

Committee recommends that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, review current procedures for shipment of radio-pharmaceuticals and recommend actions to ensure the timely delivery of them. If the Secretary of DHS undertakes this study, the Secretary shall also submit recommendations to the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the actions taken to ensure that timely delivery of these medical products by commercial aircraft no later than 180 days after the enactment of the Act.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

DON YOUNG,
JOHN L. MICA,
VERNON J. EHLERS,
ROBIN HAYES,
DENNY REHBERG,
JOHNNY ISAKSON,

From the Committee on Energy and Commerce, for consideration of sec. 521 of the House bill and sec. 508 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
JOE BARTON,

From the Committee on Government Reform, for consideration of secs. 404 and 438 of the House bill and sec. 108 of the Senate amendment, and modifications committed to conference:

TOM DAVIS,
CHRISTOPHER SHAYS,

From the Committee on the Judiciary, for consideration of secs. 106, 301, 405, 505, and 507 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HOWARD COBLE,

From the Committee on Resources, for consideration of secs. 204 and 409 of the House bill and sec. 201 of the Senate amendment, and modifications committed to conference:

RICHARD POMBO,
JIM GIBBONS,

Provided that Mr. Renzi is appointed in lieu of Mr. Pombo for consideration of sec. 409 of the House bill, and modifications committee to conference:

RICK RENZI,

From the Committee on Science, for consideration of sec. 102 of the House bill and secs. 102, 104, 621, 622, 641, 642, 661, 662, 663, 667 and 669 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,
DANA ROHRBACHER,

From the Committee on Ways and Means, for consideration of title VI of the House bill and title VII of the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
DAVE CAMP,

Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
CONRAD BURNS,
TRENT LOTT,
KAY BAILEY HUTCHISON,

Managers on the Part of the Senate.

PRISON RAPE ELIMINATION ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1435) to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local insti-

tutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. SCOTT of Virginia. Mr. Speaker, reserving the right to object, and I will not object, however, I do want to thank the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the ranking member, the gentleman from Michigan (Mr. CONYERS), as well as the gentleman from North Carolina (Mr. COBLE), for their hard work in getting the bill to the floor, and especially to my good friend and colleague, the gentleman from Virginia (Mr. WOLF), for developing the bill and introducing it with me.

I should also thank the House leadership and Senators KENNEDY and SESSIONS whose bill we consider today.

Mr. Speaker, I want to first express my appreciation to Chairman SENSENBRENNER for the heavy lifting he did to get this bill before us today. Not only did he make it clear that this matter was of the highest priority to him, but he directed his staff to get with everybody necessary to expeditiously develop a bill that we all could support. A reflection of his commitment to expediting this legislation is his agreement, despite his reluctance, to take up the Senate bill for House Floor consideration instead of our Committee bill. So, I want to thank and commend you, Mr. Chairman for your commitment to this legislation and your excellent and expeditious stewardship of this matter to this point.

I would also like to thank my friend and our Ranking Member, JOHN CONYERS, the gentleman from Michigan, for his support and assistance on this bill. And the leadership and determination of my Subcommittee Chairman and good friend, HOWARD COBLE, the gentleman from North Carolina, must also be recognized. From the moment this matter hit the Subcommittee agenda, his strong and persuasive impact was felt in having it move forward. It was a pleasure to work with you on this, Howard. I must also thank Speaker HASTERT, Majority Leader TOM DELAY and Minority Leader NANCY PELOSI for their strong support and accommodations in assisting this legislation to this point.

Of course, the spirit, purpose, and soul of this bill is personified in the efforts of its chief sponsor in the House, my friend and colleague FRANK WOLF, the gentleman from Virginia. The passion and dedication he has given to this effort has fueled us all.

Prison rape has been shown to have a devastating impact on our prisons.

Not only does it cause severe physical and psychological trauma to its victims, but prison rape is recognized as a contributing factor to prison homicide, violence against staff, and institutional riots. Prison rape also increases the transmission of HIV/AIDS, other sexually transmitted diseases, tuberculosis, and hepatitis B and C—all of which exist at a very high rate within U.S. prisons and jails.

Prison rape is a problem of sizable scope. Of the 2 million people incarcerated today, it

is estimated that one in ten, or roughly 200,000, are victims of prison rape. And youths in adult prisons are 5 times more likely to be raped than adults. Yet, because it occurs in prison, like most other aspects of prison life, prison rape is, essentially, ignored as a societal problem.

And society pays dearly for ignoring prison rape. Inmates, often non-violent first time offenders, come out of a prison rape experience severely traumatized and leave prison not only more likely to commit crimes, but far more likely to commit violent crimes than when they entered. And the high incidence of rape within prison which leads to the increased transmission of HIV, hepatitis and other diseases there, in turn, increases the incidences of these dreaded diseases and it imposes threats and costs to society at large.

Prison rape is a crime with constitutional implications. The Supreme Court held in *Farmer v. Brennan* that deliberate indifference to the risk of prison rape violates the Eighth and Fourteenth Amendments to the United States Constitution. While prison conditions may be "restrictive and even harsh," prison and jail officials "must take reasonable measures to guarantee the safety of the inmates."

The bill requires an annual statistical study of the incidence of rape in a significant number of federal, state and county prisons and jails, and public reviews of institutions where the rate of prison rape is 30% above the national average rate. It also establishes a clearinghouse for complaints of prison rape to assist prevention and prosecution, and provide training and assistance to prison and jail officials. Further, the bill establishes a program to provide grants, from a total authorization of \$40 million each year, to state and local governments and institutions for the purpose of enhancing the prevention and punishment of prison rape.

The bill also provides for the establishment of a Commission to develop standards for addressing and eliminating prison rape, and finally, the bill requires prison accreditation organizations to examine prison rape prevention practices as a critical component of their accreditation reviews.

In the end, and perhaps most importantly, the effort to combat prison rape is a moral imperative. Prison rape is nothing short of prison torture—the infliction of severe emotional and physical pain as punishment and coercion. Long after bodies have healed, the emotional trauma, shame and stigma of brutal and repeated prison rape lasts and embitters.

Whatever their crimes and whatever the prescribed punishment for them, in a humane society prison rape should not be a part of it. Prison rape not only derails justice—it destroys human dignity.

Again, I would like to thank Chairman SENSENBRENNER, Chairman, COBLE, and Chairman WOLF, the chief Sponsor of the bill in the House, for their dedication and diligent work on this issue. I would also like to thank Senator TED KENNEDY and Senator JEFF SESSIONS, the chief sponsors of the Senate bill. A reflection of the work they have done on this issue over the past 2 Congresses is the fact that it passed the Senate unanimously and in record time.

Further, I must thank the originators of this effort—Michael Horowitz of the Hudson Institute and Vinnie Schraldi of the Justice Policy Institute, for their vision, leadership and dedication in bringing this matter to the forefront

and keeping it going. They developed and led the amazingly diverse coalition supporting this bill, that is listed at the end of these remarks for the record. And I thank our staff—Katy Crooks, Bobby Vassar and Chief Counsel Jay Apperson of the Subcommittee, Robert Toone of Senator KENNEDY's office and Andrea Sanders of Senator SESSIONS office, Nathaniel Zylstrap of Hudson Institute, and, of course, Committee Chief Counsel, Phil Kiko, whose heavy hand directed the staff effort, for their yeoman-like work on this bill.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of this bill.

This bill is about changing attitudes in America's prisons and in America as a whole. In our country, prison rape occurs frequently, but unfortunately it is often viewed as a fact of prison life. We know these crimes are occurring, but most people would really rather not discuss this unpleasant topic.

Unpleasant as it may be, prison rape is a serious problem that harms prisoners and also effects our communities. This problem is brought to bear on our communities through higher health costs for increased HIV and tuberculosis in prisons. It is brought to bear on our communities by the emotional and psychological problems it creates in the prisoners who will one day be released back into society. This Congress has decided enough is enough. It is time for us to stop ignoring this problem.

S. 1435 as offered on the floor today represents a bipartisan effort to address this problem in a meaningful way and bring some accountability into America's prisons and jails. It is intended to make prevention and prosecution of sexual assault within correctional facilities a priority for Federal, State and local institutions and require the development of national standards for detection, prevention, reduction, and punishment of these incidents. S. 1435 will help to eliminate prison rape in a number of ways.

First, this legislation will require the Department of Justice, for the first time, to collect data and statistics on the incidence of prison rape. For the first time we will be collecting information on an annual basis to determine the extent of this problem. This is the first step in our effort to address this problem.

Additionally, the legislation requires the Attorney General to develop national standards on the prevention and prosecution of prison rape.

A state that receives Federal funds for prisons and jails will need to comply with these national standards or shift 5 percent of its funds from the Federal Government for its prisons to comply with the standards.

Finally, this legislation will establish a new grant program for the Attorney General to make one year grants to State and local governments to prevent, investigate, and punish prison rape or to help in addressing prisoner and community safety issues in states facing budget crises.

Before closing, I would note that this legislation is substantively identical to H.R. 1707, introduced by Congressman WOLF, and reported by the Judiciary Committee earlier this month. I believe this legislation will go a long way towards eliminating this very serious safety

issue in our prisons and I urge my colleagues to support it.

Mr. SCOTT of Virginia. Mr. Speaker, reclaiming my time under my reservation, I again want to thank the chairman of the committee, and I hereby submit for the RECORD a statement on the bill as well as a letter in support of the legislation from a long list of organizations.

APRIL 18, 2003.

DEAR MR. SPEAKER, SENATOR FRIST, SENATOR DASCHLE, MAJORITY LEADER DELAY, AND MINORITY LEADER PELOSI: We write to strongly urge your support for the Sessions-Kennedy-Wolf-Scott Prison Rape Reduction Act of 2003, H.R. 1707.

Those of us who have signed this letter have many disagreements on public policy matters, including a variety of issues relating to criminal law and punishment. But we are united in our unyielding determination to end the scourge of prison rape and to enact the Sessions-Kennedy-Wolf-Scott bill.

Of the 2 million prisoners in the U.S., a conservative estimate is that one in 10 has been raped—more than 200,000 inmates! Further conservative research indicates that inmates who are sexually assaulted are also victimized, on average, nine additional times during their incarceration. In addition, incarcerated youths are more likely to be raped than are adult inmates and, when they are, more likely to be acutely victimized and shattered.

The Sessions-Kennedy-Wolf-Scott bill is a moderate and necessary response to this crisis. It is designed to eliminate prison rape in a manner that is respectful of the primary role of States and local governments in administering correctional institutions and of the federal government's obligation not to impose unfunded mandates on them and to make the problem more fully visible to the American people and those who can combat it. Additionally, the legislation has been carefully drawn to ensure comprehensive study and reporting of prison rape, and to reverse perverse prison administration incentives that now often make it exceedingly difficult for prison officials to engage in priority efforts to abate prison rape.

The Sessions-Kennedy-Wolf-Scott bill is not only a means of protecting inmates. Society pays dearly for ignoring prison rape. Clearly, prison rape costs taxpayers greatly in recidivism and increased violent crime and thus negates federal programs designed to reduce the incidence of crime. Inmates, often non-violent first time offenders, come out of a prison rape experience severely traumatized and thus leave prison far more violent than when they entered. The high incidence of rape within prison also leads to the increased transmission of HIV, hepatitis and other diseases, which in turn imposes costs on all of society.

Fighting prison rape is also affirmatively mandated by the Constitution. As distinguished from federal programs designed to address problems ranging from teenage drinking to declining education standards, the Sessions-Kennedy-Wolf-Scott bill deals with plenary and constitutionally inescapable federal responsibilities—this in light of the determination of a near unanimous Supreme Court in *Farmer v. Brennan* that deliberate indifference to prison rape violates the 8th Amendment's cruel and unusual punishment provisions.

In the end, perhaps most importantly, the effort to combat prison rape is a moral imperative. Prison rape is nothing short of torture—the infliction of severe emotional and physical pain as punishment and coercion. And, long after bodies have healed, the emo-

tional trauma, shame and stigma of brutal and repeated prison rape lasts and embitters. Thus, prison rape not only derails justice—it destroys human dignity.

The Sessions-Kennedy-Wolf-Scott bill offers great hope that the brutality of prison rape can be sharply curtailed, and our joint effort to enact it is thus a coalition of conscience rather than convenience. As such, we take heart from the Speaker's strong endorsement of the bill, and are determined to see its effective, moderate provisions rapidly brought into effect. As men and women of good will we will not rest while the violence of prison rape continues, and we strongly urge you to join us in an effort also certain to bring credit on the United States at a moment when America's need to show its commitment to democratic values has never been higher.

Working with the bill's sponsors, we stand ready to meet with you at your earliest convenience. If you would like additional information or have any questions please contact Marian Bell, National Policy Director for Prison Fellowship Ministries, at (703) 478-0100 ext. 3630 or Vincent Schiraldi, President, Justice Policy Institute, at (202) 363-7847.

Very truly yours,

American Values
 Amnesty International USA
 Center for Religious Freedom
 Christian Coalition
 Concerned Women of America
 Focus on the Family
 Human Rights and the Drug War
 Human Rights Watch
 Institute on Religion and Democracy
 Justice Policy Institute
 Kids First Coalition
 NAACP
 National Association of Evangelicals
 National Center for Neighborhood Enterprise
 National Center on Institutions and Alternatives
 National Council of La Raza
 Open Society Policy Center
 Prison Fellowship
 Salvation Army
 Southern Baptist Convention
 Stop Prisoner Rape
 The Sentencing Project
 Tradition, Family, Property Inc.
 Unitarian Universalists for Juvenile Justice
 Youth Law Center
 Federal CURE, Inc.
 MALDEF
 American Probation and Parole Association
 Alliance for Children and Families
 Religious Action Center of Reform Judaism
 Physicians for Human Rights
 National Association of Sentencing Advocates (NASA)
 Penal Reform International
 Aleph Institute
 Presbyterian Church USA
 Union of American Hebrew Congregations

Mr. WOLF. Mr. Speaker, I am pleased to rise in support of H.R. 1707, the Prison Rape Reduction Act of 2003 which I introduced with my Virginia colleague Representative BOBBY SCOTT. Similar legislation S. 1435, sponsored by Senator SESSIONS and Senator KENNEDY, passed the Senate earlier this week. I am encouraged that both the Senate and now the House have taken action on this bill and have moved a step closer to reducing sexual assault in prisons.

I want to thank the chairman of the Judiciary Committee, Representative JAMES SENSENBRENNER, for his assistance with this legislation. It is due largely to his efforts and interest in this bill that we are on the floor today to pass. This bill, which is essential to reversing the increasing numbers of prisoners who are sexually assaulted.

Not often discussed, prison rape is a cruel act which has been ignored for too long. Survivors of prison rape often bear physical and emotional scars from their experiences for their entire lives. Moreover, if we allow this problem to continue, we will be allowing increased recidivism, prison unrest, and the spread of disease—all byproducts of prison rape—to continue unabated. Reducing sexual assault in prison will reduce the numbers of prisoners who when released will go back into the community and commit crimes again.

Prison rape occurs every day. For example, just last month, a 19-year-old college student in Florida, in jail on marijuana charges, was raped by a cell mate who was being held on charges of sexual battery. This rape occurred within hours of the student being placed in his cell. There are thousands of other stories of prisoners being raped in prison.

The legislation before us today will facilitate the study of prison rape, allow hearings on the impact of prison rape on inmates and society, and create national standards for preventing prison rape.

It is important to be tough on crime, but turning a blind eye to prison rape has nothing to do with being tough on crime; it has everything to do with treating people humanely, reducing recidivism, and halting the spread of disease. Recently a number of prison rape survivors spoke her in Washington to explain how prison rape harmed them. These were gripping stories, and I have previously entered them into the RECORD. Today the House can pass legislation to help curb prison rape and reduce the needless suffering and additional punishment of prisoners. I urge my colleagues to support this legislation.

There have been many individuals responsible for moving this legislation through Congress. I wish to thank Rep. BOBBY SCOTT of Virginia, who co-sponsored this legislation, and Bobby Vassar of his staff. Senator KENNEDY and Senator SESSIONS were the Senate co-sponsors of this bill and their leadership is greatly appreciated, along with the hard work of their staffers, Robert Toone and Andrea Sanders respectively. Representative HOWARD COBLE, chairman of the Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security, and his counsel, Katy Crooks who helped guide this legislation through their subcommittee, and Phil Kiko, Jay Apperson, and Joseph Gibson on the full committee, were very supportive along with Chairman JAMES SENSENBRENNER.

The Speaker of the House, J. DENNIS HASTERT, and Margaret Peterlin in the Speaker's office have been of great assistance in moving this bill. Majority Leader TOM DELAY, and his staffer, Carl Thorsen have been invaluable in getting this bill through the final hurdles and onto the floor of the House.

There are others who need to be thanked. First and foremost, I must thank Michael Horowitz of the Hudson Institute has been the guiding force behind this legislation; his foresight and dedication to this issue are incomparable. Nathaniel Zylstra, Mr. Horowitz's assistant, has also provided valuable help. There are others outside Capitol Hill who played a role in this legislation. They are: Vince Schiraldi, Justice Policy Institute; Mariam Bell, Prison Fellowship; Mike Thompson, Council on State Governments; Paul Rosenzweig, Heritage Foundation, principal drafter of the bill; Ed Haden, formerly of Senator SESSIONS' office;

Gene Guerrero, Open Society Institute; Marian Zapata-Rossa, National Council of La Raza; Ben Jealous, Amnesty International; Hilary Shelton, NAACP; Linda Chavez, Center for Equal Opportunity, who first came up with the concept for this bill; John Kaneb, private businessman and a passionate backer of our efforts; David Saperstein, the Religious Action Center; Wendy Patten, Human Rights Watch; Prison Fellowship, specifically Mark Earley, Kate Fowler and Chuck Colson; Pat Nolan, Justice Fellowship; Rich Cizik, National Association of Evangelicals; Barrett Duke and Shannon Royce, Southern Baptist Convention; Salvation Army, specifically Richard Land, George Hood, Todd Bassett; Rich Lowry, National Review; Jennie Osmer, Cal Skinner, former State Senator in Illinois; Micah Solomon, Virginia businessman; Charles Sullivan, Citizens United for Alternatives to the Death Penalty; David Whettstone, Mennonite Central Committee; Cindy Struckman-Johnson, University of South Dakota; Bob Dumond, licensed clinical mental health counselor, Frank Hall, who headed six prison systems; Tom Cahill, co-founder, and Lara Stemple, Stop Prison Rape.

Finally, I wish to thank John Martens of the House Appropriations subcommittee on Commerce-Justice-State; Daniel Scandling, my chief of staff; Janet Shaffron, my legislative director; Neil Siefiring, my legislative assistant for Judiciary issues; and Chris Santora, a former legislative assistant in my office who worked hard on this issue in the early days of the bill's history.

Mr. SCOTT of Virginia. Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1435

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Prison Rape Elimination Act of 2003".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. National prison rape statistics, data, and research.
- Sec. 5. Prison rape prevention and prosecution.
- Sec. 6. Grants to protect inmates and safeguard communities.
- Sec. 7. National Prison Rape Reduction Commission.
- Sec. 8. Adoption and effect of national standards.
- Sec. 9. Requirement that accreditation organizations adopt accreditation standards.
- Sec. 10. Definitions.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) 2,100,146 persons were incarcerated in the United States at the end of 2001: 1,324,465 in Federal and State prisons and 631,240 in county and local jails. In 1999, there were more than 10,000,000 separate admissions to and discharges from prisons and jails.

(2) Insufficient research has been conducted and insufficient data reported on the

extent of prison rape. However, experts have conservatively estimated that at least 13 percent of the inmates in the United States have been sexually assaulted in prison. Many inmates have suffered repeated assaults. Under this estimate, nearly 200,000 inmates now incarcerated have been or will be the victims of prison rape. The total number of inmates who have been sexually assaulted in the past 20 years likely exceeds 1,000,000.

(3) Inmates with mental illness are at increased risk of sexual victimization. America's jails and prisons house more mentally ill individuals than all of the Nation's psychiatric hospitals combined. As many as 16 percent of inmates in state prisons and jails, and 7 percent of Federal inmates, suffer from mental illness.

(4) Young first-time offenders are at increased risk of sexual victimization. Juveniles are 5 times more likely to be sexually assaulted in adult rather than juvenile facilities—often within the first 48 hours of incarceration.

(5) Most prison staff are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults.

(6) Prison rape often goes unreported, and inmate victims often receive inadequate treatment for the severe physical and psychological effects of sexual assault—if they receive treatment at all.

(7) HIV and AIDS are major public health problems within America's correctional facilities. In 2000, 25,088 inmates in Federal and State prisons were known to be infected with HIV/AIDS. In 2000, HIV/AIDS accounted for more than 6 percent of all deaths in Federal and State prisons. Infection rates for other sexually transmitted diseases, tuberculosis, and hepatitis B and C are also far greater for prisoners than for the American population as a whole. Prison rape undermines the public health by contributing to the spread of these diseases, and often giving a potential death sentence to its victims.

(8) Prison rape endangers the public safety by making brutalized inmates more likely to commit crimes when they are released—as 600,000 inmates are each year.

(9) The frequently interracial character of prison sexual assaults significantly exacerbates interracial tensions, both within prison and, upon release of perpetrators and victims from prison, in the community at large.

(10) Prison rape increases the level of homicides and other violence against inmates and staff, and the risk of insurrections and riots.

(11) Victims of prison rape suffer severe physical and psychological effects that hinder their ability to integrate into the community and maintain stable employment upon their release from prison. They are thus more likely to become homeless and/or require government assistance.

(12) Members of the public and government officials are largely unaware of the epidemic character of prison rape and the day-to-day horror experienced by victimized inmates.

(13) The high incidence of sexual assault within prisons involves actual and potential violations of the United States Constitution. In *Farmer v. Brennan*, 511 U.S. 825 (1994), the Supreme Court ruled that deliberate indifference to the substantial risk of sexual assault violates prisoners' rights under the Cruel and Unusual Punishments Clause of the Eighth Amendment. The Eighth Amendment rights of State and local prisoners are protected through the Due Process Clause of the Fourteenth Amendment. Pursuant to the power of Congress under Section Five of the Fourteenth Amendment, Congress may take action to enforce those rights in States where officials have demonstrated such indifference. States that do not take basic

steps to abate prison rape by adopting standards that do not generate significant additional expenditures demonstrate such indifference. Therefore, such States are not entitled to the same level of Federal benefits as other States.

(14) The high incidence of prison rape undermines the effectiveness and efficiency of United States Government expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment and homelessness. The effectiveness and efficiency of these Federally funded grant programs are compromised by the failure of State officials to adopt policies and procedure that reduce the incidence of prison rape in that the high incidence of prison rape—

(A) increases the costs incurred by Federal, State, and local jurisdictions to administer their prison systems;

(B) increases the levels of violence, directed at inmates and at staff, within prisons;

(C) increases health care expenditures, both inside and outside of prison systems, and reduces the effectiveness of disease prevention programs by substantially increasing the incidence and spread of HIV, AIDS, tuberculosis, hepatitis B and C, and other diseases;

(D) increases mental health care expenditures, both inside and outside of prison systems, by substantially increasing the rate of post-traumatic stress disorder, depression, suicide, and the exacerbation of existing mental illnesses among current and former inmates;

(E) increases the risks of recidivism, civil strife, and violent crime by individuals who have been brutalized by prison rape; and

(F) increases the level of interracial tensions and strife within prisons and, upon release of perpetrators and victims, in the community at large.

(15) The high incidence of prison rape has a significant effect on interstate commerce because it increases substantially—

(A) the costs incurred by Federal, State, and local jurisdictions to administer their prison systems;

(B) the incidence and spread of HIV, AIDS, tuberculosis, hepatitis B and C, and other diseases, contributing to increased health and medical expenditures throughout the Nation;

(C) the rate of post-traumatic stress disorder, depression, suicide, and the exacerbation of existing mental illnesses among current and former inmates, contributing to increased health and medical expenditures throughout the Nation; and

(D) the risk of recidivism, civil strife, and violent crime by individuals who have been brutalized by prison rape.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States;

(2) make the prevention of prison rape a top priority in each prison system;

(3) develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape;

(4) increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities;

(5) standardize the definitions used for collecting data on the incidence of prison rape;

(6) increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape;

(7) protect the Eighth Amendment rights of Federal, State, and local prisoners;

(8) increase the efficiency and effectiveness of Federal expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness; and

(9) reduce the costs that prison rape imposes on interstate commerce.

SEC. 4. NATIONAL PRISON RAPE STATISTICS, DATA, AND RESEARCH.

(a) ANNUAL COMPREHENSIVE STATISTICAL REVIEW.—

(1) IN GENERAL.—The Bureau of Justice Statistics of the Department of Justice (in this section referred to as the "Bureau") shall carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape. The statistical review and analysis shall include, but not be limited to the identification of the common characteristics of—

(A) both victims and perpetrators of prison rape; and

(B) prisons and prison systems with a high incidence of prison rape.

(2) CONSIDERATIONS.—In carrying out paragraph (1), the Bureau shall consider—

(A) how rape should be defined for the purposes of the statistical review and analysis;

(B) how the Bureau should collect information about staff-on-inmate sexual assault;

(C) how the Bureau should collect information beyond inmate self-reports of prison rape;

(D) how the Bureau should adjust the data in order to account for differences among prisons as required by subsection (c)(3);

(E) the categorization of prisons as required by subsection (c)(4); and

(F) whether a preliminary study of prison rape should be conducted to inform the methodology of the comprehensive statistical review.

(3) SOLICITATION OF VIEWS.—The Bureau of Justice Statistics shall solicit views from representatives of the following: State departments of correction; county and municipal jails; juvenile correctional facilities; former inmates; victim advocates; researchers; and other experts in the area of sexual assault.

(4) SAMPLING TECHNIQUES.—The review and analysis under paragraph (1) shall be based on a random sample, or other scientifically appropriate sample, of not less than 10 percent of all Federal, State, and county prisons, and a representative sample of municipal prisons. The selection shall include at least one prison from each State. The selection of facilities for sampling shall be made at the latest practicable date prior to conducting the surveys and shall not be disclosed to any facility or prison system official prior to the time period studied in the survey. Selection of a facility for sampling during any year shall not preclude its selection for sampling in any subsequent year.

(5) SURVEYS.—In carrying out the review and analysis under paragraph (1), the Bureau shall, in addition to such other methods as the Bureau considers appropriate, use surveys and other statistical studies of current and former inmates from a sample of Federal, State, county, and municipal prisons. The Bureau shall ensure the confidentiality of each survey participant.

(6) PARTICIPATION IN SURVEY.—Federal, State, or local officials or facility administrators that receive a request from the Bureau under subsection (a)(4) or (5) will be required to participate in the national survey and provide access to any inmates under their legal custody.

(b) REVIEW PANEL ON PRISON RAPE.—

(1) ESTABLISHMENT.—To assist the Bureau in carrying out the review and analysis under subsection (a), there is established, within the Department of Justice, the Review Panel on Prison Rape (in this section referred to as the "Panel").

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Panel shall be composed of 3 members, each of whom shall be appointed by the Attorney General, in consultation with the Secretary of Health and Human Services.

(B) QUALIFICATIONS.—Members of the Panel shall be selected from among individuals with knowledge or expertise in matters to be studied by the Panel.

(3) PUBLIC HEARINGS.—

(A) IN GENERAL.—The duty of the Panel shall be to carry out, for each calendar year, public hearings concerning the operation of the three prisons with the highest incidence of prison rape and the two prisons with the lowest incidence of prison rape in each category of facilities identified under subsection (c)(4). The Panel shall hold a separate hearing regarding the three Federal or State prisons with the highest incidence of prison rape. The purpose of these hearings shall be to collect evidence to aid in the identification of common characteristics of both victims and perpetrators of prison rape, and the identification of common characteristics of prisons and prison systems with a high incidence of prison rape, and the identification of common characteristics of prisons and prison systems that appear to have been successful in deterring prison rape.

(B) TESTIMONY AT HEARINGS.—

(i) PUBLIC OFFICIALS.—In carrying out the hearings required under subparagraph (A), the Panel shall request the public testimony of Federal, State, and local officials (and organizations that represent such officials), including the warden or director of each prison, who bears responsibility for the prevention, detection, and punishment of prison rape at each entity, and the head of the prison system encompassing such prison.

(ii) VICTIMS.—The Panel may request the testimony of prison rape victims, organizations representing such victims, and other appropriate individuals and organizations.

(C) SUBPOENAS.—

(i) ISSUANCE.—The Panel may issue subpoenas for the attendance of witnesses and the production of written or other matter.

(ii) ENFORCEMENT.—In the case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(c) REPORTS.—

(1) IN GENERAL.—Not later than June 30 of each year, the Attorney General shall submit a report on the activities of the Bureau and the Review Panel, with respect to prison rape, for the preceding calendar year to—

(A) Congress; and

(B) the Secretary of Health and Human Services.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) with respect to the effects of prison rape, statistical, sociological, and psychological data;

(B) with respect to the incidence of prison rape—

(i) statistical data aggregated at the Federal, State, prison system, and prison levels;

(ii) a listing of those institutions in the representative sample, separated into each category identified under subsection (c)(4) and ranked according to the incidence of prison rape in each institution; and

(iii) an identification of those institutions in the representative sample that appear to have been successful in deterring prison rape; and

(C) a listing of any prisons in the representative sample that did not cooperate with the survey conducted pursuant to section 4.

(3) DATA ADJUSTMENTS.—In preparing the information specified in paragraph (2), the Attorney General shall use established statistical methods to adjust the data as necessary to account for differences among institutions in the representative sample, which are not related to the detection, prevention, reduction and punishment of prison rape, or which are outside the control of the of the State, prison, or prison system, in order to provide an accurate comparison among prisons. Such differences may include the mission, security level, size, and jurisdiction under which the prison operates. For each such adjustment made, the Attorney General shall identify and explain such adjustment in the report.

(4) CATEGORIZATION OF PRISONS.—The report shall divide the prisons surveyed into three categories. One category shall be composed of all Federal and State prisons. The other two categories shall be defined by the Attorney General in order to compare similar institutions.

(d) CONTRACTS AND GRANTS.—In carrying out its duties under this section, the Attorney General may—

(1) provide grants for research through the National Institute of Justice; and

(2) contract with or provide grants to any other entity the Attorney General deems appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$15,000,000 for each of fiscal years 2004 through 2010 to carry out this section.

SEC. 5. PRISON RAPE PREVENTION AND PROSECUTION.

(a) INFORMATION AND ASSISTANCE.—

(1) NATIONAL CLEARINGHOUSE.—There is established within the National Institute of Corrections a national clearinghouse for the provision of information and assistance to Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

(2) TRAINING AND EDUCATION.—The National Institute of Corrections shall conduct periodic training and education programs for Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

(b) REPORTS.—

(1) IN GENERAL.—Not later than September 30 of each year, the National Institute of Corrections shall submit a report to Congress and the Secretary of Health and Human Services. This report shall be available to the Director of the Bureau of Justice Statistics.

(2) CONTENTS.—The report required under paragraph (1) shall summarize the activities of the Department of Justice regarding prison rape abatement for the preceding calendar year.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for each of fiscal years 2004 through 2010 to carry out this section.

SEC. 6. GRANTS TO PROTECT INMATES AND SAFEGUARD COMMUNITIES.

(a) GRANTS AUTHORIZED.—From amounts made available for grants under this section, the Attorney General shall make grants to States to assist those States in ensuring that budgetary circumstances (such as reduced State and local spending on prisons) do not compromise efforts to protect inmates (particularly from prison rape) and to safeguard the communities to which inmates return. The purpose of grants under this section shall be to provide funds for personnel, training, technical assistance, data collection,

and equipment to prevent and prosecute prisoner rape.

(b) USE OF GRANT AMOUNTS.—Amounts received by a grantee under this section may be used by the grantee, directly or through subgrants, only for one or more of the following activities:

(1) PROTECTING INMATES.—Protecting inmates by—

(A) undertaking efforts to more effectively prevent prison rape;

(B) investigating incidents of prison rape; or

(C) prosecuting incidents of prison rape.

(2) SAFEGUARDING COMMUNITIES.—Safeguarding communities by—

(A) making available, to officials of State and local governments who are considering reductions to prison budgets, training and technical assistance in successful methods for moderating the growth of prison populations without compromising public safety, including successful methods used by other jurisdictions;

(B) developing and utilizing analyses of prison populations and risk assessment instruments that will improve State and local governments' understanding of risks to the community regarding release of inmates in the prison population;

(C) preparing maps demonstrating the concentration, on a community-by-community basis, of inmates who have been released, to facilitate the efficient and effective—

(i) deployment of law enforcement resources (including probation and parole resources); and

(ii) delivery of services (such as job training and substance abuse treatment) to those released inmates;

(D) promoting collaborative efforts, among officials of State and local governments and leaders of appropriate communities, to understand and address the effects on a community of the presence of a disproportionate number of released inmates in that community; or

(E) developing policies and programs that reduce spending on prisons by effectively reducing rates of parole and probation revocation without compromising public safety.

(c) GRANT REQUIREMENTS.—

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

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

(3) MATCHING.—The Federal share of a grant under this section may not exceed 50 percent of the total costs of the project described in the application submitted under subsection (d) for the fiscal year for which the grant was made under this section.

(d) APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

(2) CONTENTS.—Each application required by paragraph (1) shall—

(A) include the certification of the chief executive that the State receiving such grant—

(i) has adopted all national prison rape standards that, as of the date on which the application was submitted, have been promulgated under this Act; and

(ii) will consider adopting all national prison rape standards that are promulgated under this Act after such date;

(B) specify with particularity the preventative, prosecutorial, or administrative activities to be undertaken by the State with the amounts received under the grant; and

(C) in the case of an application for a grant for one or more activities specified in paragraph (2) of subsection (b)—

(i) review the extent of the budgetary circumstances affecting the State generally and describe how those circumstances relate to the State's prisons;

(ii) describe the rate of growth of the State's prison population over the preceding 10 years and explain why the State may have difficulty sustaining that rate of growth; and

(iii) explain the extent to which officials (including law enforcement officials) of State and local governments and victims of crime will be consulted regarding decisions whether, or how, to moderate the growth of the State's prison population.

(e) REPORTS BY GRANTEE.—

(1) IN GENERAL.—The Attorney General shall require each grantee to submit, not later than 90 days after the end of the period for which the grant was made under this section, a report on the activities carried out under the grant. The report shall identify and describe those activities and shall contain an evaluation of the effect of those activities on—

(A) the number of incidents of prison rape, and the grantee's response to such incidents; and

(B) the safety of the prisons, and the safety of the communities in which released inmates are present.

(2) DISSEMINATION.—The Attorney General shall ensure that each report submitted under paragraph (1) is made available under the national clearinghouse established under section 5.

(f) STATE DEFINED.—In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for grants under this section \$40,000,000 for each of fiscal years 2004 through 2010.

(2) LIMITATION.—Of amounts made available for grants under this section, not less than 50 percent shall be available only for activities specified in paragraph (1) of subsection (b).

SEC. 7. NATIONAL PRISON RAPE REDUCTION COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Prison Rape Reduction Commission (in this section referred to as the "Commission").

(b) MEMBERS.—

(1) IN GENERAL.—The Commission shall be composed of 9 members, of whom—

(A) 3 shall be appointed by the President;

(B) 2 shall be appointed by the Speaker of the House of Representatives, unless the Speaker is of the same party as the President, in which case 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the minority leader of the House of Representatives;

(C) 1 shall be appointed by the minority leader of the House of Representatives (in addition to any appointment made under subparagraph (B));

(D) 2 shall be appointed by the majority leader of the Senate, unless the majority leader is of the same party as the President, in which case 1 shall be appointed by the majority leader of the Senate and 1 shall be appointed by the minority leader of the Senate; and

(E) 1 member appointed by the minority leader of the Senate (in addition to any appointment made under subparagraph (D)).

(2) PERSONS ELIGIBLE.—Each member of the Commission shall be an individual who has knowledge or expertise in matters to be studied by the Commission.

(3) CONSULTATION REQUIRED.—The President, the Speaker and minority leader of the House of Representatives, and the majority leader and minority leader of the Senate shall consult with one another prior to the appointment of the members of the Commission to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(4) TERM.—Each member shall be appointed for the life of the Commission.

(5) TIME FOR INITIAL APPOINTMENTS.—The appointment of the members shall be made not later than 60 days after the date of enactment of this Act.

(6) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made, and shall be made not later than 60 days after the date on which the vacancy occurred.

(C) OPERATION.—

(1) CHAIRPERSON.—Not later than 15 days after appointments of all the members are made, the President shall appoint a chairperson for the Commission from among its members.

(2) MEETINGS.—The Commission shall meet at the call of the chairperson. The initial meeting of the Commission shall take place not later than 30 days after the initial appointment of the members is completed.

(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum to conduct business, but the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission.

(4) RULES.—The Commission may establish by majority vote any other rules for the conduct of Commission business, if such rules are not inconsistent with this Act or other applicable law.

(d) COMPREHENSIVE STUDY OF THE IMPACTS OF PRISON RAPE.—

(1) IN GENERAL.—The Commission shall carry out a comprehensive legal and factual study of the penological, physical, mental, medical, social, and economic impacts of prison rape in the United States on—

(A) Federal, State, and local governments; and

(B) communities and social institutions generally, including individuals, families, and businesses within such communities and social institutions.

(2) MATTERS INCLUDED.—The study under paragraph (1) shall include—

(A) a review of existing Federal, State, and local government policies and practices with respect to the prevention, detection, and punishment of prison rape;

(B) an assessment of the relationship between prison rape and prison conditions, and of existing monitoring, regulatory, and enforcement practices that are intended to address any such relationship;

(C) an assessment of pathological or social causes of prison rape;

(D) an assessment of the extent to which the incidence of prison rape contributes to the spread of sexually transmitted diseases and to the transmission of HIV;

(E) an assessment of the characteristics of inmates most likely to commit prison rape and the effectiveness of various types of treatment or programs to reduce such likelihood;

(F) an assessment of the characteristics of inmates most likely to be victims of prison rape and the effectiveness of various types of treatment or programs to reduce such likelihood;

(G) an assessment of the impacts of prison rape on individuals, families, social institutions and the economy generally, including an assessment of the extent to which the incidence of prison rape contributes to recidi-

vism and to increased incidence of sexual assault;

(H) an examination of the feasibility and cost of conducting surveillance, undercover activities, or both, to reduce the incidence of prison rape;

(I) an assessment of the safety and security of prison facilities and the relationship of prison facility construction and design to the incidence of prison rape;

(J) an assessment of the feasibility and cost of any particular proposals for prison reform;

(K) an identification of the need for additional scientific and social science research on the prevalence of prison rape in Federal, State, and local prisons;

(L) an assessment of the general relationship between prison rape and prison violence;

(M) an assessment of the relationship between prison rape and levels of training, supervision, and discipline of prison staff; and

(N) an assessment of existing Federal and State systems for reporting incidents of prison rape, including an assessment of whether existing systems provide an adequate assurance of confidentiality, impartiality and the absence of reprisal.

(3) REPORT.—

(A) DISTRIBUTION.—Not later than 2 years after the date of the initial meeting of the Commission, the Commission shall submit a report on the study carried out under this subsection to—

(i) the President;

(ii) the Congress;

(iii) the Attorney General;

(iv) the Secretary of Health and Human Services;

(v) the Director of the Federal Bureau of Prisons;

(vi) the chief executive of each State; and

(vii) the head of the department of corrections of each State.

(B) CONTENTS.—The report under subparagraph (A) shall include—

(i) the findings and conclusions of the Commission;

(ii) recommended national standards for reducing prison rape;

(iii) recommended protocols for preserving evidence and treating victims of prison rape; and

(iv) a summary of the materials relied on by the Commission in the preparation of the report.

(e) RECOMMENDATIONS.—

(1) IN GENERAL.—In conjunction with the report submitted under subsection (d)(3), the Commission shall provide the Attorney General and the Secretary of Health and Human Services with recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape.

(2) MATTERS INCLUDED.—The information provided under paragraph (1) shall include recommended national standards relating to—

(A) the classification and assignment of prisoners, using proven standardized instruments and protocols, in a manner that limits the occurrence of prison rape;

(B) the investigation and resolution of rape complaints by responsible prison authorities, local and State police, and Federal and State prosecution authorities;

(C) the preservation of physical and testimonial evidence for use in an investigation of the circumstances relating to the rape;

(D) acute-term trauma care for rape victims, including standards relating to—

(i) the manner and extent of physical examination and treatment to be provided to any rape victim; and

(ii) the manner and extent of any psychological examination, psychiatric care, medication, and mental health counseling to be provided to any rape victim;

(E) referrals for long-term continuity of care for rape victims;

(F) educational and medical testing measures for reducing the incidence of HIV transmission due to prison rape;

(G) post-rape prophylactic medical measures for reducing the incidence of transmission of sexual diseases;

(H) the training of correctional staff sufficient to ensure that they understand and appreciate the significance of prison rape and the necessity of its eradication;

(I) the timely and comprehensive investigation of staff sexual misconduct involving rape or other sexual assault on inmates;

(J) ensuring the confidentiality of prison rape complaints and protecting inmates who make complaints of prison rape;

(K) creating a system for reporting incidents of prison rape that will ensure the confidentiality of prison rape complaints, protect inmates who make prison rape complaints from retaliation, and assure the impartial resolution of prison rape complaints;

(L) data collection and reporting of—

(i) prison rape;

(ii) prison staff sexual misconduct; and

(iii) the resolution of prison rape complaints by prison officials and Federal, State, and local investigation and prosecution authorities; and

(M) such other matters as may reasonably be related to the detection, prevention, reduction, and punishment of prison rape.

(3) LIMITATION.—The Commission shall not propose a recommended standard that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities.

(f) CONSULTATION WITH ACCREDITATION ORGANIZATIONS.—In developing recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape, the Commission shall consider any standards that have already been developed, or are being developed simultaneously to the deliberations of the Commission. The Commission shall consult with accreditation organizations responsible for the accreditation of Federal, State, local or private prisons, that have developed or are currently developing standards related to prison rape. The Commission will also consult with national associations representing the corrections profession that have developed or are currently developing standards related to prison rape.

(g) HEARINGS.—

(1) IN GENERAL.—The Commission shall hold public hearings. The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties under this section.

(2) WITNESS EXPENSES.—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(h) INFORMATION FROM FEDERAL OR STATE AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under this section. The Commission may request the head of any State or local department or agency to furnish such information to the Commission.

(i) PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their

homes or regular places of business in the performance of service for the Commission.

(2) **DETAIL OF FEDERAL EMPLOYEES.**—With the affirmative vote of $\frac{2}{3}$ of the Commission, any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(3) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—Upon the request of the Commission, the Attorney General shall provide reasonable and appropriate office space, supplies, and administrative assistance.

(j) **CONTRACTS FOR RESEARCH.**—

(1) **NATIONAL INSTITUTE OF JUSTICE.**—With a $\frac{2}{3}$ affirmative vote, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out its duties under this Act. The National Institute of Justice shall contract with the researchers and experts selected by the Commission to provide funding in exchange for their services.

(2) **OTHER ORGANIZATIONS.**—Nothing in this subsection shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the duties of the Commission under this section.

(k) **SUBPOENAS.**—

(1) **ISSUANCE.**—The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter.

(2) **ENFORCEMENT.**—In the case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(3) **CONFIDENTIALITY OF DOCUMENTARY EVIDENCE.**—Documents provided to the Commission pursuant to a subpoena issued under this subsection shall not be released publicly without the affirmative vote of $\frac{2}{3}$ of the Commission.

(l) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(m) **TERMINATION.**—The Commission shall terminate on the date that is 60 days after the date on which the Commission submits the reports required by this section.

(n) **EXEMPTION.**—The Commission shall be exempt from the Federal Advisory Committee Act.

SEC. 8. ADOPTION AND EFFECT OF NATIONAL STANDARDS.

(a) **PUBLICATION OF PROPOSED STANDARDS.**—

(1) **FINAL RULE.**—Not later than 1 year after receiving the report specified in section 7(d)(3), the Attorney General shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape.

(2) **INDEPENDENT JUDGMENT.**—The standards referred to in paragraph (1) shall be based upon the independent judgment of the Attorney General, after giving due consideration to the recommended national standards provided by the Commission under section 7(e), and being informed by such data, opinions, and proposals that the Attorney General determines to be appropriate to consider.

(3) **LIMITATION.**—The Attorney General shall not establish a national standard under this section that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities. The Attorney General may, however, provide a list of improvements for consideration by correctional facilities.

(4) **TRANSMISSION TO STATES.**—Within 90 days of publishing the final rule under para-

graph (1), the Attorney General shall transmit the national standards adopted under such paragraph to the chief executive of each State, the head of the department of corrections of each State, and to the appropriate authorities in those units of local government who oversee operation in one or more prisons.

(b) **APPLICABILITY TO FEDERAL BUREAU OF PRISONS.**—The national standards referred to in subsection (a) shall apply to the Federal Bureau of Prisons immediately upon adoption of the final rule under subsection (a)(4).

(c) **ELIGIBILITY FOR FEDERAL FUNDS.**—

(1) **COVERED PROGRAMS.**—

(A) **IN GENERAL.**—For purposes of this subsection, a grant program is covered by this subsection if, and only if—

(i) the program is carried out by or under the authority of the Attorney General; and

(ii) the program may provide amounts to States for prison purposes.

(B) **LIST.**—For each fiscal year, the Attorney General shall prepare a list identifying each program that meets the criteria of subparagraph (A) and provide that list to each State.

(2) **ADOPTION OF NATIONAL STANDARDS.**—For each fiscal year, any amount that a State would otherwise receive for prison purposes for that fiscal year under a grant program covered by this subsection shall be reduced by 5 percent, unless the chief executive of the State submits to the Attorney General—

(A) a certification that the State has adopted, and is in full compliance with, the national standards described in section 8(a); or

(B) an assurance that not less than 5 percent of such amount shall be used only for the purpose of enabling the State to adopt, and achieve full compliance with, those national standards, so as to ensure that a certification under subparagraph (A) may be submitted in future years.

(3) **REPORT ON NONCOMPLIANCE.**—Not later than September 30 of each year, the Attorney General shall publish a report listing each grantee that is not in compliance with the national standards adopted pursuant to section 8(a).

(4) **COOPERATION WITH SURVEY.**—For each fiscal year, any amount that a State receives for that fiscal year under a grant program covered by this subsection shall not be used for prison purposes (and shall be returned to the grant program if no other authorized use is available), unless the chief executive of the State submits to the Attorney General a certification that neither the State, nor any political subdivision or unit of local government within the State, is listed in a report issued by the Attorney General pursuant to section 4(c)(2)(C).

(5) **REDISTRIBUTION OF AMOUNTS.**—Amounts under a grant program not granted by reason of a reduction under paragraph (2), or returned by reason of the prohibition in paragraph (4), shall be granted to one or more entities not subject to such reduction or such prohibition, subject to the other laws governing that program.

(6) **IMPLEMENTATION.**—The Attorney General shall establish procedures to implement this subsection, including procedures for effectively applying this subsection to discretionary grant programs.

(7) **EFFECTIVE DATE.**—

(A) **REQUIREMENT OF ADOPTION OF STANDARDS.**—The first grants to which paragraph (2) applies are grants for the second fiscal year beginning after the date on which the national standards under section 8(a) are finalized.

(B) **REQUIREMENT FOR COOPERATION.**—The first grants to which paragraph (4) applies are grants for the fiscal year beginning after the date of the enactment of this Act.

SEC. 9. REQUIREMENT THAT ACCREDITATION ORGANIZATIONS ADOPT ACCREDITATION STANDARDS.

(a) **ELIGIBILITY FOR FEDERAL GRANTS.**—Notwithstanding any other provision of law, an organization responsible for the accreditation of Federal, State, local, or private prisons, jails, or other penal facilities may not receive any new Federal grants during any period in which such organization fails to meet any of the requirements of subsection (b).

(b) **REQUIREMENTS.**—To be eligible to receive Federal grants, an accreditation organization referred to in subsection (a) must meet the following requirements:

(1) At all times after 90 days after the date of enactment of this Act, the organization shall have in effect, for each facility that it is responsible for accrediting, accreditation standards for the detection, prevention, reduction, and punishment of prison rape.

(2) At all times after 1 year after the date of the adoption of the final rule under section 8(a)(4), the organization shall, in addition to any other such standards that it may promulgate relevant to the detection, prevention, reduction, and punishment of prison rape, adopt accreditation standards consistent with the national standards adopted pursuant to such final rule.

SEC. 10. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) **CARNAL KNOWLEDGE.**—The term “carnal knowledge” means contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.

(2) **INMATE.**—The term “inmate” means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

(3) **JAIL.**—The term “jail” means a confinement facility of a Federal, State, or local law enforcement agency to hold—

(A) persons pending adjudication of criminal charges; or

(B) persons committed to confinement after adjudication of criminal charges for sentences of 1 year or less.

(4) **HIV.**—The term “HIV” means the human immunodeficiency virus.

(5) **ORAL SODOMY.**—The term “oral sodomy” means contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

(6) **POLICE LOCKUP.**—The term “police lockup” means a temporary holding facility of a Federal, State, or local law enforcement agency to hold—

(A) inmates pending bail or transport to jail;

(B) inebriates until ready for release; or

(C) juveniles pending parental custody or shelter placement.

(7) **PRISON.**—The term “prison” means any confinement facility of a Federal, State, or local government, whether administered by such government or by a private organization on behalf of such government, and includes—

(A) any local jail or police lockup; and

(B) any juvenile facility used for the custody or care of juvenile inmates.

(8) **PRISON RAPE.**—The term “prison rape” includes the rape of an inmate in the actual or constructive control of prison officials.

(9) **RAPE.**—The term “rape” means—

(A) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will;

(B) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or

(C) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

(10) **SEXUAL ASSAULT WITH AN OBJECT.**—The term "sexual assault with an object" means the use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.

(11) **SEXUAL FONDLING.**—The term "sexual fondling" means the touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh, or buttocks) for the purpose of sexual gratification.

(12) **EXCLUSIONS.**—The terms and conditions described in paragraphs (9) and (10) shall not apply to—

(A) custodial or medical personnel gathering physical evidence, or engaged in other legitimate medical treatment, in the course of investigating prison rape;

(B) the use of a health care provider's hands or fingers or the use of medical devices in the course of appropriate medical treatment unrelated to prison rape; or

(C) the use of a health care provider's hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within the prison or detention facility, provided that the search is conducted in a manner consistent with constitutional requirements.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill S. 1435.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

BARBARA B. KENNELLY POST OFFICE BUILDING

Mr. TURNER of Ohio. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the bill (H.R. 2746) to designate the facilities of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, as the "Barbara B. Kennelly Post Office Building," and ask for its immediate consideration.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 2746

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

SECTION 1. BARBARA B. KENNELLY POST OFFICE BUILDING.

(a) **DESIGNATION.**—The facility of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, shall be known and designated as the "Barbara B. Kennelly Post Office Building".

(b) **REFERENCES.**—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Barbara B. Kennelly Post Office Building.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL MARINA DAY

Mr. PORTER. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure be discharged from further consideration of the resolution (H. Res. 323) supporting the goals and ideals of National Marina Day, and ask for its immediate consideration.

The Clerk read the title of the resolution.

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

Mr. THOMPSON of California. Mr. Speaker, reserving the right to object, and I do not intend to object, however, I would like to yield to the gentleman to explain his unanimous consent request.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of California. I yield to the gentleman from Nevada.

Mr. PORTER. Mr. Speaker, the resolution is referring to marinas across the United States of America and the impacts they have on the economy. We are having a day in Nevada, at Lake Mead, to honor the marinas on August 9, and I invite everyone to be in attendance.

Mr. THOMPSON of California. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 323

Whereas Americans place a high value on recreation time and the ability to access one of the United States' greatest natural resources, its waterways;

Whereas, in 1928, the word "marina" was adopted by the National Association of Engine and Boat Manufacturers to define a recreational boating facility;

Whereas the United States is home to over 12,000 marinas that contribute substantially to their local communities by providing safe, reliable gateways to boating for members of their communities and their guests;

Whereas marinas help preserve their environments by protecting the surrounding waterways, permitting not only this generation but future generations to enjoy these precious natural resources;

Whereas the Nation's marinas provide their communities and visitors with a place

where friends and families, united by a passion for the water, can come together for recreation, rest, and relaxation;

Whereas more than 140,000 people are employed at marinas, which create jobs and generate tax revenues for their communities;

Whereas the Marina Operators Association of America has proclaimed August 9, 2003, to be National Marina Day: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of National Marina Day;

(2) recognizes America's marinas for their many contributions to their local communities; and

(3) urges all Americans to become more aware of the overall contributions marinas make to the well-being of the United States.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.R. 2765, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2004

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time for the Speaker, as though pursuant to clause 2(b) of rule XVIII, to declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of H.R. 2765, which shall proceed according to the following order:

The first reading of the bill shall be dispensed with.

All points of order against consideration of the bill are waived.

General debate shall be confined to the bill and shall not exceed 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

After general debate the bill shall be considered for amendment under the 5-minute rule.

Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except section 119.

The amendment printed in House Report 108-230 may be offered only by the gentleman from Virginia (Mr. TOM DAVIS) and only at the appropriate point in the reading of the bill, shall be considered as read, shall be debatable 40 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendment are waived.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed