, as I recall, I was one of two Members who voted against setting it up in the first place, and I doubt that there is any shift in the public sentiment on that issue since that time.

I thought it would be helpful to use a little bit of time today to at least educate my colleagues about this issue and the potential for abuse related to DNA. Every day there is a new breakthrough in DNA identification technology. But

DNA technology can be a classic double-edged sword. It can cut either way, so to speak.

I think my colleagues need to understand that and understand why I insisted in committee on offering an amendment to inhibit the use of DNA information that we are collecting to establish profiles for criminal conduct or any other kind of conduct.

On the one hand, DNA can be used to identify people with the genetic predisposition for certain diseases, which can facilitate treatment. It can be used to prove the innocence of falsely accused persons and help set them free. Of course, the pending habeas corpus reforms which are coming out of the Committee on the Judiciary make such a release unlikely because even if under the habeas corpus reforms, even if you had DNA that conclusively, DNA results that conclusively found somebody not to have been the victim or not to have been the perpetrator of a crime, you still could not use that DNA for the purpose of getting the person out of jail. I do not think we are so intent on using DNA for positive purposes necessarily as much as we are intent on using it for negative purposes.

If DNA technology is allowed to develop without certain safeguards put in place, it could have very, very negative consequences. That is what I have raised the prospect of by offering this amendment in committee and having the committee adopt it.

I want to express my appreciation to the subcommittee chair for including the provision in the bill which makes it clear that the DNA information that the U.S. Government is collecting on our citizens cannot be used to set up criminal profiles that try to predict the propensity of a U.S. citizen to engage in criminal conduct.

□ 1730

I think that would be a dangerous, dangerous level of activity by the U.S. Government. But the reason I have some reservations about this, this bill, is that this DNA bank really is creating a bank of people's blood. If someone gets convicted of a crime, and they go to prison, their DNA is going into this DNA bank. Whether their blood is needed for proof of their guilt or innocence in the case for which they are being tried or not is irrelevant, and I think we have gone beyond the pale of invasion of individual rights when we start taking people's blood unrelated to the case that they are being prosecuted for, and I think in some cases we are abusing our individual rights of our citizens in this country.

The second concern that I have is that we really have not developed in this country a clear way of using DNA. There is a lot of debate, ongoing debate, in the public about how reliable DNA is, how probative it can be in criminal cases, how much of a determining factor it should be. I guess the classic case of that was in the O.J. Simpson case where people started to

understand more and more the whole concept of DNA testimony in criminal cases.

Mr. Speaker, we have a long, long way to go in developing an understanding of the effective and reliable use of DNA as evidence in medicine, in criminal cases, the whole range of cases, and the thing that concerns me is that by spending \$40 million we are getting ourselves way out in front of this issue before we have any reliable information about how this DNA information ought to be used.

The final point I want to make, and then I will sit down because I do not want to prolong this debate and I know that the outcome of this vote is already programmed, is that \$40 million is a lot of money, and if I have the set priorities about how I were going to use \$40 million, the establishment and the expansion of a Federal DNA bank and the granting of funds to States and local governments to further expand their DNA capacities, I would tell my colleagues would be way, way down on my list of priorities, and so in a sense I am concerned about the priorities we are setting by setting aside \$40 million over this 4- or 5-year period to do this when we have such other critical needs in our country.

With that I will just leave this alone because again I know the outcome of the debate and the outcome of this vote. It would not be on the Suspension Calendar if a substantial number of people did not think this was non-controversial, but I think we should understand that there is a level of controversy about the reliability of DNA testimony, the potential abuse of individual rights when we start taking the blood of people who, even though they have been convicted of some crime, even though their blood is not needed in that particular case, and we should always be concerned, when we are talking about spending the taxpayers' dollars, about the priorities we are setting for the Federal Government in the spending of those dollars.

Mr. SCHUMER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to make one comment. I want to remind everybody that this is simply a bill which would reorder the priorities of spending in legislation that has already become law. We are not enacting anything new here, but we are reordering the priorities.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EWING). The question is on the motion offered by the gentleman from Florida [Mr. MCCOLLUM] that the House suspend the rules and pass the bill, H.R. 2418, as amended.

The question was taken.

Mr. WATT of North Carolina. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 1995

Mr. MCCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2538) to make clerical and technical amendments to title 18, United States Code, and other provisions of law relating to crime and criminal justice, as amended.

The Clerk read as follows:

H.R. 2538

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Law Technical Amendments Act of 1995".

#### SEC. 2. GENERAL TECHNICAL AMENDMENTS.

(a) FURTHER CORRECTIONS TO MISLEADING FINE AMOUNTS AND RELATED TYPOGRAPHICAL ERRORS.—

(1) Sections 152, 153, 154, and 610 of title 18, United States Code, are each amended by striking "fined not more than \$5,000" and inserting "fined under this title".

(2) Section 970(b) of title 18, United States Code, is amended by striking "fined not more than \$500" and inserting "fined under this title".

(3) Sections 661, 1028(b), 1361, and 2701(b) of title 18, United States Code, are each amended by striking "fine of under" each place it appears and inserting "fine under".

(4) Section 3146(b)(1)(A)(iv) of title 18, United States Code, is amended by striking "a fined under this title" and inserting "a fine under this title".

(5) The section 1118 of title 18, United States Code, that was enacted by Public Law 103-333—

(A) is redesignated as section 1122; and

(B) is amended in subsection (c) by—

(i) inserting "under this title" after "fine"; and

(ii) striking "nor more than \$20,000".

(6) The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1122. Protection against the human immunodeficiency virus."

(7) Sections 1761(a) and 1762(b) of title 18, United States Code, are each amended by striking "fined not more than \$50,000" and inserting "fined under this title".

(8) Sections 1821, 1851, 1852, 1853, 1854, 1905, 1916, 1918, 1991, 2115, 2116, 2191, 2192, 2194, 2199, 2234, 2235, and 2236 of title 18, United States Code, are each amended by striking "fined not more than \$1,000" each place it appears and inserting "fined under this title".

(9) Section 1917 of title 18, United States Code, is amended by striking "fined not less than \$100 nor more than \$1,000" and inserting "fined under this title not less than \$100".

(10) Section 1920 of title 18, United States Code, is amended—

(A) by striking "of not more than \$250,000" and inserting "under this title"; and

(B) by striking "of not more than \$100,000" and inserting "under this title".

(11) Section 2076 of title 18, United States Code, is amended by striking "fined not more than \$1,000 or imprisoned not more than one year" and inserting "fined under this title or imprisoned not more than one year, or both".

(12) Section 597 of title 18, United States Code, is amended by striking "fined not more than \$10,000" and inserting "fined under this title".

(b) CROSS REFERENCE CORRECTIONS AND CORRECTIONS OF TYPOGRAPHICAL ERRORS.—

(1) Section 3286 of title 18, United States Code, is amended—

(A) by striking "2331" and inserting "2332";

(B) by striking "2339" and inserting "2332a"; and

(C) by striking "36" and inserting "37".

(2) Section 2339A(b) of title 18, United States Code, is amended—

(A) by striking "2331" and inserting "2332";

(B) by striking "2339" and inserting "2332a";

(C) by striking "36" and inserting "37"; and

(D) by striking "of an escape" and inserting "or an escape".

(3) Section 1961(D) of title 18, United States Code, is amended by striking "that title" and inserting "this title".

(4) Section 2423(b) of title 18, United States Code, is amended by striking "2245" and inserting "2246".

(5) Section 3553(f) of title 18, United States Code, is amended by striking "section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963)" and inserting "section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 960, 963)".

(6) Section 3553(f)(4) of title 18, United States Code, is amended by striking "21 U.S.C. 848" and inserting "section 408 of the Controlled Substances Act".

(7) Section 3592(c)(1) of title 18, United States Code, is amended by striking "2339" and inserting "2332a".

(c) SIMPLIFICATION AND CLARIFICATION OF WORDING.—

(1) Section 844(h) of title 18, United States Code, is amended—

(A) in the first sentence, by striking "be sentenced to imprisonment for 5 years but not more than 15 years" and inserting "be sentenced to imprisonment for not less than 5 nor more than 15 years"; and

(B) in the second sentence, by striking "be sentenced to imprisonment for 10 years but not more than 25 years" and inserting "be sentenced to imprisonment for not less than 10 nor more than 25 years".

(2) The third undesignated paragraph of section 5032 of title 18, United States Code, is amended by inserting "or as authorized under section 3401(g) of this title" after "shall proceed by information".

(3) Section 1120 of title 18, United States Code, is amended by striking "Federal prison" each place it appears and inserting "Federal correctional institution".

(d) CORRECTION OF PARAGRAPH CONNECTORS.—Section 2516(l) of title 18, United States Code, is amended—

(1) in paragraph (l), by striking "or" after the semicolon; and

(2) in paragraph (n), by striking "and" where it appears after the semicolon and inserting "or".

(e) CORRECTION CAPITALIZATION OF ITEMS IN LIST.—Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "the" the first place it appears and inserting "The"; and

(2) in paragraph (3), by striking "the" the first place it appears and inserting "The".

(f) CORRECTIONS OF PUNCTUATION AND OTHER ERRONEOUS FORM.—

(1) Section 656 of title 18, United States Code, is amended in the first paragraph by striking "Act,," and inserting "Act,."

(2) Section 1114 of title 18, United States Code, is amended by striking "1112." and inserting "1112,".