

1 (b) REQUIREMENTS.—The regulations under sub-
2 section (a) shall require—

3 (1) in the case of an individual, the presen-
4 tation to an appropriate postal official of a valid,
5 outstanding protection order; and

6 (2) in the case of a domestic violence shelter,
7 the presentation to an appropriate postal authority
8 of proof from a State domestic violence coalition
9 that meets the requirements of section 311 of the
10 Family Violence Prevention and Services Act (42
11 U.S.C. 10410)) verifying that the organization is a
12 domestic violence shelter.

13 (c) DISCLOSURE FOR CERTAIN PURPOSES.—The reg-
14 ulations under subsection (a) shall not prohibit the disclo-
15 sure of addresses to State or Federal agencies for legiti-
16 mate law enforcement or other governmental purposes.

17 (d) EXISTING COMPILATIONS.—Compilations of ad-
18 dresses existing at the time at which order is presented
19 to an appropriate postal official shall be excluded from the
20 scope of the regulations under subsection (a).

21 **CHAPTER 9—DATA AND RESEARCH**

22 **SEC. 3243. RESEARCH AGENDA.**

23 (a) REQUEST FOR CONTRACT.—The Attorney Gen-
24 eral shall request the National Academy of Sciences,
25 through its National Research Council, to enter into a con-

1 tract to develop a research agenda to increase the under-
2 standing and control of violence against women, including
3 rape and domestic violence. In furtherance of the contract,
4 the National Academy shall convene a panel of nationally
5 recognized experts on violence against women, in the fields
6 of law, medicine, criminal justice, and direct services to
7 victims and experts on domestic violence in diverse, ethnic,
8 social, and language minority communities and the social
9 sciences. In setting the agenda, the Academy shall focus
10 primarily on preventive, educative, social, and legal strate-
11 gies, including addressing the needs of underserved popu-
12 lations.

13 (b) DECLINATION OF REQUEST.—If the National
14 Academy of Sciences declines to conduct the study and
15 develop a research agenda, it shall recommend a nonprofit
16 private entity that is qualified to conduct such a study.
17 In that case, the Attorney General shall carry out sub-
18 section (a) through the nonprofit private entity rec-
19 ommended by the Academy. In either case, whether the
20 study is conducted by the National Academy of Sciences
21 or by the nonprofit group it recommends, the funds for
22 the contract shall be made available from sums appro-
23 priated for the conduct of research by the National Insti-
24 tute of Justice.

1 (c) REPORT.—The Attorney General shall ensure
2 that no later than 1 year after the date of enactment of
3 this Act, the study required under subsection (a) is com-
4 pleted and a report describing the findings made is sub-
5 mitted to the Committee on the Judiciary of the Senate
6 and the Committee on the Judiciary of the House of Rep-
7 resentatives.

8 **SEC. 3244. STATE DATABASES.**

9 (a) IN GENERAL.—The Attorney General shall study
10 and report to the States and to Congress on how the
11 States may collect centralized databases on the incidence
12 of sexual and domestic violence offenses within a State.

13 (b) CONSULTATION.—In conducting its study, the At-
14 torney General shall consult persons expert in the collec-
15 tion of criminal justice data, State statistical administra-
16 tors, law enforcement personnel, and nonprofit nongovern-
17 mental agencies that provide direct services to victims of
18 domestic violence. The final report shall set forth the views
19 of the persons consulted on the recommendations.

20 (c) REPORT.—The Attorney General shall ensure
21 that no later than 1 year after the date of enactment of
22 this Act, the study required under subsection (a) is com-
23 pleted and a report describing the findings made is sub-
24 mitted to the Committees on the Judiciary of the Senate
25 and the House of Representatives.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated \$_____to carry
3 out this section.

4 **SEC. 3245. NUMBER AND COST OF INJURIES.**

5 (a) STUDY.—The Secretary of Health and Human
6 Services, acting through the Centers for Disease Control
7 Injury Control Division, shall conduct a study to obtain
8 a national projection of the incidence of injuries resulting
9 from domestic violence, the cost of injuries to health care
10 facilities, and recommend health care strategies for reduc-
11 ing the incidence and cost of such injuries.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated \$_____ to carry
14 out this section \$_____ for fiscal year 1995.

15 **CHAPTER 10—RURAL DOMESTIC VIO-**
16 **LENCE AND CHILD ABUSE ENFORCE-**
17 **MENT**

18 **SEC. 3247. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE**
19 **ENFORCEMENT ASSISTANCE.**

20 (a) GRANTS.—The Attorney General may make
21 grants to States, Indian tribal governments, and local gov-
22 ernments of rural States, and to other public or private
23 entities of rural States—

24 (1) to implement, expand, and establish cooper-
25 ative efforts and projects between law enforcement

1 officers, prosecutors, victim advocacy groups, and
2 other related parties to investigate and prosecute in-
3 cidents of domestic violence and child abuse;

4 (2) to provide treatment and counseling to vic-
5 tims of domestic violence and child abuse; and

6 (3) to work in cooperation with the community
7 to develop education and prevention strategies di-
8 rected toward such issues.

9 (b) DEFINITIONS.—In this section—

10 “Indian tribe” means a tribe, band, pueblo, na-
11 tion, or other organized group or community of Indi-
12 ans, including an Alaska Native village (as defined
13 in or established under the Alaska Native Claims
14 Settlement Act (43 U.S.C. 1601 et seq.), that is rec-
15 ognized as eligible for the special programs and serv-
16 ices provided by the United States to Indians be-
17 cause of their status as Indians.

18 “rural State” has the meaning stated in section
19 1501(b) of title I of the Omnibus Crime Control and
20 Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)).

21 (c) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—There is authorized to be
23 appropriated to carry out this section
24 \$_____ for each of fiscal years 1995,
25 1996, and 1997.

1 (2) ADDITIONAL FUNDING.—In addition to
 2 funds received under a grant under subsection (a),
 3 a law enforcement agency may use funds received
 4 under a grant under section 103 to accomplish the
 5 objectives of this section.

6 **SEC. 3248. SENSE OF THE SENATE CONCERNING PROTEC-**
 7 **TION OF THE PRIVACY OF RAPE VICTIMS.**

8 (a) FINDINGS AND DECLARATIONS.—The Senate
 9 finds and declares that—

duplicative

10 (1) there is a need for a strong and clear Fed-
 11 eral response to violence against women, particularly
 12 with respect to the crime of rape;

13 (2) rape is an abominable and repugnant crime,
 14 and one that is severely underreported to law en-
 15 forcement authorities because of its stigmatizing na-
 16 ture;

17 (3) the victims of rape are often further victim-
 18 ized by a criminal justice system that is insensitive
 19 to the trauma caused by the crime and are increas-
 20 ingly victimized by news media that are insensitive
 21 to the victim's emotional and psychological needs;

22 (4) rape victims' need for privacy should be
 23 respected;

24 (5) rape victims need to be encouraged to come
 25 forward and report the crime of rape without fear of

1 being revictimized through involuntary public disclo-
2 sure of their identities;

3 (6) rape victims need a reasonable expectation
4 that their physical safety will be protected against
5 retaliation or harassment by an assailant;

6 (7) the news media should, in the exercise of
7 their discretion, balance the public's interest in
8 knowing facts reported by free news media against
9 important privacy interests of a rape victim, and an
10 absolutist view of the public interest leads to insen-
11 sitivity to a victim's privacy interest; and

12 (8) the public's interest in knowing the identity
13 of a rape victim is small compared with the interests
14 of maintaining the privacy of rape victims and en-
15 couraging rape victims to report and assist in the
16 prosecution of the crime of rape.

17 (b) SENSE OF THE SENATE.—It is the sense of the
18 Senate that news media, law enforcement officers, and
19 other persons should exercise restraint and respect a rape
20 victim's privacy by not disclosing the victim's identity to
21 the general public or facilitating such disclosure without
22 the consent of the victim.

Subtitle C—Civil Rights

2 SEC. 3401. SHORT TITLE.

3 This subtitle may be cited as the “Civil Rights Rem-
4 edies for Gender-Motivated Violence Act”.

5 SEC. 3402. CIVIL RIGHTS.

6 (a) FINDINGS.—The Congress finds that—

7 (1) crimes of violence motivated by gender con-
8 stitute bias crimes in violation of the victim’s right
9 to be free from discrimination on the basis of gen-
10 der;

11 (2) current law provides a civil rights remedy
12 for gender crimes committed in the workplace, but
13 not for crimes of violence motivated by gender com-
14 mitted on the street or in the home;

15 (3) State and Federal criminal laws do not ade-
16 quately protect against the bias element of crimes of
17 violence motivated by gender, which separates these
18 crimes from acts of random violence, nor do those
19 laws adequately provide victims of gender-motivated
20 crimes the opportunity to vindicate their interests;

21 (4) existing bias and discrimination in the
22 criminal justice system often deprives victims of
23 crimes of violence motivated by gender of equal pro-
24 tection of the laws and the redress to which they are
25 entitled;

1 (5) crimes of violence motivated by gender have
2 a substantial adverse effect on interstate commerce,
3 by deterring potential victims from traveling inter-
4 state, from engaging in employment in interstate
5 business, and from transacting with business, and in
6 places involved, in interstate commerce;

7 (6) crimes of violence motivated by gender have
8 a substantial adverse effect on interstate commerce,
9 by diminishing national productivity, increasing
10 medical and other costs, and decreasing the supply
11 of and the demand for interstate products;

12 (7) a Federal civil rights action as specified in
13 this section is necessary to guarantee equal protec-
14 tion of the laws and to reduce the substantial ad-
15 verse effects on interstate commerce caused by
16 crimes of violence motivated by gender; and

17 (8) the victims of crimes of violence motivated
18 by gender have a right to equal protection of the
19 laws, including a system of justice that is unaffected
20 by bias or discrimination and that, at every relevant
21 stage, treats such crimes as seriously as other vio-
22 lent crimes.

23 (b) RIGHT TO BE FREE FROM CRIMES OF VIO-
24 LENCE.—All persons within the United States shall have

1 the right to be free from crimes of violence motivated by
2 gender (as defined in subsection (d)).

3 (c) CAUSE OF ACTION.—A person (including a person
4 who acts under color of any statute, ordinance, regulation,
5 custom, or usage of any State) who commits a crime of
6 violence motivated by gender and thus deprives another
7 of the right declared in subsection (b) shall be liable to
8 the party injured, in an action for the recovery of compen-
9 satory and punitive damages, injunctive and declaratory
10 relief, and such other relief as a court may deem appro-
11 priate.

12 (d) DEFINITIONS.—For purposes of this section—

13 (1) the term “crime of violence motivated by
14 gender” means a crime of violence committed be-
15 cause of gender or on the basis of gender, and due,
16 at least in part, to an animus based on the victim’s
17 gender;

18 (2) the term “crime of violence” means—

19 (A) an act or series of acts that would con-
20 stitute a felony against the person or that
21 would constitute a felony against property if the
22 conduct presents a serious risk of physical in-
23 jury to another, and that would come within the
24 meaning of State or Federal offenses described
25 in section 16 of title 18, United States Code,

1 whether or not those acts have actually resulted
 2 in criminal charges, prosecution, or conviction
 3 and whether or not those acts were committed
 4 in the special maritime, territorial, or prison ju-
 5 risdiction of the United States; and

6 (B) includes an act or series of acts that
 7 would constitute a felony described in subpara-
 8 graph (A) but for the relationship between the
 9 person who takes such action and the individual
 10 against whom such action is taken.

11 (e) LIMITATION AND PROCEDURES.—

12 (1) LIMITATION.—Nothing in this section enti-
 13 tles a person to a cause of action under subsection
 14 (e) for random acts of violence unrelated to gender
 15 or for acts that cannot be demonstrated, by a pre-
 16 ponderance of the evidence, to be motivated by gen-
 17 der (within the meaning of subsection (d)).

18 (2) NO PRIOR CRIMINAL ACTION.—Nothing in
 19 this section requires a prior criminal complaint,
 20 prosecution, or conviction to establish the elements
 21 of a cause of action under subsection (c).

22 (3) CONCURRENT JURISDICTION.—The Federal
 23 and State courts shall have concurrent jurisdiction
 24 over actions brought pursuant to this subtitle.

1 (4) PENDENT JURISDICTION.—Neither section
2 1367 of title 28, United States Code, nor subsection
3 (c) of this section shall be construed, by reason of
4 a claim arising under such subsection, to confer on
5 the courts of the United States jurisdiction over any
6 State law claim seeking the establishment of a di-
7 vorce, alimony, equitable distribution of marital
8 property, or child custody decree.

9 (5) LIMITATION ON REMOVAL.—Section 1445
10 of title 28, United States Code, is amended by add-
11 ing at the end the following new subsection:

12 “(d) A civil action in any State court arising under
13 section 3402 of the Violence Against Women Act of 1994
14 may not be removed to any district court of the United
15 States.”.

16 **SEC. 3403. ATTORNEY'S FEES.**

17 Section 722 of the Revised Statutes (42 U.S.C. 1988)
18 is amended in the last sentence—

19 (1) by striking “or” after “Public Law 92-
20 318,”; and

21 (2) by inserting “, or subtitle C of title IV of
22 the Violence Against Women Act of 1994,” after
23 “1964”.

1 SEC. 3404. SENSE OF THE SENATE CONCERNING PROTEC-
2 TION OF THE PRIVACY OF RAPE VICTIMS.

3 (a) FINDINGS AND DECLARATION.—The Senate finds
4 and declares that—

5 (1) there is a need for a strong and clear Fed-
6 eral response to violence against women, particularly
7 with respect to the crime of rape;

8 (2) rape is an abominable and repugnant crime,
9 and one that is severely underreported to law en-
10 forcement authorities because of its stigmatizing na-
11 ture;

12 (3) the victims of rape are often further victim-
13 ized by a criminal justice system that is insensitive
14 to the trauma caused by the crime and are increas-
15 ingly victimized by news media that are insensitive
16 to the victim's emotional and psychological needs;

17 (4) rape victims' need for privacy should be
18 respected;

19 (5) rape victims need to be encouraged to come
20 forward and report the crime of rape without fear of
21 being revictimized through involuntary public disclo-
22 sure of their identities;

23 (6) rape victims need a reasonable expectation
24 that their physical safety will be protected against
25 retaliation or harassment by an assailant;

All findings will be inserted into committee report.

1 ~~(7) the news media should, in the exercise of~~
2 ~~their discretion, balance the public's interest in~~
3 ~~knowing facts reported by free news media against~~
4 ~~important privacy interests of a rape victim, and an~~
5 ~~absolutist view of the public interest leads to insen-~~
6 ~~sitivity to a victim's privacy interest; and~~

7 ~~(8) the public's interest in knowing the identity~~
8 ~~of a rape victim is small compared with the interests~~
9 ~~of maintaining the privacy of rape victims and en-~~
10 ~~couraging rape victims to report and assist in the~~
11 ~~prosecution of the crime of rape.~~

12 9(b) SENSE OF THE SENATE.—It is the sense of the
13 Senate that news media, law enforcement officers, and
14 other persons should exercise restraint and respect a rape
15 victim's privacy by not disclosing the victim's identity to
16 the general public or facilitating such disclosure without
17 the consent of the victim.

18 **Subtitle D—Equal Justice for**
19 **Women in the Courts Act**

20 **SEC. 3260. SHORT TITLE.**

21 This subtitle may be cited as the "Equal Justice for
22 Women in the Courts Act of 1994".

1 **CHAPTER 1—EDUCATION AND TRAINING**
2 **FOR JUDGES AND COURT PERSONNEL**
3 **IN STATE COURTS**

4 **SEC. 3261. GRANTS AUTHORIZED.**

5 The State Justice Institute may award grants for the
6 purpose of developing, testing, presenting, and disseminat-
7 ing model programs to be used by States in training
8 judges and court personnel in the laws of the States and
9 by Indian tribes in training tribal judges and court person-
10 nel in the laws of the tribes on rape, sexual assault, domes-
11 tic violence, and other crimes of violence motivated by the
12 victim's gender.

13 **SEC. 3262. TRAINING PROVIDED BY GRANTS.**

14 Training provided pursuant to grants made under
15 this subtitle may include current information, existing
16 studies, or current data on—

17 (1) the nature and incidence of rape and sexual
18 assault by strangers and nonstrangers, marital rape,
19 and incest;

20 (2) the underreporting of rape, sexual assault,
21 and child sexual abuse;

22 (3) the physical, psychological, and economic
23 impact of rape and sexual assault on the victim, the
24 costs to society, and the implications for sentencing;

1 (4) the psychology of sex offenders, their high
2 rate of recidivism, and the implications for sentenc-
3 ing;

4 (5) the historical evolution of laws and attitudes
5 on rape and sexual assault;

6 (6) sex stereotyping of female and male victims
7 of rape and sexual assault, racial stereotyping of
8 rape victims and defendants, and the impact of such
9 stereotypes on credibility of witnesses, sentencing,
10 and other aspects of the administration of justice;

11 (7) application of rape shield laws and other
12 limits on introduction of evidence that may subject
13 victims to improper sex stereotyping and harassment
14 in both rape and nonrape cases, including the need
15 for sua sponte judicial intervention in inappropriate
16 cross-examination;

17 (8) the use of expert witness testimony on rape
18 trauma syndrome, child sexual abuse accommodation
19 syndrome, post-traumatic stress syndrome, and simi-
20 lar issues;

21 (9) the legitimate reasons why victims of rape,
22 sexual assault, and incest may refuse to testify
23 against a defendant;

24 (10) the nature and incidence of domestic vio-
25 lence;

1 (11) the physical, psychological, and economic
2 impact of domestic violence on the victim, the costs
3 to society, and the implications for court procedures
4 and sentencing;

5 (12) the psychology and self-presentation of
6 batterers and victims and the implications for court
7 proceedings and credibility of witnesses;

8 (13) sex stereotyping of female and male vic-
9 tims of domestic violence, myths about presence or
10 absence of domestic violence in certain racial, ethnic,
11 religious, or socioeconomic groups, and their impact
12 on the administration of justice;

13 (14) historical evolution of laws and attitudes
14 on domestic violence;

15 (15) proper and improper interpretations of the
16 defenses of self-defense and provocation, and the use
17 of expert witness testimony on battered woman syn-
18 drome;

19 (16) the likelihood of retaliation, recidivism,
20 and escalation of violence by batterers, and the po-
21 tential impact of incarceration and other meaningful
22 sanctions for acts of domestic violence including vio-
23 lations of orders of protection;

24 (17) economic, psychological, social and institu-
25 tional reasons for victims' inability to leave the

1 batterer, to report domestic violence or to follow
2 through on complaints, including the influence of
3 lack of support from police, judges, and court per-
4 sonnel, and the legitimate reasons why victims of do-
5 mestic violence may refuse to testify against a de-
6 fendant;

7 (18) the need for orders of protection, and the
8 implications of mutual orders of protection, dual ar-
9 rest policies, and mediation in domestic violence
10 cases; and

11 (19) recognition of and response to gender-mo-
12 tivated crimes of violence other than rape, sexual as-
13 sault and domestic violence, such as mass or serial
14 murder motivated by the gender of the victims.

15 **SEC. 3263. COOPERATION IN DEVELOPING PROGRAMS IN**
16 **MAKING GRANTS UNDER THIS TITLE.**

17 The State Justice Institute shall ensure that model
18 programs carried out pursuant to grants made under this
19 subtitle are developed with the participation of law en-
20 forcement officials, public and private nonprofit victim ad-
21 vocates, legal experts, prosecutors, defense attorneys, and
22 recognized experts on gender bias in the courts.

1 **SEC. 3264. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) **IN GENERAL.**—There is authorized to be appro-
3 priated to carry out this chapter \$ _____ for fis-
4 cal year 1995.

5 (b) **MODEL PROGRAMS.**—Of amounts appropriated
6 under this section, the State Justice Institute shall expend
7 not less than 40 percent on model programs regarding do-
8 mestic violence and not less than 40 percent on model pro-
9 grams regarding rape and sexual assault.

10 **CHAPTER 2—EDUCATION AND TRAINING**
11 **FOR JUDGES AND COURT PERSONNEL**
12 **IN FEDERAL COURTS**

13 **SEC. 3271. AUTHORIZATIONS OF CIRCUIT STUDIES; EDU-**
14 **CATION AND TRAINING GRANTS.**

15 (a) **STUDIES.**—In order to gain a better understand-
16 ing of the nature and the extent of gender bias in the Fed-
17 eral courts, the circuit judicial councils are encouraged to
18 conduct studies of the instances, if any, of gender bias
19 in their respective circuits and to implement recommended
20 reforms.

21 (b) **MATTERS FOR EXAMINATION.**—The studies
22 under subsection (a) may include an examination of the
23 effects of gender on—

24 (1) the treatment of litigants, witnesses, attor-
25 neys, jurors, and judges in the courts, including be-
26 fore magistrate and bankruptcy judges;

- 1 (2) the interpretation and application of the
- 2 law, both civil and criminal;
- 3 (3) treatment of defendants in criminal cases;
- 4 (4) treatment of victims of violent crimes in ju-
- 5 dicial proceedings;
- 6 (5) sentencing;
- 7 (6) sentencing alternatives and the nature of
- 8 supervision of probation and parole;
- 9 (7) appointments to committees of the Judicial
- 10 Conference and the courts;
- 11 (8) case management and court sponsored al-
- 12 ternative dispute resolution programs;
- 13 (9) the selection, retention, promotion, and
- 14 treatment of employees;
- 15 (10) appointment of arbitrators, experts, and
- 16 special masters;
- 17 (11) the admissibility of the victim's past sexual
- 18 history in civil and criminal cases; and
- 19 (12) the aspects of the topics listed in section
- 20 3612 that pertain to issues within the jurisdiction of
- 21 the Federal courts.
- 22 (c) CLEARINGHOUSE.—The Administrative Office of
- 23 the United States Courts shall act as a clearinghouse to
- 24 disseminate any reports and materials issued by the gen-
- 25 der bias task forces under subsection (a) and to respond

1 to requests for such reports and materials. The gender
2 bias task forces shall provide the Administrative Office of
3 the Courts of the United States with their reports and
4 related material.

5 (d) MODEL PROGRAMS.—The Federal Judicial Cen-
6 ter, in carrying out section 620(b)(3) of title 28, United
7 States Code, may—

8 (1) include in the educational programs it pre-
9 sents and prepares, including the training programs
10 for newly appointed judges, information on issues re-
11 lated to gender bias in the courts including such
12 areas as are listed in subsection (a) along with such
13 other topics as the Federal Judicial Center deems
14 appropriate;

15 (2) prepare materials necessary to implement
16 this subsection; and

17 (3) take into consideration the findings and rec-
18 ommendations of the studies conducted pursuant to
19 subsection (a), and to consult with individuals and
20 groups with relevant expertise in gender bias issues
21 as it prepares or revises such materials.

22 **SEC. 3272. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated—

24 (1) \$ _____ to the Salaries and Ex-
25 penses Account of the Courts of Appeals, District

1 Courts, and other Judicial Services, to carry out sec-
2 tion 3271(a), to be available until expended through
3 fiscal year 1995;

4 (2) \$_____ to the Federal Judicial
5 Center to carry out section 3271(e); and

6 (3) \$_____ to the Administrative Of-
7 fice of the United States Courts to carry out section
8 3721(c).

9 **Subtitle E—Violence Against**
10 **Women Act Improvements**

11 **SEC. 3281. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.**

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

14 (1) by striking “or” at the end of subparagraph
15 (A);

16 (2) by striking the period at the end of sub-
17 paragraph (B) and inserting “; or”; and

18 (3) by adding after subparagraph (B) the fol-
19 lowing new subparagraph:

20 “(C) any felony under chapter 109A or chapter
21 110.”.

22 **SEC. 3282. INCREASED PENALTIES FOR SEX OFFENSES**
23 **AGAINST VICTIMS BELOW THE AGE OF 16.**

24 Section 2245(2) of title 18, United States Code, is
25 amended—

1 (1) by striking "or" at the end of subparagraph
2 (B);

3 (2) by striking "; and" at the end of subpara-
4 graph (C) and inserting "; or"; and

5 (3) by inserting after subparagraph (C) the fol-
6 lowing new subparagraph:

7 "(D) the intentional touching, not through the
8 clothing, of the genitalia of another person who has
9 not attained the age of 16 years with an intent to
10 abuse, humiliate, harass, degrade, or arouse or grat-
11 ify the sexual desire of any person;"

12 **SEC. 3283. PAYMENT OF COST OF TESTING FOR SEXUALLY**
13 **TRANSMITTED DISEASES.**

14 (a) FOR VICTIMS IN SEX OFFENSE CASES.—Section
15 503(c)(7) of the Victims' Rights and Restitution Act of
16 1990 (42 U.S.C. 10607(e)(7)) is amended by adding at
17 the end the following: "The Attorney General shall provide
18 for the payment of the cost of up to 2 anonymous and
19 confidential tests of the victim for sexually transmitted
20 diseases, including HIV, gonorrhea, herpes, chlamydia,
21 and syphilis, during the 12 months following sexual as-
22 saults that pose a risk of transmission, and the cost of
23 a counseling session by a medically trained professional
24 on the accuracy of such tests and the risk of transmission
25 of sexually transmitted diseases to the victim as the result

1 of the assault. A victim may waive anonymity and con-
2 fidentiality of any tests paid for under this section.”.

3 (b) PENALTIES FOR INTENTIONAL TRANSMISSION OF
4 HIV.—Not later than 6 months after the date of enact-
5 ment of this Act, the United States Sentencing Commis-
6 sion shall conduct a study and prepare and submit to the
7 committees on the Judiciary of the Senate and the House
8 of Representatives a report concerning recommendations
9 for the revision of sentencing guidelines that relate to of-
10 fenses in which an HIV infected individual engages in sex-
11 ual activity if the individual knows that he or she is in-
12 fected with HIV and intends, through such sexual activity,
13 to expose another to HIV.

14 **SEC. 3284. EXTENSION AND STRENGTHENING OF RESTITU-**
15 **TION.**

16 Section 3663(b) of title 18, United States Code, is
17 amended—

18 (1) in paragraph (2) by inserting “including an
19 offense under chapter 109A or chapter 110” after
20 “an offense resulting in bodily injury to a victim”;

21 (2) by striking “and” at the end of paragraph
22 (3);

23 (3) by redesignating paragraph (4) as para-
24 graph (5); and

1 (4) by inserting after paragraph (3) the follow-
2 ing new paragraph:

3 “(4) in any case, reimburse the victim for lost
4 income and necessary child care, transportation, and
5 other expenses related to participation in the inves-
6 tigation or prosecution of the offense or attendance
7 at proceedings related to the offense; and”.

8 **SEC. 3285. ENFORCEMENT OF RESTITUTION ORDERS**
9 **THROUGH SUSPENSION OF FEDERAL BENE-**
10 **FITS.**

11 Section 3663 of title 18, United States Code, is
12 amended—

13 (1) by redesignating subsections (g) and (h) as
14 subsections (h) and (i), respectively; and

15 (2) by inserting after subsection (f) the follow-
16 ing new subsection:

17 “(g) If the defendant is delinquent in making restitu-
18 tion in accordance with any schedule of payments or any
19 requirement of immediate payment imposed under this
20 section, the court may, after a hearing, suspend the de-
21 fendant’s eligibility for any grant, contract, loan, profes-
22 sional license, or commercial lease provided by an agency
23 of the United States or with appropriated funds of the
24 United States until such time as the defendant dem-

1 onstrates to the court good-faith efforts to return to such
2 schedule.”.

3 **SEC. 3286. NATIONAL BASELINE STUDY ON CAMPUS SEX-**
4 **UAL ASSAULT.**

5 (a) STUDY.—The Attorney General, in consultation
6 with the Secretary of Education, shall provide for a na-
7 tional baseline study to examine the scope of the problem
8 of campus sexual assaults and the effectiveness of institu-
9 tional and legal policies in addressing such crimes and pro-
10 tecting victims. The Attorney General may utilize the Bu-
11 reau of Justice Statistics, the National Institute of Jus-
12 tice, and the Office for Victims of Crime in carrying out
13 this section.

14 (b) REPORT.—Based on the study required by sub-
15 section (a) and data collected under the Student Right-
16 To-Know and Campus Security Act (20 U.S.C. 1001 note;
17 Public Law 101-542) and amendments made by that Act,
18 the Attorney General shall prepare a report including an
19 analysis of—

20 (1) the number of reported allegations and esti-
21 mated number of unreported allegations of campus
22 sexual assaults, and to whom the allegations are re-
23 ported (including authorities of the educational insti-
24 tution, sexual assault victim service entities, and
25 local criminal authorities);

1 (2) the number of campus sexual assault allega-
2 tions reported to authorities of educational institu-
3 tions which are reported to criminal authorities;

4 (3) the number of campus sexual assault allega-
5 tions that result in criminal prosecution in compari-
6 son with the number of non-campus sexual assault
7 allegations that result in criminal prosecution;

8 (4) Federal and State laws or regulations per-
9 taining specifically to campus sexual assaults;

10 (5) the adequacy of policies and practices of
11 educational institutions in addressing campus sexual
12 assaults and protecting victims, including consider-
13 ation of—

14 (A) the security measures in effect at edu-
15 cational institutions, such as utilization of cam-
16 pus police and security guards, control over ac-
17 cess to grounds and buildings, supervision of
18 student activities and student living arrange-
19 ments, control over the consumption of alcohol
20 by students, lighting, and the availability of es-
21 cort services;

22 (B) the articulation and communication to
23 students of the institution's policies concerning
24 sexual assaults;

1 (C) policies and practices that may prevent
2 or discourage the reporting of campus sexual
3 assaults to local criminal authorities, or that
4 may otherwise obstruct justice or interfere with
5 the prosecution of perpetrators of campus sex-
6 ual assaults;

7 (D) the nature and availability of victim
8 services for victims of campus sexual assaults;

9 (E) the ability of educational institutions'
10 disciplinary processes to address allegations of
11 sexual assault adequately and fairly;

12 (F) measures that are taken to ensure that
13 victims are free of unwanted contact with al-
14 leged assailants, and disciplinary sanctions that
15 are imposed when a sexual assault is deter-
16 mined to have occurred; and

17 (G) the grounds on which educational in-
18 stitutions are subject to lawsuits based on cam-
19 pus sexual assaults, the resolution of these
20 cases, and measures that can be taken to avoid
21 the likelihood of lawsuits and civil liability;

22 (6) in conjunction with the report produced by
23 the Department of Education in coordination with
24 institutions of education under the Student Right-
25 To-Know and Campus Security Act (20 U.S.C. 1001

1 note; Public Law 101-542) and amendments made
2 by that Act, an assessment of the policies and prac-
3 tices of educational institutions that are of greatest
4 effectiveness in addressing campus sexual assaults
5 and protecting victims, including policies and prac-
6 tices relating to the particular issues described in
7 paragraph (5); and

8 (7) any recommendations the Attorney General
9 may have for reforms to address campus sexual as-
10 saults and protect victims more effectively, and any
11 other matters that the Attorney General deems rel-
12 evant to the subject of the study and report required
13 by this section.

14 (c) SUBMISSION OF REPORT.—The report required
15 by subsection (b) shall be submitted to the Congress no
16 later than September 1, 1996.

17 (d) DEFINITION.—For purposes of this section,
18 “campus sexual assaults” includes sexual assaults occur-
19 ring at institutions of postsecondary education and sexual
20 assaults committed against or by students or employees
21 of such institutions.

22 (e) AUTHORIZATION OF APPROPRIATION.—There is
23 authorized to be appropriated \$_____ to carry out
24 the study required by this section.

1 **SEC. 3287. REPORT ON BATTERED WOMEN'S SYNDROME.**

2 (a) REPORT.—Not less than 1 year after the date of
3 enactment of this Act, the Attorney General and the Sec-
4 retary of Health and Human Services shall transmit to
5 the House Committee on Energy and Commerce, the Sen-
6 ate Committee on Labor and Human Resources, and the
7 Committees on the Judiciary of the Senate and the House
8 of Representatives a report on the medical and psycho-
9 logical basis of “battered women’s syndrome” and on the
10 extent to which evidence of the syndrome has been consid-
11 ered in criminal trials.

12 (b) COMPONENTS.—The report under subsection (a)
13 shall include—

14 (1) medical and psychological testimony on the
15 validity of battered women’s syndrome as a psycho-
16 logical condition;

17 (2) a compilation of State, tribal, and Federal
18 court cases in which evidence of battered women’s
19 syndrome was offered in criminal trials; and

20 (3) an assessment by State, tribal, and Federal
21 judges, prosecutors, and defense attorneys of the ef-
22 fects that evidence of battered women’s syndrome
23 may have in criminal trials.

1 **SEC. 3288. REPORT ON CONFIDENTIALITY OF ADDRESSES**
2 **FOR VICTIMS OF DOMESTIC VIOLENCE.**

3 (a) **REPORT.**—The Attorney General shall conduct a
4 study of the means by which abusive spouses may obtain
5 information concerning the addresses or locations of es-
6 tranged or former spouses, notwithstanding the desire of
7 the victims to have such information withheld to avoid fur-
8 ther exposure to abuse. Based on the study, the Attorney
9 General shall transmit a report to Congress including—

10 (1) the findings of the study concerning the
11 means by which information concerning the address-
12 es or locations of abused spouses may be obtained
13 by abusers; and

14 (2) analysis of the feasibility of creating effec-
15 tive means of protecting the confidentiality of infor-
16 mation concerning the addresses and locations of
17 abused spouses to protect such persons from expo-
18 sure to further abuse while preserving access to such
19 information for legitimate purposes.

20 (b) **USE OF COMPONENTS.**—The Attorney General
21 may use the National Institute of Justice and the Office
22 for Victims of Crime in carrying out this section.

23 **SEC. 3289. REPORT ON RECORDKEEPING RELATING TO DO-**
24 **MESTIC VIOLENCE.**

25 Not later than 1 year after the date of enactment
26 of this Act, the Attorney General shall complete a study

1 of, and shall submit to Congress a report and rec-
2 ommendations on, problems of recordkeeping of criminal
3 complaints involving domestic violence. The study and re-
4 port shall examine—

5 (1) the efforts that have been made by the De-
6 partment of Justice, including the Federal Bureau
7 of Investigation, to collect statistics on domestic vio-
8 lence; and

9 (2) the feasibility of requiring that the relation-
10 ship between an offender and victim be reported in
11 Federal records of crimes of aggravated assault,
12 rape, and other violent crimes.

13 **TITLE V—DRUG COURTS**

14 **SEC. 1041. DRUG COURTS.**

15 (a) IN GENERAL.—Title I of the Omnibus Crime
16 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
17 et seq.), as amended by section ____ (a), is amended—

18 (1) by redesignating part ____ as part ____;

19 (2) by redesignating section ____101 as section
20 ____201; and

21 (3) by inserting after part ____ the following
22 new part:

1 **"PART ____—DRUG COURTS**2 **"SEC. ____101. GRANT AUTHORITY.**

3 "The Attorney General may make grants to States,
4 units of local government, and Indian tribal governments,
5 acting directly or through agreements with other public
6 or private entities, for programs that involve—

7 “(1) continuing judicial supervision over offend-
8 ers with substance abuse problems who are not vio-
9 lent offenders; and

10 “(2) the integrated administration of other
11 sanctions and services, which shall include—

12 “(A) mandatory periodic testing for the
13 use of controlled substances or other addictive
14 substances during any period of supervised re-
15 lease or probation for each participant;

16 “(B) substance abuse treatment for each
17 participant who requires treatment;

18 “(C) diversion, probation, or other super-
19 vised release involving the possibility of prosecu-
20 tion, confinement, or incarceration based on
21 noncompliance with program requirements or
22 failure to show satisfactory progress; and

23 “(D) programmatic and aftercare services
24 such as relapse prevention, health care, edu-
25 cation, vocational training, job placement, hous-
26 ing placement, and child care or other family

1 support services for each participant who re-
2 quires such services.

3 **"SEC. ___102. PROHIBITION OF PARTICIPATION BY VIO-**
4 **LENT OFFENDERS.**

5 "The Attorney General shall—

6 "(1) issue regulations and guidelines to ensure
7 that the programs authorized in this part do not
8 permit participation by violent offenders; and

9 "(2) immediately suspend funding for any grant
10 under this part, pending compliance, if the Attorney
11 General finds that violent offenders are participating
12 in any program funded under this part.

13 **"SEC. ___103. DEFINITION.**

14 "In this part, 'violent offender' means a person
15 who—

16 "(1) is charged with or convicted of an offense,
17 during the course of which offense or conduct—

18 "(A) the person carried, possessed, or used
19 a firearm or dangerous weapon;

20 "(B) there occurred the death of or serious
21 bodily injury to any person; or

22 "(C) there occurred the use of force
23 against the person of another,

24 without regard to whether any of the circumstances
25 described in subparagraph (A), (B), or (C) is an ele-

1 ment of the offense or conduct of which or for which
2 the person is charged or convicted; and

3 “(2) has prior convictions for a felony crime of
4 violence involving the use or attempted use of force
5 against a person with the intent to cause death or
6 serious bodily harm.

7 **“SEC. ___104. ADMINISTRATION.**

8 “(a) CONSULTATION.—The Attorney General shall
9 consult with the Secretary of Health and Human Services
10 and any other appropriate officials in carrying out this
11 part.

12 “(b) USE OF COMPONENTS.—The Attorney General
13 may utilize any component or components of the Depart-
14 ment of Justice in carrying out this part.

15 “(c) REGULATORY AUTHORITY.—The Attorney Gen-
16 eral may issue regulations and guidelines necessary to
17 carry out this part.

18 “(d) APPLICATIONS.—In addition to any other re-
19 quirements that may be specified by the Attorney General,
20 an application for a grant under this part shall—

21 “(1) include a long-term strategy and detailed
22 implementation plan;

23 “(2) explain the applicant’s inability to fund the
24 program adequately without Federal assistance;

1 “(3) certify that the Federal support provided
2 will be used to supplement, and not supplant, State,
3 Indian tribal, and local sources of funding that
4 would otherwise be available;

5 “(4) identify related governmental or commu-
6 nity initiatives which complement or will be coordi-
7 nated with the proposal;

8 “(5) certify that there has been appropriate
9 consultation with all affected agencies and that there
10 will be appropriate coordination with all affected
11 agencies in the implementation of the program;

12 “(6) certify that participating offenders will be
13 supervised by one or more designated judges with re-
14 sponsibility for the drug court program;

15 “(7) specify plans for obtaining necessary sup-
16 port and continuing the proposed program following
17 the conclusion of Federal support; and

18 “(8) describe the methodology that will be used
19 in evaluating the program.

20 **“SEC. ___105. APPLICATIONS.**

21 “To request funds under this part, the chief executive
22 of a State, unit of local government, or Indian tribal gov-
23 ernment shall submit an application to the Attorney Gen-
24 eral in such form and containing such information as the
25 Attorney General may reasonably require.

1 **"SEC. ___106. FEDERAL SHARE.**

2 "The Federal share of a grant made under this part
3 may not exceed 75 percent of the total costs of the pro-
4 gram described in the application submitted under section
5 ___105 for the fiscal year for which the program receives
6 assistance under this part, unless the Attorney General
7 waives, wholly or in part, the requirement of a matching
8 contribution under this section.

9 **"SEC. ___107. GEOGRAPHIC DISTRIBUTION.**

10 "The Attorney General shall ensure that, to the ex-
11 tent practicable, an equitable geographic distribution of
12 grant awards is made.

13 **"SEC. ___108. REPORT.**

14 "A State, Indian tribal government, or unit of local
15 government that receives funds under this part during a
16 fiscal year shall submit to the Attorney General a report
17 in March of the following year regarding the effectiveness
18 of this part.

19 **"SEC. ___109. TECHNICAL ASSISTANCE, TRAINING, AND**
20 **EVALUATION.**

21 **"(a) TECHNICAL ASSISTANCE AND TRAINING.—**The
22 Attorney General may provide technical assistance and
23 training in furtherance of the purposes of this part.

24 **"(b) EVALUATIONS.—**In addition to any evaluation
25 requirements that may be prescribed for grantees, the At-
26 torney General may carry out or make arrangements for

1 evaluations of programs that receive support under this
2 part.

3 “(c) ADMINISTRATION.—The technical assistance,
4 training, and evaluations authorized by this section may
5 be carried out directly by the Attorney General, in collabo-
6 ration with the Secretary of Health and Human Services,
7 or through grants, contracts, or other cooperative arrange-
8 ments with other entities.”.

9 (b) TECHNICAL AMENDMENT.—The table of contents
10 of title I of the Omnibus Crime Control and Safe Streets
11 Act of 1968 (42 U.S.C. 3711 et seq.), as amended by sec-
12 tion ____ (b), is amended by striking the matter relating
13 to part ____ and inserting the following:

“PART ____—DRUG COURTS

- “Sec. ____101. Grant authority.
- “Sec. ____102. Prohibition of participation by violent offenders.
- “Sec. ____103. Definition.
- “Sec. ____104. Administration.
- “Sec. ____105. State applications.
- “Sec. ____106. Local applications and distribution of funds.
- “Sec. ____107. Allocation and distribution of funds.
- “Sec. ____108. Report.
- “Sec. ____109. Technical assistance, training, and evaluation.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
15 1001(a) of title I of the Omnibus Crime Control and Safe
16 Streets Act of 1968 (42 U.S.C. 3793), as amended by sec-
17 tion ____ (c), is amended—

18 (1) in paragraph (3) by striking “and ____”
19 and inserting “____, and ____”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(____) There are authorized to be appropriated to
4 carry out part _____ for each of fiscal
5 years 1995, 1996, 1997, 1998, and 1999.”.

6 **SEC. 1042. STUDY BY THE GENERAL ACCOUNTING OFFICE.**

7 (a) **IN GENERAL.**—The Comptroller General of the
8 United States shall study and assess the effectiveness and
9 impact of grants authorized by part ____ of title I of the
10 Omnibus Crime Control and Safe Streets Act of 1968 as
11 added by section 1041, and report to Congress the results
12 of the study on or before January 1, 1997.

13 (b) **DOCUMENTS AND INFORMATION.**—The Attorney
14 General and grant recipients shall provide the Comptroller
15 General with all relevant documents and information that
16 the Comptroller General deems necessary to conduct the
17 study under subsection (a), including the identities and
18 criminal records of program participants.

19 (c) **CRITERIA.**—In assessing the effectiveness of the
20 grants made under programs authorized by part ____ of
21 the Omnibus Crime Control and Safe Streets Act of 1968,
22 the Comptroller General shall consider, among other
23 things—

24 (1) recidivism rates of program participants;

- 1 (2) completion rates among program partici-
- 2 pants;
- 3 (3) drug use by program participants; and
- 4 (4) the costs of the program to the criminal jus-
- 5 tice system.

6 **TITLE VI—DEATH PENALTY**

7 **SEC. 201. SHORT TITLE.**

8 This title may be cited as the “Federal Death Penalty
9 Act of 1994”.

10 **SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPO-**
11 **SITION OF THE SENTENCE OF DEATH.**

12 (a) IN GENERAL.—Part II of title 18, United States
13 Code, is amended by inserting after chapter 227 the fol-
14 lowing new chapter:

15 **“CHAPTER 228—DEATH SENTENCE**

- “Sec.
- “3591. Sentence of death.
- “3592. Mitigating and aggravating factors to be considered in determining
whether a sentence of death is justified.
- “3593. Special hearing to determine whether a sentence of death is justified.
- “3594. Imposition of a sentence of death.
- “3595. Review of a sentence of death.
- “3596. Implementation of a sentence of death.
- “3597. Use of State facilities.
- “3598. Special provisions for Indian country.

16 **“§ 3591. Sentence of death**

17 “(a) A defendant who has been found guilty of—
18 “(1) an offense described in section 794 or sec-
19 tion 2381; or

1 “(2) any other offense for which a sentence of
2 death is provided, if the defendant, as determined
3 beyond a reasonable doubt at the hearing under sec-
4 tion 3593—

5 “(A) intentionally killed the victim;

6 “(B) intentionally inflicted serious bodily
7 injury that resulted in the death of the victim;

8 “(C) intentionally participated in an act,
9 contemplating that the life of a person would be
10 taken or intending that lethal force would be
11 used in connection with a person, other than
12 one of the participants in the offense, and the
13 victim died as a direct result of the act; or

14 “(D) intentionally and specifically engaged
15 in an act of violence, knowing that the act cre-
16 ated a grave risk of death to a person, other
17 than one of the participants in the offense, such
18 that participation in the act constituted a reck-
19 less disregard for human life and the victim
20 died as a direct result of the act,

21 shall be sentenced to death if, after consideration of the
22 factors set forth in section 3592 in the course of a hearing
23 held pursuant to section 3593; it is determined that im-
24 position of a sentence of death is justified, except that no

1 person may be sentenced to death who was less than 18
2 years of age at the time of the offense.

3 “(b) A defendant who has been found guilty of—

4 “(1) an offense referred to in section 408(c)(1)
5 of the Controlled Substances Act (21 U.S.C.
6 848(c)(1)), committed as part of a continuing crimi-
7 nal enterprise offense under the conditions described
8 in subsection (b) of that section which involved not
9 less than twice the quantity of controlled substance
10 described in subsection (b)(2)(A) or twice the gross
11 receipts described in subsection (b)(2)(B); or

12 “(2) an offense referred to in section 408(c)(1)
13 of the Controlled Substances Act (21 U.S.C.
14 848(c)(1)), committed as part of a continuing crimi-
15 nal enterprise offense under that section, where the
16 defendant is a principal administrator, organizer, or
17 leader of such an enterprise, and the defendant, in
18 order to obstruct the investigation or prosecution of
19 the enterprise or an offense involved in the enter-
20 prise, attempts to kill or knowingly directs, advises,
21 authorizes, or assists another to attempt to kill any
22 public officer, juror, witness, or members of the fam-
23 ily or household of such a person,

24 shall be sentenced to death if, after consideration of the
25 factors set forth in section 3592 in the course of a hearing

1 held pursuant to section 3593, it is determined that im-
2 position of a sentence of death is justified, except that no
3 person may be sentenced to death who was less than 18
4 years of age at the time of the offense.

5 **“§ 3592. Mitigating and aggravating factors to be con-**
6 **sidered in determining whether a sen-**
7 **tence of death is justified**

8 “(a) MITIGATING FACTORS.—In determining wheth-
9 er a sentence of death is to be imposed on a defendant,
10 the finder of fact shall consider any mitigating factor, in-
11 cluding the following:

12 “(1) IMPAIRED CAPACITY.—The defendant’s ca-
13 pacity to appreciate the wrongfulness of the defend-
14 ant’s conduct or to conform conduct to the require-
15 ments of law was significantly impaired, regardless
16 of whether the capacity was so impaired as to con-
17 stitute a defense to the charge.

18 “(2) DURESS.—The defendant was under un-
19 usual and substantial duress, regardless of whether
20 the duress was of such a degree as to constitute a
21 defense to the charge.

22 “(3) MINOR PARTICIPATION.—The defendant is
23 punishable as a principal in the offense, which was
24 committed by another, but the defendant’s participa-
25 tion was relatively minor, regardless of whether the

1 participation was so minor as to constitute a defense
2 to the charge.

3 “(4) EQUALLY CULPABLE DEFENDANTS.—An
4 other defendant or defendants, equally culpable in
5 the crime, will not be punished by death.

6 “(5) NO PRIOR CRIMINAL RECORD.—The de-
7 fendant did not have a significant prior history of
8 other criminal conduct.

9 “(6) DISTURBANCE.—The defendant committed
10 the offense under severe mental or emotional dis-
11 turbance.

12 “(7) VICTIM’S CONSENT.—The victim consented
13 to the criminal conduct that resulted in the victim’s
14 death.

15 “(8) OTHER FACTORS.—Other factors in the
16 defendant’s background, record, or character or any
17 other circumstance of the offense that mitigate
18 against imposition of the death sentence.

19 “(b) AGGRAVATING FACTORS FOR ESPIONAGE AND
20 TREASON.—In determining whether a sentence of death
21 is justified for an offense described in section 3591(a)(1),
22 the jury, or if there is no jury, the court, shall consider
23 each of the following aggravating factors for which notice
24 has been given and determine which, if any, exist:

1 “(1) PRIOR ESPIONAGE OR TREASON OF-
2 FENSE.—The defendant has previously been con-
3 victed of another offense involving espionage or trea-
4 son for which a sentence of either life imprisonment
5 or death was authorized by law.

6 “(2) GRAVE RISK TO NATIONAL SECURITY.—In
7 the commission of the offense the defendant know-
8 ingly created a grave risk of substantial danger to
9 the national security.

10 “(3) GRAVE RISK OF DEATH.—In the commis-
11 sion of the offense the defendant knowingly created
12 a grave risk of death to another person.

13 The jury, or if there is no jury, the court, may consider
14 whether any other aggravating factor for which notice has
15 been given exists.

16 “(c) AGGRAVATING FACTORS FOR HOMICIDE.—In
17 determining whether a sentence of death is justified for
18 an offense described in section 3591(a)(2), the jury, or
19 if there is no jury, the court, shall consider each of the
20 following aggravating factors for which notice has been
21 given and determine which, if any, exist:

22 “(1) DEATH DURING COMMISSION OF ANOTHER
23 CRIME.—The death, or injury resulting in death, oc-
24 curred during the commission or attempted commis-
25 sion of, or during the immediate flight from the

1 commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

1 “(2) PREVIOUS CONVICTION OF VIOLENT FEL-
2 ONY INVOLVING FIREARM.—For any offense, other
3 than an offense for which a sentence of death is
4 sought on the basis of section 924(c), the defendant
5 has previously been convicted of a Federal or State
6 offense punishable by a term of imprisonment of
7 more than 1 year, involving the use or attempted or
8 threatened use of a firearm (as defined in section
9 921) against another person.

10 “(3) PREVIOUS CONVICTION OF OFFENSE FOR
11 WHICH A SENTENCE OF DEATH OR LIFE IMPRISON-
12 MENT WAS AUTHORIZED.—The defendant has pre-
13 viously been convicted of another Federal or State
14 offense resulting in the death of a person, for which
15 a sentence of life imprisonment or a sentence of
16 death was authorized by statute.

17 “(4) PREVIOUS CONVICTION OF OTHER SERI-
18 OUS OFFENSES.—The defendant has previously been
19 convicted of 2 or more Federal or State offenses,
20 punishable by a term of imprisonment of more than
21 1 year, committed on different occasions, involving
22 the infliction of, or attempted infliction of, serious
23 bodily injury or death upon another person.

24 “(5) GRAVE RISK OF DEATH TO ADDITIONAL
25 PERSONS.—The defendant, in the commission of the

1 offense, or in escaping apprehension for the violation
2 of the offense, knowingly created a grave risk of
3 death to 1 or more persons in addition to the victim
4 of the offense.

5 “(6) HEINOUS, CRUEL, OR DEPRAVED MANNER
6 OF COMMITTING OFFENSE.—The defendant commit-
7 ted the offense in an especially heinous, cruel, or de-
8 praved manner in that it involved torture or serious
9 physical abuse to the victim.

10 “(7) PROCUREMENT OF OFFENSE BY PAY-
11 MENT.—The defendant procured the commission of
12 the offense by payment, or promise of payment, of
13 anything of pecuniary value.

14 “(8) PECUNIARY GAIN.—The defendant com-
15 mitted the offense as consideration for the receipt,
16 or in the expectation of the receipt, of anything of
17 pecuniary value.

18 “(9) SUBSTANTIAL PLANNING AND
19 PREMEDITATION.—The defendant committed the of-
20 fense after substantial planning and premeditation
21 to cause the death of a person or commit an act of
22 terrorism.

23 “(10) CONVICTION FOR TWO FELONY DRUG OF-
24 FENSES.—The defendant has previously been con-
25 victed of 2 or more State or Federal offenses pun-

1 ishable by a term of imprisonment of more than one
2 year, committed on different occasions, involving the
3 distribution of a controlled substance.

4 “(11) VULNERABILITY OF VICTIM.—The victim
5 was particularly vulnerable due to old age, youth, or
6 infirmity.

7 “(12) CONVICTION FOR SERIOUS FEDERAL
8 DRUG OFFENSES.—The defendant had previously
9 been convicted of violating title II or III of the Con-
10 trolled Substances Act for which a sentence of 5 or
11 more years may be imposed or had previously been
12 convicted of engaging in a continuing criminal enter-
13 prise.

14 “(13) CONTINUING CRIMINAL ENTERPRISE IN-
15 VOLVING DRUG SALES TO MINORS.—The defendant
16 committed the offense in the course of engaging in
17 a continuing criminal enterprise in violation of sec-
18 tion 408(c) of the Controlled Substances Act (21
19 U.S.C. 848(c)), and that violation involved the dis-
20 tribution of drugs to persons under the age of 21 in
21 violation of section 418 of that Act (21 U.S.C. 859).

22 “(14) HIGH PUBLIC OFFICIALS.—The defend-
23 ant committed the offense against—

24 “(A) the President of the United States,
25 the President-elect, the Vice President, the

1 Vice-President-elect, the Vice-President-des-
2 ignate, or, if there is no Vice President, the of-
3 ficer next in order of succession to the office of
4 the President of the United States, or any per-
5 son who is acting as President under the Con-
6 stitution and laws of the United States;

7 “(B) a chief of state, head of government,
8 or the political equivalent, of a foreign nation;

9 “(C) a foreign official listed in section
10 1116(b)(3)(A), if the official is in the United
11 States on official business; or

12 “(D) a Federal public servant who is a
13 judge, a law enforcement officer, or an em-
14 ployee of a United States penal or correctional
15 institution—

16 “(i) while he or she is engaged in the
17 performance of his or her official duties;

18 “(ii) because of the performance of his
19 or her official duties; or

20 “(iii) because of his or her status as
21 a public servant.

22 For purposes of this subparagraph, a ‘law en-
23 forcement officer’ is a public servant authorized
24 by law or by a Government agency or Congress
25 to conduct or engage in the prevention, inves-

1 tigation, or prosecution or adjudication of an
2 offense, and includes those engaged in correc-
3 tions, parole, or probation functions.

4 “(15) PRIOR CONVICTION OF SEXUAL ASSAULT
5 OR CHILD MOLESTATION.—In the case of an offense
6 under chapter 109A (sexual abuse) or chapter 110
7 (sexual abuse of children), the defendant has pre-
8 viously been convicted of a crime of sexual assault
9 or crime of child molestation.

10 The jury, or if there is no jury, the court, may consider
11 whether any other aggravating factor for which notice has
12 been given exists.

13 “(d) AGGRAVATING FACTORS FOR DRUG OFFENSE
14 DEATH PENALTY.—In determining whether a sentence of
15 death is justified for an offense described in section
16 3591(b), the jury, or if there is no jury, the court, shall
17 consider each of the following aggravating factors for
18 which notice has been given and determine which, if any,
19 exist:

20 “(1) PREVIOUS CONVICTION OF OFFENSE FOR
21 WHICH A SENTENCE OF DEATH OR LIFE IMPRISON-
22 MENT WAS AUTHORIZED.—The defendant has pre-
23 viously been convicted of another Federal or State
24 offense resulting in the death of a person, for which

1 a sentence of life imprisonment or death was author-
2 ized by statute.

3 “(2) PREVIOUS CONVICTION OF OTHER SERI-
4 OUS OFFENSES.—The defendant has previously been
5 convicted of two or more Federal or State offenses,
6 each punishable by a term of imprisonment of more
7 than one year, committed on different occasions, in-
8 volving the importation, manufacture, or distribution
9 of a controlled substance (as defined in section 102
10 of the Controlled Substances Act (21 U.S.C. 802))
11 or the infliction of, or attempted infliction of, serious
12 bodily injury or death upon another person.

13 “(3) PREVIOUS SERIOUS DRUG FELONY CONVIC-
14 TION.—The defendant has previously been convicted
15 of another Federal or State offense involving the
16 manufacture, distribution, importation, or possession
17 of a controlled substance (as defined in section 102
18 of the Controlled Substances Act (21 U.S.C. 802))
19 for which a sentence of five or more years of impris-
20 onment was authorized by statute.

21 “(4) USE OF FIREARM.—In committing the of-
22 fense, or in furtherance of a continuing criminal en-
23 terprise of which the offense was a part, the defend-
24 ant used a firearm or knowingly directed, advised,

1 authorized, or assisted another to use a firearm to
2 threaten, intimidate, assault, or injure a person.

3 “(5) DISTRIBUTION TO PERSONS UNDER 21.—
4 The offense, or a continuing criminal enterprise of
5 which the offense was a part, involved conduct pro-
6 scribed by section 418 of the Controlled Substances
7 Act (21 U.S.C. 859) which was committed directly
8 by the defendant.

9 “(6) DISTRIBUTION NEAR SCHOOLS.—The of-
10 fense, or a continuing criminal enterprise of which
11 the offense was a part, involved conduct proscribed
12 by section 419 of the Controlled Substances Act (21
13 U.S.C. 860) which was committed directly by the de-
14 fendant.

15 “(7) USING MINORS IN TRAFFICKING.—The of-
16 fense, or a continuing criminal enterprise of which
17 the offense was a part, involved conduct proscribed
18 by section 420 of the Controlled Substances Act (21
19 U.S.C. 861) which was committed directly by the de-
20 fendant.

21 “(8) LETHAL ADULTERANT.—The offense in-
22 volved the importation, manufacture, or distribution
23 of a controlled substance (as defined in section 102
24 of the Controlled Substances Act (21 U.S.C. 802)),
25 mixed with a potentially lethal adulterant, and the

1 defendant was aware of the presence of the
2 adulterant.

3 The jury, or if there is no jury, the court, may consider
4 whether any other aggravating factor for which notice has
5 been given exists.

6 **“§ 3593. Special hearing to determine whether a sen-**
7 **tence of death is justified**

8 “(a) NOTICE BY THE GOVERNMENT.—If, in a case
9 involving an offense described in section 3591, the attor-
10 ney for the government believes that the circumstances of
11 the offense are such that a sentence of death is justified
12 under this chapter, the attorney shall, a reasonable time
13 before the trial or before acceptance by the court of a plea
14 of guilty, sign and file with the court, and serve on the
15 defendant, a notice—

16 “(1) stating that the government believes that
17 the circumstances of the offense are such that, if the
18 defendant is convicted, a sentence of death is justi-
19 fied under this chapter and that the government will
20 seek the sentence of death; and

21 “(2) setting forth the aggravating factor or fac-
22 tors that the government, if the defendant is con-
23 victed, proposes to prove as justifying a sentence of
24 death.

1 The factors for which notice is provided under this sub-
2 section may include factors concerning the effect of the
3 offense on the victim and the victim's family, and may
4 include oral testimony, a victim impact statement that
5 identifies the victim of the offense and the extent and
6 scope of the injury and loss suffered by the victim and
7 the victim's family, and any other relevant information.
8 The court may permit the attorney for the government
9 to amend the notice upon a showing of good cause.

10 “(b) HEARING BEFORE A COURT OR JURY.—If the
11 attorney for the government has filed a notice as required
12 under subsection (a) and the defendant is found guilty of
13 or pleads guilty to an offense described in section 3591,
14 the judge who presided at the trial or before whom the
15 guilty plea was entered, or another judge if that judge is
16 unavailable, shall conduct a separate sentencing hearing
17 to determine the punishment to be imposed. The hearing
18 shall be conducted—

19 “(1) before the jury that determined the de-
20 fendant's guilt;

21 “(2) before a jury impaneled for the purpose of
22 the hearing if—

23 “(A) the defendant was convicted upon a
24 plea of guilty;

1 “(B) the defendant was convicted after a
2 trial before the court sitting without a jury;

3 “(C) the jury that determined the defend-
4 ant’s guilt was discharged for good cause; or

5 “(D) after initial imposition of a sentence
6 under this section, reconsideration of the sen-
7 tence under this section is necessary; or

8 “(3) before the court alone, upon the motion of
9 the defendant and with the approval of the attorney
10 for the government.

11 A jury impaneled pursuant to paragraph (2) shall consist
12 of 12 members, unless, at any time before the conclusion
13 of the hearing, the parties stipulate, with the approval of
14 the court, that it shall consist of a lesser number.

15 “(c) PROOF OF MITIGATING AND AGGRAVATING FAC-
16 TORS.—Notwithstanding rule 32(c) of the Federal Rules
17 of Criminal Procedure, when a defendant is found guilty
18 or pleads guilty to an offense under section 3591, no
19 presentence report shall be prepared. At the sentencing
20 hearing, information may be presented as to any matter
21 relevant to the sentence, including any mitigating or ag-
22 gravating factor permitted or required to be considered
23 under section 3592. Information presented may include
24 the trial transcript and exhibits if the hearing is held be-
25 fore a jury or judge not present during the trial, or at

1 the trial judge's discretion. The defendant may present
2 any information relevant to a mitigating factor. The gov-
3 ernment may present any information relevant to an ag-
4 gravating factor for which notice has been provided under
5 subsection (a). Information is admissible regardless of its
6 admissibility under the rules governing admission of evi-
7 dence at criminal trials except that information may be
8 excluded if its probative value is outweighed by the danger
9 of creating unfair prejudice, confusing the issues, or mis-
10 leading the jury. The government and the defendant shall
11 be permitted to rebut any information received at the
12 hearing, and shall be given fair opportunity to present ar-
13 gument as to the adequacy of the information to establish
14 the existence of any aggravating or mitigating factor, and
15 as to the appropriateness in the case of imposing a sen-
16 tence of death. The government shall open the argument.
17 The defendant shall be permitted to reply. The govern-
18 ment shall then be permitted to reply in rebuttal. The bur-
19 den of establishing the existence of any aggravating factor
20 is on the government, and is not satisfied unless the exist-
21 ence of such a factor is established beyond a reasonable
22 doubt. The burden of establishing the existence of any
23 mitigating factor is on the defendant, and is not satisfied
24 unless the existence of such a factor is established by a
25 preponderance of the information.

1 “(d) RETURN OF SPECIAL FINDINGS.—The jury, or
2 if there is no jury, the court, shall consider all the informa-
3 tion received during the hearing. It shall return special
4 findings identifying any aggravating factor or factors set
5 forth in section 3592 found to exist and any other aggra-
6 vating factor for which notice has been provided under
7 subsection (a) found to exist. A finding with respect to
8 a mitigating factor may be made by 1 or more members
9 of the jury, and any member of the jury who finds the
10 existence of a mitigating factor may consider such factor
11 established for purposes of this section regardless of the
12 number of jurors who concur that the factor has been es-
13 tablished. A finding with respect to any aggravating factor
14 must be unanimous. If no aggravating factor set forth in
15 section 3592 is found to exist, the court shall impose a
16 sentence other than death authorized by law.

17 “(e) RETURN OF A FINDING CONCERNING A SEN-
18 TENCE OF DEATH.—If, in the case of—

19 “(1) an offense described in section 3591(a)(1),
20 an aggravating factor required to be considered
21 under section 3592(b) is found to exist;

22 “(2) an offense described in section 3591(a)(2)
23 or (3), an aggravating factor required to be consid-
24 ered under section 3592(c) is found to exist; or

1 “(3) an offense described in section 3591(b), an
2 aggravating factor required to be considered under
3 section 3592(d) is found to exist,
4 the jury, or if there is no jury, the court, shall consider
5 whether all the aggravating factor or factors found to exist
6 sufficiently outweigh all the mitigating factor or factors
7 found to exist to justify a sentence of death, or, in the
8 absence of a mitigating factor, whether the aggravating
9 factor or factors alone are sufficient to justify a sentence
10 of death. Based upon this consideration, the jury by unan-
11 imous vote, or if there is no jury, the court, shall rec-
12 ommend whether the defendant should be sentenced to
13 death, to life imprisonment without possibility of release
14 or some other lesser sentence.

15 “(f) SPECIAL PRECAUTION TO ENSURE AGAINST
16 DISCRIMINATION.—In a hearing held before a jury, the
17 court, prior to the return of a finding under subsection
18 (e), shall instruct the jury that, in considering whether
19 a sentence of death is justified, it shall not consider the
20 race, color, religious beliefs, national origin, or sex of the
21 defendant or of any victim and that the jury is not to rec-
22 ommend a sentence of death unless it has concluded that
23 it would recommend a sentence of death for the crime in
24 question no matter what the race, color, religious beliefs,
25 national origin, or sex of the defendant or of any victim

1 may be. The jury, upon return of a finding under sub-
2 section (e), shall also return to the court a certificate,
3 signed by each juror, that consideration of the race, color,
4 religious beliefs, national origin, or sex of the defendant
5 or any victim was not involved in reaching his or her indi-
6 vidual decision and that the individual juror would have
7 made the same recommendation regarding a sentence for
8 the crime in question no matter what the race, color, reli-
9 gious beliefs, national origin, or sex of the defendant or
10 any victim may be.

11 **“§ 3594. Imposition of a sentence of death**

12 “Upon a recommendation under section 3593(e) that
13 the defendant should be sentenced to death or life impris-
14 onment without possibility of release, the court shall sen-
15 tence the defendant accordingly. Otherwise, the court shall
16 impose any lesser sentence that is authorized by law. Not-
17 withstanding any other law, if the maximum term of im-
18 prisonment for the offense is life imprisonment, the court
19 may impose a sentence of life imprisonment without possi-
20 bility of release.

21 **“§ 3595. Review of a sentence of death**

22 “(a) APPEAL.—In a case in which a sentence of death
23 is imposed, the sentence shall be subject to review by the
24 court of appeals upon appeal by the defendant. Notice of
25 appeal must be filed within the time specified for the filing

1 of a notice of appeal. An appeal under this section may
2 be consolidated with an appeal of the judgment of convic-
3 tion and shall have priority over all other cases.

4 “(b) REVIEW.—The court of appeals shall review the
5 entire record in the case, including—

6 “(1) the evidence submitted during the trial;

7 “(2) the information submitted during the sen-
8 tencing hearing;

9 “(3) the procedures employed in the sentencing
10 hearing; and

11 “(4) the special findings returned under section
12 3593(d).

13 “(c) DECISION AND DISPOSITION.—

14 “(1) The court of appeals shall address all sub-
15 stantive and procedural issues raised on the appeal
16 of a sentence of death, and shall consider whether
17 the sentence of death was imposed under the influ-
18 ence of passion, prejudice, or any other arbitrary
19 factor and whether the evidence supports the special
20 finding of the existence of an aggravating factor re-
21 quired to be considered under section 3592.

22 “(2) Whenever the court of appeals finds
23 that—

1 “(A) the sentence of death was imposed
2 under the influence of passion, prejudice, or any
3 other arbitrary factor;

4 “(B) the admissible evidence and informa-
5 tion adduced does not support the special find-
6 ing of the existence of the required aggravating
7 factor; or

8 “(C) the proceedings involved any other
9 legal error requiring reversal of the sentence
10 that was properly preserved for appeal under
11 the rules of criminal procedure,

12 the court shall remand the case for reconsideration
13 under section 3593 or imposition of a sentence other
14 than death. The court of appeals shall not reverse or
15 vacate a sentence of death on account of any error
16 which can be harmless, including any erroneous spe-
17 cial finding of an aggravating factor, where the Gov-
18 ernment establishes beyond a reasonable doubt that
19 the error was harmless.

20 “(3) The court of appeals shall state in writing
21 the reasons for its disposition of an appeal of a sen-
22 tence of death under this section.

23 **“§ 3596. Implementation of a sentence of death**

24 “(a) IN GENERAL.—A person who has been sen-
25 tenced to death pursuant to this chapter shall be commit-

1 ted to the custody of the Attorney General until exhaus-
2 tion of the procedures for appeal of the judgment of con-
3 viction and for review of the sentence. When the sentence
4 is to be implemented, the Attorney General shall release
5 the person sentenced to death to the custody of a United
6 States marshal, who shall supervise implementation of the
7 sentence in the manner prescribed by the law of the State
8 in which the sentence is imposed. If the law of the State
9 does not provide for implementation of a sentence of
10 death, the court shall designate another State, the law of
11 which does provide for the implementation of a sentence
12 of death, and the sentence shall be implemented in the
13 latter State in the manner prescribed by such law.

14 “(b) PREGNANT WOMAN.—A sentence of death shall
15 not be carried out upon a woman while she is pregnant.

16 “(c) MENTAL CAPACITY.—A sentence of death shall
17 not be carried out upon a person who is mentally retarded.
18 A sentence of death shall not be carried out upon a person
19 who, as a result of mental disability, lacks the mental ca-
20 pacity to understand the death penalty and why it was
21 imposed on that person.

22 **“§ 3597. Use of State facilities**

23 “(a) IN GENERAL.—A United States marshal
24 charged with supervising the implementation of a sentence
25 of death may use appropriate State or local facilities for

1 the purpose, may use the services of an appropriate State
2 or local official or of a person such an official employs
3 for the purpose, and shall pay the costs thereof in an
4 amount approved by the Attorney General.

5 “(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELI-
6 GIOUS GROUNDS.—No employee of any State department
7 of corrections, the United States Department of Justice,
8 the Federal Bureau of Prisons, or the United States Mar-
9 shals Service, and no employee providing services to that
10 department, bureau, or service under contract shall be re-
11 quired, as a condition of that employment or contractual
12 obligation, to be in attendance at or to participate in any
13 prosecution or execution under this section if such partici-
14 pation is contrary to the moral or religious convictions of
15 the employee. In this subsection, ‘participation in execu-
16 tions’ includes personal preparation of the condemned in-
17 dividual and the apparatus used for execution and super-
18 vision of the activities of other personnel in carrying out
19 such activities.

20 **“§ 3598. Special provisions for Indian country**

21 “Notwithstanding sections 1152 and 1153, no person
22 subject to the criminal jurisdiction of an Indian tribal gov-
23 ernment shall be subject to a capital sentence under this
24 chapter for any offense the Federal jurisdiction for which
25 is predicated solely on Indian country (as defined in sec-

1 tion 1151 of this title) and which has occurred within the
 2 boundaries of Indian country, unless the governing body
 3 of the tribe has elected that this chapter have effect over
 4 land and persons subject to its criminal jurisdiction.”.

5 (b) TECHNICAL AMENDMENT.—The part analysis for
 6 part II of title 18, United States Code, is amended by
 7 inserting after the item relating to chapter 227 the follow-
 8 ing new item:

“228. Death sentence 3591”.

9 **SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PEN-**
 10 **ALTY IS AUTHORIZED.**

11 (a) CONFORMING CHANGES IN TITLE 18.—Title 18,
 12 United States Code, is amended as follows:

13 (1) AIRCRAFT AND MOTOR VEHICLES.—Section
 14 34 of title 18, United States Code, is amended by
 15 striking the comma after “imprisonment for life”,
 16 inserting a period, and striking the remainder of the
 17 section.

18 (2) ESPIONAGE.—Section 794(a) of title 18,
 19 United States Code, is amended by striking the pe-
 20 riod at the end of the section and inserting “, except
 21 that the sentence of death shall not be imposed un-
 22 less the jury or, if there is no jury, the court, further
 23 finds that the offense resulted in the identification
 24 by a foreign power (as defined in section 101(a) of
 25 the Foreign Intelligence Surveillance Act of 1978) of

1 an individual acting as an agent of the United
2 States and consequently in the death of that individ-
3 ual, or directly concerned nuclear weaponry, military
4 spacecraft or satellites, early warning systems, or
5 other means of defense or retaliation against large-
6 scale attack; war plans; communications intelligence
7 or cryptographic information; or any other major
8 weapons system or major element of defense strat-
9 egy.”.

10 (3) EXPLOSIVE MATERIALS.—(A) Section
11 844(d) of title 18, United States Code, is amended
12 by striking “as provided in section 34 of this title”.

13 (B) Section 844(f) of title 18, United States
14 Code, is amended by striking “as provided in section
15 34 of this title”.

16 (C) Section 844(i) of title 18, United States
17 Code, is amended by striking “as provided in section
18 34 of this title”.

19 (4) MURDER.—The second undesignated para-
20 graph of section 1111(b) of title 18, United States
21 Code, is amended to read as follows:

22 “Whoever is guilty of murder in the first degree
23 shall be punished by death or by imprisonment for
24 life;”.

1 (5) KILLING OF FOREIGN OFFICIAL.—Section
2 1116(a) of title 18, United States Code, is amended
3 by striking “any such person who is found guilty of
4 murder in the first degree shall be sentenced to im-
5 prisonment for life, and”.

6 (6) KIDNAPPING.—Section 1201(a) of title 18,
7 United States Code, is amended by inserting after
8 “or for life” the following: “and, if the death of any
9 person results, shall be punished by death or life im-
10 prisonment”.

11 (7) NONMAILABLE INJURIOUS ARTICLES.—The
12 last paragraph of section 1716 of title 18, United
13 States Code, is amended by striking the comma
14 after “imprisonment for life” and inserting a period
15 and striking the remainder of the paragraph.

16 (8) WRECKING TRAINS.—The second to the last
17 undesignated paragraph of section 1992 of title 18,
18 United States Code, is amended by striking the
19 comma after “imprisonment for life”, inserting a pe-
20 riod, and striking the remainder of the section.

21 (9) BANK ROBBERY.—Section 2113(e) of title
22 18, United States Code, is amended by striking “or
23 punished by death if the verdict of the jury shall so
24 direct” and inserting “or if death results shall be
25 punished by death or life imprisonment”.

1 (10) HOSTAGE TAKING.—Section 1203(a) of
2 title 18, United States Code, is amended by insert-
3 ing after “or for life” the following: “and, if the
4 death of any person results, shall be punished by
5 death or life imprisonment”.

6 (11) MURDER FOR HIRE.—Section 1958 of title
7 18, United States Code, is amended by striking
8 “and if death results, shall be subject to imprison-
9 ment for any term of years or for life, or shall be
10 fined not more than \$50,000, or both” and inserting
11 “and if death results, shall be punished by death or
12 life imprisonment, or shall be fined not more than
13 \$250,000, or both”.

14 (12) RACKETEERING.—Section 1959(a)(1) of
15 title 18, United States Code, is amended to read as
16 follows:

17 “(1) for murder, by death or life imprisonment,
18 or a fine of not more than \$250,000, or both; and
19 for kidnapping, by imprisonment for any term of
20 years or for life, or a fine of not more than
21 \$250,000, or both;”.

22 (13) GENOCIDE.—Section 1091(b)(1) of title
23 18, United States Code, is amended by striking “a
24 fine of not more than \$1,000,000 or imprisonment
25 for life,” and inserting “, where death results, by

1 death or imprisonment for life and a fine of not
2 more than \$1,000,000, or both;”.

3 (14) CARJACKING.—Section 2119(3) of title 18,
4 United States Code, is amended by striking the pe-
5 riod after “both” and inserting “, or sentenced to
6 death.”; and by striking “, possessing a firearm as
7 defined in section 921 of this title,”.

8 (b) CONFORMING AMENDMENT TO FEDERAL AVIA-
9 TION ACT OF 1954.—Section 903 of the Federal Aviation
10 Act of 1958 (49 U.S.C. 1473) is amended by striking sub-
11 section (e).

12 **SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY**
13 **JUSTICE.**

14 Chapter 228 of title 18, United States Code, as added
15 by this title, shall not apply to prosecutions under the Uni-
16 form Code of Military Justice (10 U.S.C. 801).

17 **SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL**
18 **PRISONER.**

19 (a) IN GENERAL.—Chapter 51 of title 18, United
20 States Code, is amended by adding at the end the follow-
21 ing new section:

22 **“§ 1118. Murder by a Federal prisoner**

23 **“(a) OFFENSE.—A person who, while confined in a**
24 **Federal correctional institution under a sentence for a**

1 term of life imprisonment, commits the murder of another
2 shall be punished by death or by life imprisonment.

3 “(b) DEFINITIONS.—In this section—

4 “‘Federal correctional institution’ means any
5 Federal prison, Federal correctional facility, Federal
6 community program center, or Federal halfway
7 house.

8 “‘murder’ means a first degree or second de-
9 gree murder (as defined by section 1111).

10 “‘term of life imprisonment’ means a sentence
11 for the term of natural life, a sentence commuted to
12 natural life, an indeterminate term of a minimum of
13 at least fifteen years and a maximum of life, or an
14 unexecuted sentence of death.”

15 (b) TECHNICAL AMENDMENT.—The chapter analysis
16 for chapter 51 of title 18, United States Code, is amended
17 by adding at the end the following new item:

“1118. Murder by a Federal prisoner.”

18 **SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.**

19 (a) CONSPIRACY AGAINST RIGHTS.—Section 241 of
20 title 18, United States Code, is amended by striking the
21 period at the end of the last sentence and inserting “, or
22 may be sentenced to death.”

23 (b) DEPRIVATION OF RIGHTS UNDER COLOR OF
24 LAW.—Section 242 of title 18, United States Code, is

1 amended by striking the period at the end of the last sen-
2 tence and inserting “, or may be sentenced to death.”.

3 (c) **FEDERALLY PROTECTED ACTIVITIES.**—Section
4 245(b) of title 18, United States Code, is amended in the
5 matter following paragraph (5) by inserting “, or may be
6 sentenced to death” after “or for life”.

7 (d) **DAMAGE TO RELIGIOUS PROPERTY; OBSTRUC-**
8 **TION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.**—
9 Section 247(c)(1) of title 18, United States Code, is
10 amended by inserting “, or may be sentenced to death”
11 after “or both”.

12 **SEC. 207. DEATH PENALTY FOR THE MURDER OF FEDERAL**
13 **LAW ENFORCEMENT OFFICIALS.**

14 Section 1114(a) of title 18, United States Code, is
15 amended by striking “punished as provided under sections
16 1111 and 1112 of this title,” and inserting “punished, in
17 the case of murder, by a sentence of death or life imprison-
18 ment as provided under section 1111, or, in the case of
19 manslaughter, a sentence as provided under section
20 1112.”.

21 **SEC. 208. NEW OFFENSE FOR THE INDISCRIMINATE USE OF**
22 **WEAPONS TO FURTHER DRUG CONSPIR-**
23 **ACIES.**

24 (a) **SHORT TITLE.**—This section may be cited as the
25 “Drive-By Shooting Prevention Act of 1993”.

1 (b) IN GENERAL.—Chapter 2 of title 18, United
2 States Code, is amended by adding at the end the follow-
3 ing new section:

4 **“§ 36. Drive-by shooting**

5 “(a) DEFINITION.—In this section, ‘major drug of-
6 fense’ means—

7 “(1) a continuing criminal enterprise punish-
8 able under section 403(c) of the Controlled Sub-
9 stances Act (21 U.S.C. 848(c));

10 “(2) a conspiracy to distribute controlled sub-
11 stances punishable under section 406 of the Con-
12 trolled Substances Act (21 U.S.C. 846) section 1013
13 of the Controlled Substances Import and Export
14 Control Act (21 U.S.C. 963); or

15 “(3) an offense involving major quantities of
16 drugs and punishable under section 401(b)(1)(A) of
17 the Controlled Substances Act (21 U.S.C.
18 841(b)(1)(A)) or section 1010(b)(1) of the Con-
19 trolled Substances Import and Export Act (21
20 U.S.C. 960(b)(1)).

21 “(b) OFFENSE AND PENALTIES.—(1) A person who,
22 in furtherance or to escape detection of a major drug of-
23 fense and with the intent to intimidate, harass, injure, or
24 maim, fires a weapon into a group of two or more persons
25 and who, in the course of such conduct, causes grave risk

1 to any human life shall be punished by a term of no more
2 than 25 years, by fine under this title, or both.

3 “(2) A person who, in furtherance or to escape detec-
4 tion of a major drug offense and with the intent to intimi-
5 date, harass, injure, or maim, fires a weapon into a group
6 of 2 or more persons and who, in the course of such con-
7 duct, kills any person shall, if the killing—

8 “(A) is a first degree murder (as defined in sec-
9 tion 1111(a)), be punished by death or imprison-
10 ment for any term of years or for life, fined under
11 this title, or both; or

12 “(B) is a murder other than a first degree mur-
13 der (as defined in section 1111(a)), be fined under
14 this title, imprisoned for any term of years or for
15 life, or both.”.

16 (c) TECHNICAL AMENDMENT.—The chapter analysis
17 for chapter 2 of title 18, United States Code, is amended
18 by adding at the end the following new item:

“36. Drive-by shooting.”.

19 **SEC. 209. FOREIGN MURDER OF UNITED STATES NATION-**
20 **ALS.**

21 (a) IN GENERAL.—Chapter 51 of title 18, United
22 States Code, is amended by adding at the end the follow-
23 ing new section:

1 **“§ 1118. Foreign murder of United States nationals**

2 “(a) DEFINITION.—In this section, ‘national of the
3 United States’ has the meaning stated in section
4 101(a)(22) of the Immigration and Nationality Act (8
5 U.S.C. 1101(a)(22)).

6 “(b) OFFENSE.—A person who, being a national of
7 the United States, kills or attempts to kill a national of
8 the United States while such national is outside the
9 United States but within the jurisdiction of another coun-
10 try shall be punished as provided under sections 1111,
11 1112, and 1113.

12 “(c) LIMITATIONS ON PROSECUTION.—(1) No pros-
13 ecution may be instituted against any person under this
14 section except upon the written approval of the Attorney
15 General, the Deputy Attorney General, or an Assistant At-
16 torney General, which function of approving prosecutions
17 may not be delegated. No prosecution shall be approved
18 if prosecution has been previously undertaken by a foreign
19 country for the same conduct.

20 “(2) No prosecution shall be approved under this sec-
21 tion unless the Attorney General, in consultation with the
22 Secretary of State, determines that the conduct took place
23 in a country in which the person is no longer present, and
24 the country lacks the ability to lawfully secure the person’s
25 return. A determination by the Attorney General under
26 this paragraph is not subject to judicial review.”.

1 (b) TECHNICAL AMENDMENTS.—(1) Section 1117 of
2 title 18, United States Code, is amended by striking “or
3 1116” and inserting “1116, or 1118”.

4 (2) The chapter analysis for chapter 51 of title 18,
5 United States Code, is amended by adding at the end the
6 following new item:

“1118. Foreign murder of United States nationals.”.

7 **SEC. 210. DEATH PENALTY FOR RAPE AND CHILD MOLES-**
8 **TATION MURDERS.**

9 (a) OFFENSE.—Chapter 109A of title 18, United
10 States Code, is amended—

11 (1) by redesignating section 2245 as section
12 2246; and

13 (2) by inserting after section 2244 the following
14 new section:

15 **“§ 2245. Sexual abuse resulting in death**

16 “A person who, in the course of an offense under this
17 chapter, engages in conduct that results in the death of
18 a person, shall be punished by death or imprisoned for
19 any term of years or for life.”.

20 (b) TECHNICAL AMENDMENTS.—The chapter analy-
21 sis for chapter 109A of title 18, United States Code, is
22 amended by striking the item for section 2245 and insert-
23 ing the following:

“2245. Sexual abuse resulting in death.

“2246. Definitions for chapter.”.

1 **SEC. 211. DEATH PENALTY FOR SEXUAL EXPLOITATION OF**
2 **CHILDREN.**

3 Section 2251(d) of title 18, United States Code, is
4 amended by adding at the end the following: "Whoever,
5 in the course of an offense under this section, engages in
6 conduct that results in the death of a person, shall be pun-
7 ished by death or imprisoned for any term of years or for
8 life."

9 **SEC. 212. MURDER BY ESCAPED PRISONERS.**

10 (a) **IN GENERAL.**—Chapter 51 of title 18, United
11 States Code, as amended by section 109(a), is amended
12 by adding at the end the following new section:

13 **"§ 1119. Murder by escaped prisoners**

14 "(a) **DEFINITION.**—In this section, 'Federal prison'
15 and 'term of life imprisonment' have the meanings stated
16 in section 1118.

17 "(b) **OFFENSE AND PENALTY.**—A person, having es-
18 caped from a Federal prison where the person was con-
19 fined under a sentence for a term of life imprisonment,
20 kills another shall be punished as provided in sections
21 1111 and 1112."

22 (b) **TECHNICAL AMENDMENT.**—The chapter analysis
23 for chapter 51 of title 18, United States Code, as amended
24 by section 109(b)(2), is amended by adding at the end
25 the following new item:

"1119. Murder by escaped prisoners."

1 **SEC. 213. DEATH PENALTY FOR GUN MURDERS DURING**
2 **FEDERAL CRIMES OF VIOLENCE AND DRUG**
3 **TRAFFICKING CRIMES.**

4 Section 924 of title 18, United States Code, is
5 amended by adding at the end the following new sub-
6 section:

7 “(i) A person who, in the course of a violation of sub-
8 section (c), causes the death of a person through the use
9 of a firearm, shall—

10 “(1) if the killing is a murder (as defined in
11 section 1111), be punished by death or by imprison-
12 ment for any term of years or for life; and

13 “(2) if the killing is manslaughter (as defined
14 in section 1112), be punished as provided in that
15 section.”.

16 **SEC. 214. HOMICIDES AND ATTEMPTED HOMICIDES IN-**
17 **VOLVING FIREARMS IN FEDERAL FACILITIES.**

18 Section 930 of title 18, United States Code, is
19 amended—

20 (1) by redesignating subsections (c), (d), (e),
21 and (f) as subsections (d), (e), (f), and (g), respec-
22 tively;

23 (2) in subsection (a) by striking “(c)” and in-
24 serting “(d)”;

25 (3) by inserting after subsection (b) the follow-
26 ing new subsection:

1 “(c) A person who kills or attempts to kill any person
 2 in the course of a violation of subsection (a) or (b), or
 3 in the course of an attack on a Federal facility involving
 4 the use of a firearm or other dangerous weapon, shall be
 5 punished as provided in sections 1111, 1112, and 1113.”.

6 **SEC. 215. DEATH PENALTY FOR THE MURDER OF STATE OR**
 7 **LOCAL OFFICIALS ASSISTING FEDERAL LAW**
 8 **ENFORCEMENT OFFICIALS AND STATE COR-**
 9 **RECTIONAL OFFICERS.**

10 (a) IN GENERAL.—Chapter 51 of title 18, United
 11 States Code, is amended by adding at the end the follow-
 12 ing new section:

13 **“§ 1121. Killing persons aiding Federal investigations**
 14 **or State correctional officers**

15 “(a) Whoever intentionally kills—

16 “(1) a State or local official, law enforcement
 17 officer, or other officer or employee while working
 18 with Federal law enforcement officials in furtherance
 19 of a Federal criminal investigation—

20 “(A) while the victim is engaged in the
 21 performance of official duties;

22 “(B) because of the performance of the
 23 victim’s official duties; or

24 “(C) because of the victim’s status as a
 25 public servant; or

1 “(2) any person assisting a Federal criminal in-
2 vestigation, while that assistance is being rendered
3 and because of it,
4 shall be sentenced according to the terms of section 1111,
5 including by sentence of death or by imprisonment for life.

6 “(b)(1) Whoever, in a circumstance described in
7 paragraph (3) of this subsection, while incarcerated, inten-
8 tionally kills any State correctional officer engaged in, or
9 on account of the performance of such officer’s official du-
10 ties, shall be sentenced to a term of imprisonment which
11 shall not be less than 20 years, and may be sentenced to
12 life imprisonment or death.

13 “(2) As used in this section, the term, ‘State correc-
14 tional officer’ includes any officer or employee of any pris-
15 on, jail, or other detention facility, operated by, or under
16 contract to, either a State or local governmental agency,
17 whose job responsibilities include providing for the custody
18 of incarcerated individuals.

19 “(3) The circumstance referred to in paragraph (1)
20 is that—

21 “(A) the correctional officer is engaged in
22 transporting the incarcerated person interstate; or

23 “(B) the incarcerated person is incarcerated
24 pursuant to a conviction for an offense against the
25 United States.”.

1 (b) TECHNICAL AMENDMENT.—The chapter analysis
2 for chapter 51 of title 18, United States Code, is amended
3 by adding at the end the following new item:

“1121. Killing persons aiding Federal investigations or State correctional officers.”.

4 **SEC. 216. PROTECTION OF COURT OFFICERS AND JURORS.**

5 Section 1503 of title 18, United States Code, is
6 amended—

7 (1) by inserting “(a)” before “Whoever”;

8 (2) by striking “fined not more than \$5,000 or
9 imprisoned not more than five years, or both.” and
10 inserting “punished as provided in subsection (b).”;

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

13 “(b) The punishment for an offense under this sec-
14 tion is—

15 “(1) in the case of a killing, the punishment
16 provided in sections 1111 and 1112;

17 “(2) in the case of an attempted killing, or a
18 case in which the offense was committed against a
19 petit juror and in which a class A or B felony was
20 charged, imprisonment for not more than 20 years,
21 a fine under this title, or both; and

22 “(3) in any other case, imprisonment for not
23 more than 10 years, a fine under this title, or
24 both.”; and

1 (4) in subsection (a), as designated by para-
2 graph (1), by striking "commissioner" each place it
3 appears and inserting "magistrate judge".

4 **SEC. 217. PROHIBITION OF RETALIATORY KILLINGS OF**
5 **WITNESSES, VICTIMS, AND INFORMANTS.**

6 Section 1513 of title 18, United States Code, is
7 amended—

8 (1) by redesignating subsections (a) and (b) as
9 subsections (b) and (c), respectively; and

10 (2) by inserting after the section heading the
11 following new subsection:

12 "(a)(1) Whoever kills or attempts to kill another per-
13 son with intent to retaliate against any person for—

14 "(A) the attendance of a witness or party at an
15 official proceeding, or any testimony given or any
16 record, document, or other object produced by a wit-
17 ness in an official proceeding; or

18 "(B) any information relating to the commis-
19 sion or possible commission of a Federal offense or
20 a violation of conditions of probation, parole, or re-
21 lease pending judicial proceedings given by a person
22 to a law enforcement officer; shall be punished as
23 provided in paragraph (2).

24 "(2) The punishment for an offense under this sub-
25 section is—

1 “(A) in the case of a killing, the punishment
2 provided in sections 1111 and 1112; and

3 “(B) in the case of an attempt, imprisonment
4 for not more than 20 years.”.

5 **SEC. 218. DEATH PENALTY FOR MURDER OF FEDERAL WIT-**
6 **NESSES.**

7 Section 1512(a)(2)(A) of title 18, United States
8 Code, is amended to read as follows:

9 “(A) in the case of murder (as defined in
10 section 1111), the death penalty or imprison-
11 ment for life, and in the case of any other kill-
12 ing, the punishment provided in section 1112;”.

13 **SEC. 219. OFFENSES OF VIOLENCE AGAINST MARITIME**
14 **NAVIGATION OR FIXED PLATFORMS.**

15 (a) IN GENERAL.—Chapter 111 of title 18, United
16 States Code, is amended by adding at the end the follow-
17 ing new sections:

18 **“§ 2280. Violence against maritime navigation**

19 “(a) OFFENSES.—

20 “(1) IN GENERAL.—A person who unlawfully
21 and intentionally—

22 “(A) seizes or exercises control over a ship
23 by force or threat thereof or any other form of
24 intimidation;

1 “(B) performs an act of violence against a
2 person on board a ship if that act is likely to
3 endanger the safe navigation of that ship;

4 “(C) destroys a ship or causes damage to
5 a ship or to its cargo which is likely to endan-
6 ger the safe navigation of that ship;

7 “(D) places or causes to be placed on a
8 ship, by any means whatsoever, a device or sub-
9 stance which is likely to destroy that ship, or
10 cause damage to that ship or its cargo which
11 endangers or is likely to endanger the safe navi-
12 gation of that ship;

13 “(E) destroys or seriously damages mari-
14 time navigational facilities or seriously inter-
15 feres with their operation, if such act is likely
16 to endanger the safe navigation of a ship;

17 “(F) communicates information, knowing
18 the information to be false and under cir-
19 cumstances in which such information may rea-
20 sonably be believed, thereby endangering the
21 safe navigation of a ship;

22 “(G) injures or kills any person in connec-
23 tion with the commission or the attempted com-
24 mission of any of the offenses set forth in sub-
25 paragraphs (A) through (F); or

1 “(H) attempts to do any act prohibited
2 under subparagraphs (A) through (G),
3 shall be fined under this title, imprisoned not more
4 than 20 years, or both; and if the death of any per-
5 son results from conduct prohibited by this para-
6 graph, shall be punished by death or imprisoned for
7 any term of years or for life.

8 “(2) THREAT TO NAVIGATION.—A person who
9 threatens to do any act prohibited under paragraph
10 (1) (B), (C) or (E), with apparent determination
11 and will to carry the threat into execution, if the
12 threatened act is likely to endanger the safe naviga-
13 tion of the ship in question, shall be fined under this
14 title, imprisoned not more than 5 years, or both.

15 “(b) JURISDICTION.—There is jurisdiction over the
16 activity prohibited in subsection (a)—

17 “(1) in the case of a covered ship, if—

18 “(A) such activity is committed—

19 “(i) against or on board a ship flying
20 the flag of the United States at the time
21 the prohibited activity is committed;

22 “(ii) in the United States and the ac-
23 tivity is not prohibited as a crime by the
24 State in which the activity takes place; or

1 “(iii) the activity takes place on a ship
2 flying the flag of a foreign country or out-
3 side the United States, by a national of the
4 United States or by a stateless person
5 whose habitual residence is in the United
6 States;

7 “(B) during the commission of such activ-
8 ity, a national of the United States is seized,
9 threatened, injured or killed; or

10 “(C) the offender is later found in the
11 United States after such activity is committed;

12 “(2) in the case of a ship navigating or sched-
13 uled to navigate solely within the territorial sea or
14 internal waters of a country other than the United
15 States, if the offender is later found in the United
16 States after such activity is committed; and

17 “(3) in the case of any vessel, if such activity
18 is committed in an attempt to compel the United
19 States to do or abstain from doing any act.

20 “(c) BAR TO PROSECUTION.—It is a bar to Federal
21 prosecution under subsection (a) for conduct that occurred
22 within the United States that the conduct involved was
23 during or in relation to a labor dispute, and such conduct
24 is prohibited as a felony under the law of the State in
25 which it was committed. For purposes of this section, the

1 term 'labor dispute' has the meaning set forth in section
2 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C.
3 113(c)).

4 “(d) DELIVERY OF SUSPECTED OFFENDER.—The
5 master of a covered ship flying the flag of the United
6 States who has reasonable grounds to believe that there
7 is on board that ship any person who has committed an
8 offense under Article 3 of the Convention for the Suppres-
9 sion of Unlawful Acts Against the Safety of Maritime
10 Navigation may deliver such person to the authorities of
11 a State Party to that Convention. Before delivering such
12 person to the authorities of another country, the master
13 shall notify in an appropriate manner the Attorney Gen-
14 eral of the United States of the alleged offense and await
15 instructions from the Attorney General as to what action
16 to take. When delivering the person to a country which
17 is a State Party to the Convention, the master shall, when-
18 ever practicable, and if possible before entering the terri-
19 torial sea of such country, notify the authorities of such
20 country of the master's intention to deliver such person
21 and the reasons therefor. If the master delivers such per-
22 son, the master shall furnish to the authorities of such
23 country the evidence in the master's possession that per-
24 tains to the alleged offense.

25 “(e) DEFINITIONS.—In this section—

1 “‘covered ship’ means a ship that is navigating
2 or is scheduled to navigate into, through or from wa-
3 ters beyond the outer limit of the territorial sea of
4 a single country or a lateral limit of that country’s
5 territorial sea with an adjacent country.

6 “‘national of the United States’ has the mean-
7 ing stated in section 101(a)(22) of the Immigration
8 and Nationality Act (8 U.S.C. 1101(a)(22)).

9 “‘territorial sea of the United States’ means all
10 waters extending seaward to 12 nautical miles from
11 the baselines of the United States determined in ac-
12 cordance with international law.

13 “‘ship’ means a vessel of any type whatsoever
14 not permanently attached to the sea-bed, including
15 dynamically supported craft, submersibles or any
16 other floating craft, but does not include a warship,
17 a ship owned or operated by a government when
18 being used as a naval auxiliary or for customs or po-
19 lice purposes, or a ship which has been withdrawn
20 from navigation or laid up.

21 “‘United States’, when used in a geographical
22 sense, includes the Commonwealth of Puerto Rico,
23 the Commonwealth of the Northern Mariana Islands
24 and all territories and possessions of the United
25 States.

1 **“§ 2281. Violence against maritime fixed platforms**

2 “(a) OFFENSES.—

3 “(1) IN GENERAL.—A person who unlawfully
4 and intentionally—

5 “(A) seizes or exercises control over a fixed
6 platform by force or threat thereof or any other
7 form of intimidation;

8 “(B) performs an act of violence against a
9 person on board a fixed platform if that act is
10 likely to endanger its safety;

11 “(C) destroys a fixed platform or causes
12 damage to it which is likely to endanger its
13 safety;

14 “(D) places or causes to be placed on a
15 fixed platform, by any means whatsoever, a de-
16 vice or substance which is likely to destroy that
17 fixed platform or likely to endanger its safety;

18 “(E) injures or kills any person in connec-
19 tion with the commission or the attempted com-
20 mission of any of the offenses set forth in sub-
21 paragraphs (A) through (D); or

22 “(F) attempts to do anything prohibited
23 under subparagraphs (A) through (E),

24 shall be fined under this title, imprisoned not more
25 than 20 years, or both; and if death results to any
26 person from conduct prohibited by this paragraph,

1 shall be punished by death or imprisoned for any
2 term of years or for life.

3 “(2) THREAT TO SAFETY.—A person who
4 threatens to do anything prohibited under paragraph
5 (1) (B) or (C), with apparent determination and will
6 to carry the threat into execution, if the threatened
7 act is likely to endanger the safety of the fixed plat-
8 form, shall be fined under this title, imprisoned not
9 more than 5 years, or both.

10 “(b) JURISDICTION.—There is jurisdiction over the
11 activity prohibited in subsection (a) if—

12 “(1) such activity is committed against or on
13 board a fixed platform—

14 “(A) that is located on the continental
15 shelf of the United States;

16 “(B) that is located on the continental
17 shelf of another country, by a national of the
18 United States or by a stateless person whose
19 habitual residence is in the United States; or

20 “(C) in an attempt to compel the United
21 States to do or abstain from doing any act;

22 “(2) during the commission of such activity
23 against or on board a fixed platform located on a
24 continental shelf, a national of the United States is
25 seized, threatened, injured or killed; or

1 “(3) such activity is committed against or on
2 board a fixed platform located outside the United
3 States and beyond the continental shelf of the Unit-
4 ed States and the offender is later found in the
5 United States.

6 “(c) BAR TO PROSECUTION.—It is a bar to Federal
7 prosecution under subsection (a) for conduct that occurred
8 within the United States that the conduct involved was
9 during or in relation to a labor dispute, and such conduct
10 is prohibited as a felony under the law of the State in
11 which it was committed. For purposes of this section, the
12 term ‘labor dispute’ has the meaning set forth in section
13 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C.
14 113(c)).

15 “(d) DEFINITIONS.—In this section—

16 “‘continental shelf’ means the sea-bed and sub-
17 soil of the submarine areas that extend beyond a
18 country’s territorial sea to the limits provided by
19 customary international law as reflected in Article
20 76 of the 1982 Convention on the Law of the Sea.

21 “‘fixed platform’ means an artificial island, in-
22 stallation or structure permanently attached to the
23 sea-bed for the purpose of exploration or exploitation
24 of resources or for other economic purposes.

1 “‘national of the United States’ has the mean-
2 ing stated in section 101(a)(22) of the Immigration
3 and Nationality Act (8 U.S.C. 1101(a)(22)).

4 “‘territorial sea of the United States’ means all
5 waters extending seaward to 12 nautical miles from
6 the baselines of the United States determined in ac-
7 cordance with international law.

8 “‘United States’, when used in a geographical
9 sense, includes the Commonwealth of Puerto Rico,
10 the Commonwealth of the Northern Mariana Islands
11 and all territories and possessions of the United
12 States.”.

13 (b) TECHNICAL AMENDMENT.—The chapter analysis
14 for chapter 111 of title 18, United States Code, is amend-
15 ed by adding at the end the following new items:

 “2280. Violence against maritime navigation.

 “2281. Violence against maritime fixed platforms.”.

16 (c) EFFECTIVE DATES.—This section and the
17 amendments made by this section shall take effect on the
18 later of—

19 (1) the date of the enactment of this Act; or

20 (2)(A) in the case of section 2280 of title 18,
21 United States Code, the date the Convention for the
22 Suppression of Unlawful Acts Against the Safety of
23 Maritime Navigation has come into force and the

1 United States has become a party to that Conven-
2 tion; and

3 (B) in the case of section 2281 of title 18,
4 United States Code, the date the Protocol for the
5 Suppression of Unlawful Acts Against the Safety of
6 Fixed Platforms Located on the Continental Shelf
7 has come into force and the United States has be-
8 come a party to that Protocol.

9 **SEC. 220. TORTURE.**

10 Section 2340A(a) of title 18, United States Code, is
11 amended by inserting "punished by death or" before "im-
12 prisoned for any term of years or for life."

13 **SEC. 221. VIOLENCE AT AIRPORTS SERVING INTER-**
14 **NATIONAL CIVIL AVIATION.**

15 (a) OFFENSE.—Chapter 2 of title 18, United States
16 Code, is amended by adding at the end the following new
17 section:

18 **"§ 36. Violence at international airports**

19 "(a) OFFENSE.—A person who unlawfully and inten-
20 tionally, using any device, substance, or weapon—

21 "(1) performs an act of violence against a per-
22 son at an airport serving international civil aviation
23 that causes or is likely to cause serious bodily injury
24 (as defined in section 1365 of this title) or death; or

1 “(2) destroys or seriously damages the facilities
2 of an airport serving international civil aviation or a
3 civil aircraft not in service located thereon or dis-
4 rupts the services of the airport,
5 if such an act endangers or is likely to endanger safety
6 at that airport, or attempts to do such an act, shall be
7 fined under this title, imprisoned not more than 20 years,
8 or both; and if the death of any person results from con-
9 duct prohibited by this subsection, shall be punished by
10 death or imprisoned for any term of years or for life.

11 “(b) JURISDICTION.—There is jurisdiction over the
12 prohibited activity in subsection (a) if—

13 “(1) the prohibited activity takes place in the
14 United States; or

15 “(2) the prohibited activity takes place outside
16 the United States and the offender is later found in
17 the United States.

18 “(c) It is a bar to Federal presecution under sub-
19 section (a) for conduct that occurred within the United
20 States that the conduct involved was during or in relation
21 to a labor dispute, and such conduct is prohibited as a
22 felony under the law of the State in which it was commit-
23 ted. For purposes of this section, the term ‘labor dispute’
24 has the meaning set forth in section 2(c) of the Norris-
25 LaGuardia Act, as amended (29 U.S.C. 113(c)).

1 (b) TECHNICAL AMENDMENT.—The chapter analysis
2 for chapter 2 of title 18, United States Code, is amended
3 by adding at the end the following new item:

“36. Violence at international airports.”.

4 (c) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall take effect on the later of—

6 (1) the date of enactment of this Act; or

7 (2) the date on which the Protocol for the Sup-
8 pression of Unlawful Acts of Violence at Airports
9 Serving International Civil Aviation, Supplementary
10 to the Convention for the Suppression of Unlawful
11 Acts Against the Safety of Civil Aviation, done at
12 Montreal on 23 September 1971, has come into
13 force and the United States has become a party to
14 the Protocol.

15 **SEC. 222. TERRORIST DEATH PENALTY ACT.**

16 Section 2332(a)(1) of title 18, United States Code
17 is amended to read as follows:

18 “(1) if the killing is murder (as defined in sec-
19 tion 1111(a)), be fined under this title, punished by
20 death or imprisonment for any term of years or for
21 life, or both;”.

22 **SEC. 223. WEAPONS OF MASS DESTRUCTION.**

23 (a) OFFENSE.—Chapter 113A of title 18, United
24 States Code, is amended by inserting after section 2332
25 the following new section:

1 **“§ 2332a. Use of weapons of mass destruction**

2 “(a) OFFENSE.—A person who uses, or attempts or
3 conspires to use, a weapon of mass destruction—

4 “(1) against a national of the United States
5 while such national is outside of the United States;

6 “(2) against any person within the United
7 States; or

8 “(3) against any property that is owned, leased
9 or used by the United States or by any department
10 or agency of the United States, whether the property
11 is within or outside of the United States;

12 shall be imprisoned for any term of years or for life, and
13 if death results, shall be punished by death or imprisoned
14 for any term of years or for life.

15 “(b) DEFINITIONS.—For purposes of this section—

16 “(1) the term ‘national of the United States’
17 has the meaning given in section 101(a)(22) of the
18 Immigration and Nationality Act (8 U.S.C.
19 1101(a)(22)); and

20 “(2) the term ‘weapon of mass destruction’
21 means—

22 “(A) any destructive device as defined in
23 section 921 of this title;

24 “(B) poison gas;

25 “(C) any weapon involving a disease orga-
26 nism; or

1 “(D) any weapon that is designed to re-
2 lease radiation or radioactivity at a level dan-
3 gerous to human life.”.

4 (b) TECHNICAL AMENDMENT.—The chapter analysis
5 for chapter 113A of title 18, United States Code, is
6 amended by inserting after the item relating to section
7 2332 the following:

“2332a. Use of weapons of mass destruction.”.

8 **SEC. 224. ENHANCED PENALTIES FOR ALIEN SMUGGLING.**

9 Section 274(a) of the Immigration and Nationality
10 Act (8 U.S.C. 1324(a)) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “(1) Any person” and in-
13 serting “(1)(A) Any person”;

14 (B) by striking “(A) knowing” and insert-
15 ing “(i) knowing”;

16 (C) by striking “(B) knowing” and insert-
17 ing “(ii) knowing”

18 (D) by striking “(C) knowing” and insert-
19 ing “(iii) knowing”

20 (E) by striking “(D) encourages” and in-
21 serting “(iv) encourages”;

22 (F) by striking “shall be fined in accord-
23 ance with title 18, or imprisoned not more than
24 five years, or both, for each alien in respect to
25 whom any violation of this paragraph occurs”

1 and inserting “shall be punished as provided in
2 subparagraph (B)”;

3 (G) by adding at the end the following new
4 subparagraph:

5 “(B) A person who violates subparagraph (A) shall,
6 for each alien in respect to whom such a violation occurs—

7 “(i) in the case of a violation of subparagraph
8 (A)(i), be fined under title 18, United States Code,
9 imprisoned not more than 10 years, or both;

10 “(ii) in the case of a violation of subparagraph
11 (A) (ii), (iii), or (iv), be fined under title 18, United
12 States Code, imprisoned not more than 5 years, or
13 both;

14 “(iii) in the case of a violation of subparagraph
15 (A) (i), (ii), (iii), or (iv) during and in relation to
16 which the person causes serious bodily injury (as de-
17 fined in section 1365 of title 18, United States
18 Code) to, or places in jeopardy the life of, any per-
19 son, be fined under title 18, United States Code, im-
20 prisoned not more than 20 years, or both; and

21 “(iv) in the case of a violation of subparagraph
22 (A) (i), (ii), (iii), or (iv) resulting in the death of any
23 person, be punished by death or imprisoned for any
24 term of years or for life, fined under title 18, United
25 States Code, or both.”; and

1 (2) in paragraph (2) by striking “or imprisoned
2 not more than five years, or both” and inserting “or
3 in the case of a violation of subparagraph (B)(ii),
4 imprisoned not more than 10 years, or both; or in
5 the case of a violation of subparagraph (B)(i) or
6 (B)(iii), imprisoned not more than 5 years, or
7 both.”.

8 **SEC. 225. PROTECTION OF JURORS AND WITNESSES IN**
9 **CAPITAL CASES.**

10 Section 3432 of title 18, United States Code, is
11 amended by inserting before the period the following: “,
12 except that such list of the veniremen and witnesses need
13 not be furnished if the court finds by a preponderance of
14 the evidence that providing the list may jeopardize the life
15 or safety of any person”.

16 **TITLE VII—MANDATORY LIFE IM-**
17 **PRISONMENT FOR PERSONS**
18 **CONVICTED OF CERTAIN**
19 **FELONIES**

20 **SEC. 501. MANDATORY LIFE IMPRISONMENT FOR PERSONS**
21 **CONVICTED OF CERTAIN FELONIES.**

22 Section 3559 of title 18, United States Code, is
23 amended—

1 (1) in subsection (b), by striking “An” and in-
2 sserting “Except as provided in subsection (c), an” in
3 lieu thereof; and

4 (2) by adding the following new subsection at
5 the end:

6 “(c) IMPRISONMENT OF CERTAIN CRIMINALS.—

7 “(1) MANDATORY LIFE IMPRISONMENT.—Not-
8 withstanding any other provision of law, a person
9 who is convicted in a court of the United States of
10 a serious violent felony or a serious drug offense
11 shall be sentenced to life imprisonment if—

12 “(A) the person has been convicted (and
13 those convictions have become final) on 2 or
14 more prior occasions, in a court of the United
15 States or of a State, of serious violent felonies
16 or serious drug offenses, or any combination of
17 such felonies and offenses; and

18 “(B) each serious violent felony or serious
19 drug offense used as a basis for sentencing
20 under this subsection, other than the first, was
21 committed after the defendant’s conviction of
22 the preceding serious violent felony or serious
23 drug offense.

24 “(2) DEFINITIONS.—For purposes of this
25 subsection—

1 “(A) the term ‘assault with intent to com-
2 mit rape’ means an offense that has as its ele-
3 ments engaging in physical contact with an-
4 other person or using or brandishing a weapon
5 against another person with intent to commit
6 aggravated sexual abuse or sexual abuse (as de-
7 scribed in sections 2241 and 2242);

8 “(B) the term ‘arson’ means an offense
9 that has as its elements maliciously damaging
10 or destroying any building, inhabited structure,
11 vehicle, vessel, or real property by means of fire
12 or an explosive;

13 “(C) the term ‘extortion’ means an offense
14 that has as its elements the extraction of any-
15 thing of value from another person by threaten-
16 ing or placing that person in fear of injury to
17 any person or kidnapping of any person;

18 “(D) the term ‘firearms use’ means an of-
19 fense that has as its elements those described
20 in section 924(c) or 929(a), if the firearm was
21 brandished, discharged, or otherwise used as a
22 weapon and the crime of violence or drug traf-
23 ficking crime during and relation to which the
24 firearm was used was subject to prosecution in

1 a court of the United States or a court of a
2 State, or both;

3 “(E) the term ‘kidnapping’ means an of-
4 fense that has as its elements the abduction, re-
5 straining, confining, or carrying away of an-
6 other person by force or threat of force;

7 “(F) the term ‘serious violent felony’
8 means—

9 “(i) a Federal or State offense, by
10 whatever designation and wherever com-
11 mitted, consisting of murder (as described
12 in section 1111); manslaughter other than
13 involuntary manslaughter (as described in
14 section 1112); assault with intent to com-
15 mit murder (as described in section
16 113(a)); assault with intent to commit
17 rape; aggravated sexual abuse and sexual
18 abuse (as described in sections 2241 and
19 2242); abusive sexual contact (as described
20 in sections 2244 (a)(1) and (a)(2)); kid-
21 napping; aircraft piracy (as described in
22 section 902 (i)(2) or (n)(2) of the Federal
23 Aviation Act of 1958 (49 App. U.S.C.
24 1472 (i)(2), (n)(2))); robbery (as described
25 in section 2111, 2113, or 2118);

1 carjacking (as described in section 2119);
2 extortion; arson; firearms use; or attempt,
3 conspiracy, or solicitation to commit any of
4 the above offenses;

5 “(ii) any other offense punishable by
6 a maximum term of imprisonment of 10
7 years or more that has as an element the
8 use, attempted use, or threatened use of
9 physical force against the person of an-
10 other or that, by its nature, involves a sub-
11 stantial risk that physical force against the
12 person of another may be used in the
13 course of committing the offense;

14 “(G) the term ‘State’ means a State of the
15 United States, the District of Columbia, and a
16 commonwealth, territory, or possession of the
17 United States; and

18 “(H) the term ‘serious drug offense’
19 means—

20 “(i) an offense subject to a penalty
21 provided for in section 401(b)(1)(A) or
22 408 of the Controlled Substances Act (21
23 U.S.C. 841(b)(1)(A), 848) or section
24 1010(b)(1)(A) of the Controlled Sub-

1 stances Import and Export Act (21 U.S.C.
2 960(b)(1)(A)); or

3 “(ii) an offense under State law that,
4 had the offense been prosecuted in a court
5 of the United States, would have been sub-
6 ject to a penalty provided for in section
7 401(b)(1)(A) or 408 of the Controlled Sub-
8 stances Act (21 U.S.C. 841(b)(1)(A), 848)
9 or section 1010(b)(1)(A) of the Controlled
10 Substances Import and Export Act (21
11 U.S.C. 960(b)(1)(A)).

12 “(3) NONQUALIFYING FELONIES.—

13 “(A) ROBBERY IN CERTAIN CASES.—Rob-
14 bery, an attempt, conspiracy, or solicitation to
15 commit robbery; or an offense described in
16 paragraph (2)(F)(ii) shall not serve as a basis
17 for sentencing under this subsection if the de-
18 fendant establishes by clear and convincing evi-
19 dence that—

20 “(i) no firearm or other dangerous
21 weapon was used in the offense and no
22 threat of use of a firearm or other dan-
23 gerous weapon was involved in the offense;
24 and

1 “(ii) the offense did not result in
 2 death or serious bodily injury (as defined
 3 in section 1365) to any person.

4 “(B) ARSON IN CERTAIN CASES.—Arson
 5 shall not serve as a basis for sentencing under
 6 this subsection if the defendant establishes by
 7 clear and convincing evidence that—

8 “(i) the offense posed no threat to
 9 human life; and

10 “(ii) the defendant reasonably believed
 11 the offense posed no threat to human life.

12 “(4) INFORMATION FILED BY UNITED STATES
 13 ATTORNEY.—The provisions of section 411(a) of the
 14 Controlled Substances Act (21 U.S.C. 851(a)) shall
 15 apply to the imposition of sentence under this sub-
 16 section.

17 “(5) RULE OF CONSTRUCTION.—This sub-
 18 section shall not be construed to preclude imposition
 19 of the death penalty.

20 “(6) SPECIAL PROVISION FOR INDIAN COUN-
 21 TRY.—No person subject to the criminal jurisdiction
 22 of an Indian tribal government shall be subject to
 23 this subsection for any offense for which Federal ju-
 24 risdiction is solely predicated on Indian country (as
 25 defined in section 1151) and which occurs within the

1 boundaries of such Indian country unless the gov-
2 erning body of the tribe has elected that this sub-
3 section have effect over land and persons subject to
4 the criminal jurisdiction of the tribe.

5 “(7) RESENTENCING UPON OVERTURNING OF
6 PRIOR CONVICTION.—If the conviction for a serious
7 violent felony or serious drug offense that was a
8 basis for sentencing under this subsection is found,
9 pursuant to any appropriate State or Federal proce-
10 dure, to be unconstitutional or is vitiated on the ex-
11 plicit basis of innocence, or if the convicted person
12 is pardoned on the explicit basis of innocence, the
13 person serving a sentence imposed under this sub-
14 section shall be resentenced to any sentence that was
15 available at the time of the original sentencing.”.

16 **SEC. 502. LIMITED GRANT OF AUTHORITY TO BUREAU OF**
17 **PRISONS.**

18 Section 3582(c)(1)(A) of title 18, United States
19 Code, is amended—

20 (1) so that the margin of the matter starting
21 with “extraordinary” and ending with “reduction”
22 the first place it appears is indented an additional
23 two ems;

24 (2) by inserting a one-em dash after “that” the
25 second place it appears;

1 (3) by inserting a semicolon after "reduction"
2 the first place it appears;

3 (4) by indenting the first line of the matter re-
4 ferred to in paragraph (1) and designating that mat-
5 ter as clause (i); and

6 (5) by inserting after such matter the following:

7 (ii) the defendant is at least 70 years
8 of age, has served at least 30 years in pris-
9 on, pursuant to a sentence imposed under
10 section 3559(c), for the offense or offenses
11 for which the defendant is currently im-
12 prisoned, and a determination has been
13 made by the Director of the Bureau of
14 Prisons that the defendant is not a danger
15 to the safety of any other person or the
16 community, as provided under section
17 3142(g);".

18 **TITLE VIII—APPLICABILITY OF**
19 **MANDATORY MINIMUM PEN-**
20 **ALTIES IN CERTAIN CASES**

21
22 *To Be Supplied.*
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TITLE IX—DRUG CONTROL

**10 SEC. 1501. ENHANCEMENT OF PENALTIES FOR DRUG TRAF-
11 FICKING IN PRISONS.**

12 Section 1791 of title 18, United States Code, is
13 amended—

14 (1) in subsection (c), by inserting before “Any”
15 the following new sentence: “Any punishment im-
16 posed under subsection (b) for a violation of this
17 section involving a controlled substance shall be con-
18 secutive to any other sentence imposed by any court
19 for an offense involving such a controlled sub-
20 stance.”;

21 (2) in subsection (d)(1)(A), by inserting after
22 “a firearm or destructive device” the following: “or
23 a controlled substance in schedule I or II, other than
24 marijuana or a controlled substance referred to in
25 subparagraph (C) of this subsection”;

1 (3) in subsection (d)(1)(B), by inserting before
2 "ammunition," the following: "marijuana or a con-
3 trolled substance in schedule III, other than a con-
4 trolled substance referred to in subparagraph (C) of
5 this subsection,";

6 (4) in subsection (d)(1)(C), by inserting "meth-
7 amphetamine, its salts, isomers, and salts of its iso-
8 mers," after "a narcotic drug,";

9 (5) in subsection (d)(1)(D), by inserting "(A),
10 (B), or" before "(C)"; and

11 (6) in subsection (b), by striking "(c)" each
12 place it appears and inserting "(d)".

13 **SEC. 1502. ANABOLIC STEROIDS PENALTIES.**

14 Section 404 of the Controlled Substances Act (21
15 U.S.C. 844) is amended by inserting after subsection (a)
16 the following new subsection:

17 "(b)(1) Whoever, being a physical trainer or adviser
18 to an individual, endeavors to persuade or induce that in-
19 dividual to possess or use anabolic steroids in violation of
20 subsection (a), shall be fined under title 18, United States
21 Code, or imprisoned not more than 2 years, or both. If
22 such individual has not attained the age of 18 years, the
23 maximum imprisonment shall be 5 years.

24 "(2) As used in this subsection, the term 'physical
25 trainer or adviser' means any professional or amateur

1 coach, manager, trainer, instructor, or other such person,
2 who provides any athletic or physical instruction, training,
3 advice, assistance, or other such service to any person.”.

4 **SEC. 1503. INCREASED PENALTIES FOR DRUG-DEALING IN**
5 **“DRUG-FREE” ZONES.**

6 Pursuant to its authority under section 994 of title
7 28, United States Code, the United States Sentencing
8 Commission shall amend its sentencing guidelines to pro-
9 vide an appropriate enhancement for a defendant con-
10 victed of violating section 419 of the Controlled Sub-
11 stances Act (21 U.S.C. 860).

12 **SEC. 1504. ENHANCED PENALTIES FOR ILLEGAL DRUG USE**
13 **IN FEDERAL PRISONS AND FOR SMUGGLING**
14 **DRUGS INTO FEDERAL PRISONS.**

15 (a) **DECLARATION OF POLICY.**—It is the policy of the
16 Federal Government that the use or distribution of illegal
17 drugs in the Nation’s Federal prisons will not be tolerated
18 and that such crimes shall be prosecuted to the fullest ex-
19 tent of the law.

20 (b) **SENTENCING GUIDELINES.**—Pursuant to its au-
21 thority under section 994 of title 28, United States Code,
22 the United States Sentencing Commission shall amend its
23 sentencing guidelines to appropriately enhance the penalty
24 for a person convicted of an offense—

1 **SEC. 1532. CONFORMING AMENDMENTS TO RECIDIVIST**
2 **PENALTY PROVISIONS OF THE CONTROLLED**
3 **SUBSTANCES ACT AND THE CONTROLLED**
4 **SUBSTANCES IMPORT AND EXPORT ACT.**

5 (a) Sections 401(b)(1) (B), (C), and (D) of the Con-
6 trolled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and
7 (D)) and sections 1010(b) (1), (2), and (3) of the Con-
8 trolled Substances Import and Export Act (21 U.S.C.
9 960(b) (1), (2), and (3)) are each amended in the sentence
10 or sentences beginning "If any person commits" by strik-
11 ing "one or more prior convictions" through "have become
12 final" and inserting "a prior conviction for a felony drug
13 offense has become final".

14 (b) Section 1012(b) of the Controlled Substances Im-
15 port and Export Act (21 U.S.C. 962(b)) is amended by
16 striking "one or more prior convictions of him for a felony
17 under any provision of this title or title II or other law
18 of a State, the United States, or a foreign country relating
19 to narcotic drugs, marihuana, or depressant or stimulant
20 drugs, have become final" and inserting "one or more
21 prior convictions of such person for a felony for a felony
22 drug offense have become final".

23 (c) Section 401(b)(1)(A) of the Controlled Sub-
24 stances Act (21 U.S.C. 841(b)(1)(A)) is amended by strik-
25 ing the sentence beginning "For purposes of this subpara-
26 graph, the term 'felony drug offense' means".

1 (d) Section 102 of the Controlled Substances Act (21
2 U.S.C. 802) is amended by adding at the end the following
3 new paragraph:

4 “(43) The term ‘felony drug offense’ means an of-
5 fense that is punishable by imprisonment for more than
6 one year under any law of the United States or of a State
7 or foreign country that prohibits or restricts conduct relat-
8 ing to narcotic drugs, marihuana, or depressant or stimu-
9 lant substances.”.

10 **TITLE X—DRUNK DRIVING** 11 **PROVISIONS**

12 **SEC. 1601. SHORT TITLE.**

13 This title may be cited as the “Drunk Driving Child
14 Protection Act of 1994”.

15 **SEC. 1602. STATE LAWS APPLIED IN AREAS OF FEDERAL JU-** 16 **RISDICTION.**

17 Section 13(b) of title 18, United States Code, is
18 amended—

19 (1) by striking “For purposes” and inserting
20 “(1) Subject to paragraph (2) and for purposes”;
21 and

22 (2) by adding at the end the following new
23 paragraph:

24 “(2)(A) In addition to any term of imprisonment pro-
25 vided for operating a motor vehicle under the influence

1 of a drug or alcohol imposed under the law of a State,
2 territory, possession, or district, the punishment for such
3 an offense under this section shall include an additional
4 term of imprisonment of not more than 1 year, or if seri-
5 ous bodily injury of a minor is caused, not more than 5
6 years, or if death of a minor is caused, not more than
7 10 years, and an additional fine of not more than \$1,000,
8 or both, if—

9 “(i) a minor (other than the offender) was
10 present in the motor vehicle when the offense was
11 committed; and

12 “(ii) the law of the State, territory, possession,
13 or district in which the offense occurred does not
14 provide an additional term of imprisonment under
15 the circumstances described in clause (i).

16 “(B) For the purposes of subparagraph (A), the term
17 ‘minor’ means a person less than 18 years of age.”.

18 **SEC. 5115. DRIVING WHILE INTOXICATED PROSECUTION**
19 **PROGRAM.**

20 Section 501(b) of the Omnibus Crime Control and
21 Safe Streets Act of 1968 (42 U.S.C. 3751), as amended
22 by section 621, is amended—

23 (1) by striking “and” at the end of paragraph
24 (22);

1 (2) by striking the period at the end of para-
2 graph (23) and inserting “; and”; and

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

5 “(24) programs for the prosecution of driving
6 while intoxicated charges and the enforcement of
7 other laws relating to alcohol use and the operation
8 of motor vehicles.”.

9 **TITLE XI—GUN CRIME**
10 **PENALTIES**

11 **SEC. 401. ENHANCED PENALTY FOR USE OF A SEMIAUTO-**
12 **MATIC FIREARM DURING A CRIME OF VIO-**
13 **LENCE OR A DRUG TRAFFICKING CRIME.**

14 (a) **AMENDMENT TO SENTENCING GUIDELINES.**—
15 Pursuant to its authority under section 994 of title 28,
16 United States Code, the United States Sentencing Com-
17 mission shall amend its sentencing guidelines to provide
18 an appropriate enhancement of the punishment for a
19 crime of violence (as defined in section 924(c)(3) of title
20 18, United States Code) or a drug trafficking crime (as
21 defined in section 924(c)(2) of title 18, United States
22 Code) if a semiautomatic firearm is involved.

23 (b) **SEMIAUTOMATIC FIREARM.**—In subsection (a),
24 “semiautomatic firearm” means any repeating firearm
25 that utilizes a portion of the energy of a firing cartridge

1 to extract the fired cartridge case and chamber the next
2 round and that requires a separate pull of the trigger to
3 fire each cartridge.

4 **SEC. 402. ENHANCED PENALTY FOR SECOND OFFENSE OF**
5 **USING AN EXPLOSIVE TO COMMIT A FELONY.**

6 Pursuant to its authority under section 994 of title
7 28, United States Code, the United States Sentencing
8 Commission shall promulgate amendments to the sentenc-
9 ing guidelines to appropriately enhance penalties in a case
10 in which a defendant convicted under section 844(h) of
11 title 18, United States Code, has previously been convicted
12 under that section.

13 **SEC. 403. SMUGGLING FIREARMS IN AID OF DRUG TRAF-**
14 **FICKING.**

15 Section 924 of title 18, United States Code, as
16 amended by section 213, is amended by adding at the end
17 the following new subsection:

18 “(j) A person who, with intent to engage in or to pro-
19 mote conduct that—

20 “(1) is punishable under the Controlled Sub-
21 stances Act (21 U.S.C. 801 et seq.), the Controlled
22 Substances Import and Export Act (21 U.S.C. 951
23 et seq.), or the Maritime Drug Law Enforcement
24 Act (46 U.S.C. App. 1901 et seq.);

1 “(2) violates any law of a State relating to any
2 controlled substance (as defined in section 102 of
3 the Controlled Substances Act, 21 U.S.C. 802); or
4 “(3) constitutes a crime of violence (as defined
5 in subsection (e)(3),
6 smuggles or knowingly brings into the United States a
7 firearm, or attempts to do so, shall be imprisoned not
8 more than 10 years, fined under this title, or both.”.

9 **SEC. 404. THEFT OF FIREARMS AND EXPLOSIVES.**

10 (a) FIREARMS.—Section 924 of title 18, United
11 States Code, as amended by section 403(a), is amended
12 by adding at the end the following new subsection:

13 “(k) A person who steals any firearm which is moving
14 as, or is a part of, or which has moved in, interstate or
15 foreign commerce shall be imprisoned for not more than
16 10 years, fined under this title, or both.”.

17 (b) EXPLOSIVES.—Section 844 of title 18, United
18 States Code, is amended by adding at the end the follow-
19 ing new subsection:

20 “(k) A person who steals any explosives materials
21 which are moving as, or are a part of, or which have moved
22 in, interstate or foreign commerce shall be imprisoned for
23 not more than 10 years, fined under this title, or both.”.

1 **SEC. 2104. REVOCATION OF SUPERVISED RELEASE AFTER**
2 **IMPRISONMENT.**

3 Section 3583 of title 18, United States Code, is
4 amended—

5 (1) in subsection (d), by striking “possess ille-
6 gal controlled substances” and inserting “unlawfully
7 possess a controlled substance”;

8 (2) in subsection (e)—

9 (A) by striking “person” each place such
10 term appears in such subsection and inserting
11 “defendant”; and

12 (B) by amending paragraph (3) to read as
13 follows:

14 “(3) revoke a term of supervised release, and
15 require the defendant to serve in prison all or part
16 of the term of supervised release authorized by stat-
17 ute for the offense that resulted in such term of su-
18 pervised release without credit for time previously
19 served on postrelease supervision, if the court, pur-
20 suant to the Federal Rules of Criminal Procedure
21 applicable to revocation of probation or supervised
22 release, finds by a preponderance of the evidence
23 that the defendant violated a condition of supervised
24 release, except that a defendant whose term is re-
25 voked under this paragraph may not be required to
26 serve more than 5 years in prison if the offense that

1 resulted in the term of supervised release is a class
 2 A felony, more than 3 years in prison if such offense
 3 is a class B felony, more than 2 years in prison if
 4 such offense is a class C or D felony, or more than
 5 one year in any other case; or”; and

6 (3) by striking subsection (g) and inserting the
 7 following:

8 “(g) MANDATORY REVOCATION FOR POSSESSION OF
 9 CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL
 10 TO COMPLY WITH DRUG TESTING.—If the defendant—

11 “(1) possesses a controlled substance in viola-
 12 tion of the condition set forth in subsection (d);

13 “(2) possesses a firearm, as such term is de-
 14 fined in section 921 of this title, in violation of Fed-
 15 eral law, or otherwise violates a condition of super-
 16 vised release prohibiting the defendant from possess-
 17 ing a firearm; or

18 “(3) refuses to comply with drug testing im-
 19 posed as a condition of supervised release;

20 the court shall revoke the term of supervised release and
 21 require the defendant to serve a term of imprisonment not
 22 to exceed the maximum term of imprisonment authorized
 23 under subsection (e)(3).

24 “(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and
 25

1 the defendant is required to serve a term of imprisonment
2 that is less than the maximum term of imprisonment au-
3 thorized under subsection (e)(3), the court may include
4 a requirement that the defendant be placed on a term of
5 supervised release after imprisonment. The length of such
6 a term of supervised release shall not exceed the term of
7 supervised release authorized by statute for the offense
8 that resulted in the original term of supervised release,
9 less any term of imprisonment that was imposed upon rev-
10 ocation of supervised release.

11 “(i) DELAYED REVOCATION.—The power of the court
12 to revoke a term of supervised release for violation of a
13 condition of supervised release, and to order the defendant
14 to serve a term of imprisonment and, subject to the limita-
15 tions in subsection (h), a further term of supervised re-
16 lease, extends beyond the expiration of the term of super-
17 vised release for any period reasonably necessary for the
18 adjudication of matters arising before its expiration if, be-
19 fore its expiration, a warrant or summons has been issued
20 on the basis of an allegation of such a violation.”.

21 **SEC. 2103. REVOCATION OF PROBATION.**

22 (a) IN GENERAL.—Section 3565(a) of title 18, Unit-
23 ed States Code, is amended—

24 (1) in paragraph (2) by striking “impose any
25 other sentence that was available under subchapter

1 A at the time of the initial sentencing” and inserting
2 “resentence the defendant under subchapter A”; and
3 (2) by striking the last sentence.

4 (b) MANDATORY REVOCATION.—Section 3565(b) of
5 title 18, United States Code, is amended to read as fol-
6 lows:

7 “(b) MANDATORY REVOCATION FOR POSSESSION OF
8 CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO
9 COMPLY WITH DRUG TESTING.—If the defendant—

10 “(1) possesses a controlled substance in viola-
11 tion of the condition set forth in section 3563(a)(3);

12 “(2) possesses a firearm, as such term is de-
13 fined in section 921 of this title, in violation of Fed-
14 eral law, or otherwise violates a condition of proba-
15 tion prohibiting the defendant from possessing a
16 firearm; or

17 “(3) refuses to comply with drug testing, there-
18 by violating the condition imposed by section
19 3563(a)(4),

20 the court shall revoke the sentence of probation and
21 resentence the defendant under subchapter A to a sen-
22 tence that includes a term of imprisonment.”

1 **SEC. 407. INCREASED PENALTY FOR KNOWINGLY MAKING**
2 **FALSE, MATERIAL STATEMENT IN CONNEC-**
3 **TION WITH THE ACQUISITION OF A FIREARM**
4 **FROM A LICENSED DEALER.**

5 Section 924(a) of title 18, United States Code, is
6 amended—

7 (1) in subsection (a)(1)(B) by striking
8 “(a)(6),”; and

9 (2) in subsection (a)(2) by inserting “(a)(6),”
10 after “subsections”.

11 **SEC. 408. POSSESSION OF EXPLOSIVES BY FELONS AND**
12 **OTHERS.**

13 Section 842(i) of title 18, United States Code, is
14 amended by inserting “or possess” after “to receive”.

15 **SEC. 409. SUMMARY DESTRUCTION OF EXPLOSIVES SUB-**
16 **JECT TO FORFEITURE.**

17 Section 844(c) of title 18, United States Code, is
18 amended—

19 (1) by inserting “(1)” after “(c)”; and

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

22 “(2) Notwithstanding paragraph (1), in the case of
23 the seizure of any explosive materials for any offense for
24 which the materials would be subject to forfeiture in which
25 it would be impracticable or unsafe to remove the mate-
26 rials to a place of storage or would be unsafe to store

1 them, the seizing officer may destroy the explosive mate-
2 rials forthwith. Any destruction under this paragraph shall
3 be in the presence of at least 1 credible witness. The seiz-
4 ing officer shall make a report of the seizure and take
5 samples as the Secretary may by regulation prescribe.

6 “(3) Within 60 days after any destruction made pur-
7 suant to paragraph (2), the owner of (including any per-
8 son having an interest in) the property so destroyed may
9 make application to the Secretary for reimbursement of
10 the value of the property. If the claimant establishes to
11 the satisfaction of the Secretary that—

12 “(A) the property has not been used or involved
13 in a violation of law; or

14 “(B) any unlawful involvement or use of the
15 property was without the claimant’s knowledge, con-
16 sent, or willful blindness,

17 the Secretary shall make an allowance to the claimant not
18 exceeding the value of the property destroyed.”

19 **SEC. 410. ELIMINATION OF OUTMODED LANGUAGE RELAT-**
20 **ING TO PAROLE.**

21 (a) SECTION (e)(1) OF TITLE 18.—Section 924(e)(1)
22 of title 18, United States Code, is amended by striking
23 “, and such person shall not be eligible for parole with
24 respect to the sentence imposed under this subsection”.

1 (b) SECTION 924(c)(1) OF TITLE 18.—Section
2 924(c)(1) of title 18, United States Code, is amended by
3 striking “No person sentenced under this subsection shall
4 be eligible for parole during the term of imprisonment im-
5 posed under this subsection.”.

6 **SEC. 411. PROHIBITION AGAINST TRANSACTIONS INVOLV-**
7 **ING STOLEN FIREARMS WHICH HAVE MOVED**
8 **IN INTERSTATE OR FOREIGN COMMERCE.**

9 Section 922(j) of title 18, United States Code, is
10 amended to read as follows:

11 “(j) It shall be unlawful for any person to receive,
12 possess, conceal, store, barter, sell, or dispose of any stolen
13 firearm or stolen ammunition, or pledge or accept as secu-
14 rity for a loan any stolen firearm or stolen ammunition,
15 which is moving as, which is a part of, which constitutes,
16 or which has been shipped or transported in, interstate
17 or foreign commerce, either before or after it was stolen,
18 knowing or having reasonable cause to believe that the
19 firearm or ammunition was stolen.”.

20 **SEC. 412. USING A FIREARM IN THE COMMISSION OF COUN-**
21 **TERFEITING OR FORGERY.**

22 Pursuant to its authority under section 994 of title
23 28, United States Code, the United States Sentencing
24 Commission shall amend its sentencing guidelines to pro-
25 vide an appropriate enhancement of the punishment for

1 a defendant convicted of a felony under chapter 25 of title
2 18, United States Code, if the defendant used or carried
3 a firearm (as defined in section 921(a)(3) of title 18,
4 United States Code) during and in relation to the felony.

5 **SEC. 413. ENHANCED PENALTIES FOR FIREARMS POSSES-**
6 **SION BY VIOLENT FELONS AND SERIOUS**
7 **DRUG OFFENDERS.**

8 Pursuant to its authority under section 994 of title
9 28, United States Code, the United States Sentencing
10 Commission shall amend its sentencing guidelines to—

11 (1) appropriately enhance penalties in cases in
12 which a defendant convicted under section 922(g) of
13 title 18, United States Code, has 1 prior conviction
14 by any court referred to in section 922(g)(1) of title
15 18 for a violent felony (as defined in section
16 924(e)(2)(B) of that title) or a serious drug offense
17 (as defined in section 924(e)(2)(A) of that title); and

18 (2) appropriately enhance penalties in cases in
19 which such a defendant has 2 prior convictions for
20 a violent felony (as so defined) or a serious drug of-
21 fense (as so defined).

22 **SEC. 414. RECEIPT OF FIREARMS BY NONRESIDENT.**

23 Section 922(a) of title 18, United States Code, is
24 amended—

1 (1) by striking "and" at the end of paragraph
2 (7);

3 (2) by striking the period at the end of para-
4 graph (8) and inserting "; and"; and

5 (3) by adding at the end the following new
6 paragraph:

7 "(9) for any person, other than a licensed im-
8 porter, licensed manufacturer, licensed dealer, or li-
9 censed collector, who does not reside in any State to
10 receive any firearms unless such receipt is for lawful
11 sporting purposes."

12 **SEC. 416. THEFT OF FIREARMS OR EXPLOSIVES FROM LI-**
13 **CENSEE.**

14 (a) FIREARMS.—Section 924 of title 18, United
15 States Code, as amended by section 415(a), is amended
16 by adding at the end the following new subsection:

17 "(m) A person who steals any firearm from a licensed
18 importer, licensed manufacturer, licensed dealer, or li-
19 censed collector shall be fined under this title, imprisoned
20 not more than 10 years, or both."

21 (b) EXPLOSIVES.—Section 844 of title 18, United
22 States Code, as amended by section 415(b), is amended
23 by adding at the end the following new subsection:

24 "(m) A person who steals any explosive material from
25 a licensed importer, licensed manufacturer, or licensed

1 dealer, or from any permittee shall be fined under this
2 title, imprisoned not more than 10 years, or both.”

3 **SEC. 417. DISPOSING OF EXPLOSIVES TO PROHIBITED PER-**
4 **SONS.**

5 Section 842(d) of title 18, United States Code, is
6 amended by striking “licensee” and inserting “person”.

7 **SEC. 419. INCREASED PENALTY FOR INTERSTATE GUN**
8 **TRAFFICKING.**

9 Section 924 of title 18, United States Code, as
10 amended by section 416(a), is amended by adding at the
11 end the following new subsection:

12 “(n) A person who, with the intent to engage in con-
13 duct that constitutes a violation of section 922(a)(1)(A),
14 travels from any State or foreign country into any other
15 State and acquires, or attempts to acquire, a firearm in
16 such other State in furtherance of such purpose shall be
17 imprisoned for not more than 10 years.”

18 **SEC. 415. FIREARMS AND EXPLOSIVES CONSPIRACY.**

19 (a) FIREARMS.—Section 924 of title 18, United
20 States Code, as amended by section 404(a), is amended
21 by adding at the end the following new subsection:

22 “(l) A person who conspires to commit an offense
23 under subsection (c) shall be imprisoned for not more than
24 20 years, fined under this title, or both; and if the firearm
25 is a machinegun or destructive device, or is equipped with

1 a firearm silencer or muffler, shall be imprisoned for any
2 term of years or life.”.

3 (b) EXPLOSIVES.—Section 844 of title 18, United
4 States Code, as amended by section 404(b), is amended
5 by adding at the end the following new subsection:

6 “(m) A person who conspires to commit an offense
7 under subsection (h) shall be imprisoned for any term of
8 years not exceeding 20, fined under this title, or both.

9 TITLE XII—TERRORISM

10 SEC. 717. EXTENSION OF THE STATUTE OF LIMITATION 11 FOR CERTAIN TERRORISM OFFENSES.

12 (a) IN GENERAL.—Chapter 213 of title 18, United
13 States Code, is amended by inserting after section 3285
14 the following new section:

15 “§ 3286. Extension of statute of limitation for certain 16 terrorism offenses

17 “Notwithstanding section 3282, no person shall be
18 prosecuted, tried, or punished for any offense involving a
19 violation of section 32 (aircraft destruction), section 36
20 (airport violence), section 112 (assaults upon diplomats),
21 section 351 (crimes against Congressmen or Cabinet offi-
22 cers), section 1116 (crimes against diplomats), section
23 1203 (hostage taking), section 1361 (willful injury to gov-
24 ernment property), section 1751 (crimes against the Presi-
25 dent), section 2280 (maritime violence), section 2281

1 (maritime platform violence), section 2331 (terrorist acts
2 abroad against United States nationals), section 2339 (use
3 of weapons of mass destruction), or section 2340A (tor-
4 ture) of this title or section 902 (i), (j), (k), (l), or (n)
5 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1572
6 (i), (j), (k), (l), or (n)) unless the indictment is found or
7 the information is instituted within 10 years after the of-
8 fense was committed.”

9 (b) APPLICATION OF AMENDMENT.—The amendment
10 made by subsection (a) shall not apply to any offense com-
11 mitted more than 5 years prior to the date of enactment
12 of this Act.

13 (c) TECHNICAL AMENDMENT.—The chapter analysis
14 for chapter 213 of title 18, United States Code, is amend-
15 ed by inserting after the item relating to section 3285 the
16 following new item:

“3286. Extension of statute of limitation for certain terrorism offenses.”

17 **SEC. 715. JURISDICTION OVER CRIMES AGAINST UNITED**
18 **STATES NATIONALS ON CERTAIN FOREIGN**
19 **SHIPS.**

20 Section 7 of title 18, United States Code (relating
21 to the special maritime and territorial jurisdiction of the
22 United States), is amended by inserting at the end thereof
23 the following new paragraph:

24 “(8) To the extent permitted by international law,
25 any foreign vessel during a voyage having a scheduled de-

1 parture from or arrival in the United States with respect
2 to an offense committed by or against a national of the
3 United States.”.

4 **SEC. 721. COUNTERFEITING UNITED STATES CURRENCY**
5 **ABROAD.**

6 (a) **IN GENERAL.**—Chapter 25 of title 18, United
7 States Code, is amended by adding before section 471 the
8 following new section:

9 **“§ 470. Counterfeit acts committed outside the**
10 **United States**

11 “A person who, outside the United States, engages
12 in the act of—

13 “(1) making, dealing, or possessing any coun-
14 terfeit obligation or other security of the United
15 States; or

16 “(2) making, dealing, or possessing any plate,
17 stone, or other thing, or any part thereof, used to
18 counterfeit such obligation or security,

19 if such act would constitute a violation of section 471, 473,
20 or 474 if committed within the United States, shall be
21 fined under this title, imprisoned not more than 20 years,
22 or both.”.

23 (b) **TECHNICAL AMENDMENTS.**—

24 (1) **CHAPTER ANALYSIS.**—The chapter analysis
25 for chapter 25 of title 18, United States Code, is

1 amended by adding before section 471 the following
2 new item:

“470. Counterfeit acts committed outside the United States.”

3 (2) PART ANALYSIS.—The part analysis for
4 part I of title 18, United States Code, is amended
5 by amending the item for chapter 25 to read as fol-
6 lows:

“25. Counterfeiting and forgery 470”.

7 **SEC. 724. SENTENCING GUIDELINES INCREASE FOR TER-**
8 **RORIST CRIMES.**

9 The United States Sentencing Commission is directed
10 to amend its sentencing guidelines to provide an appro-
11 priate enhancement for any felony, whether committed
12 within or outside the United States, that involves or is
13 intended to promote international terrorism, unless such
14 involvement or intent is itself an element of the crime.

15 **TITLE XIII—DEPORTATION OF**
16 **ALIENS CONVICTED OF CRIMES**
17 **Subtitle A—Deportation of**
18 **Criminal Aliens**

19 **SEC. 1301. ENHANCEMENT OF PENALTIES FOR FAILING TO**
20 **DEPART, OR REENTERING, AFTER FINAL**
21 **ORDER OF DEPORTATION.**

22 (a) FAILURE TO DEPART.—Section 242(e) of the Im-
23 migration and Nationality Act (8 U.S.C. 1252(e)) is
24 amended—

1 (1) by striking “paragraphs (2), (3), or (4) of”
2 the first time it appears; and

3 (2) by striking “shall be imprisoned not more
4 than ten years” and inserting “shall be imprisoned
5 not more than four years, or shall be imprisoned not
6 more than ten years if the alien is a member of any
7 of the classes described in paragraph (1)(E), (2),
8 (3), or (4) of section 241(a).”.

9 (b) REENTRY.—Section 276(b) of the Immigration
10 and Nationality Act (8 U.S.C. 1326(b)) is amended—

11 (1) in paragraph (1)—

12 (A) by inserting after “commission of” the
13 following: “three or more misdemeanors involv-
14 ing drugs, crimes against the person, or both,
15 or”; and

16 (B) by striking “5” and inserting “10”;

17 (2) in paragraph (2), by striking “15” and in-
18 serting “20”; and

19 (3) by adding at the end the following sentence:
20 “For the purposes of this subsection, the term ‘deporta-
21 tion’ includes any agreement in which an alien stipulates
22 to deportation during a criminal trial under either Federal
23 or State law.”.

1 **SEC. 1302. FORM OF DEPORTATION HEARINGS.**

2 The second sentence of section 242(b) of the Immi-
3 gration and Nationality Act (8 U.S.C. 1252(b)) is amend-
4 ed by inserting before the period the following: “; except
5 that nothing in this subsection shall preclude the Attorney
6 General from authorizing proceedings by electronic or tele-
7 phonic media (with the consent of the alien) or, where
8 waived or agreed to by the parties, in the absence of the
9 alien.”.

10 **SEC. 1303. CRIMINAL ALIEN TRACKING CENTER.**

11 (a) OPERATION.—The Attorney General shall, under
12 the authority of section 242(a)(3)(A) of the Immigration
13 and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a
14 criminal alien tracking center.

15 (b) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to carry out this section
17 \$_____ for fiscal year 1995 and \$_____ for each
18 of fiscal years 1996, 1997, 1998, and 1999.

19 **SEC. 1304. ALIEN WITNESS COOPERATION AND**
20 **COUNTERTERRORISM INFORMATION.**

21 (a) ESTABLISHMENT OF NEW NONIMMIGRANT CLAS-
22 SIFICATION.—Section 101(a)(15) of the Immigration and
23 Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

24 (1) by striking “or” at the end of subparagraph
25 (Q),

1 (2) by striking the period at the end of sub-
2 paragraph (R) and inserting “; or”, and

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

5 “(S) subject to section 214(j), an alien—

6 “(i) who the Attorney General
7 determines—

8 “(I) is in possession of critical reliable
9 information concerning a criminal organi-
10 zation or enterprise;

11 “(II) is willing to supply or has sup-
12 plied such information to Federal or State
13 law enforcement authorities or a Federal
14 or State court; and

15 “(III) whose presence in the United
16 States the Attorney General determines is
17 essential to the success of an authorized
18 criminal investigation or the successful
19 prosecution of an individual involved in the
20 criminal organization or enterprise; or

21 “(ii) who the Secretary of State and the
22 Attorney General jointly determine—

23 “(I) is in possession of critical reliable
24 information concerning a terrorist organi-
25 zation, enterprise, or operation;

1 “(II) is willing to supply or has sup-
2 plied such information to Federal law en-
3 forcement authorities or a Federal court;

4 “(III) will be or has been placed in
5 danger as a result of providing such infor-
6 mation; and

7 “(IV) is eligible to receive a reward
8 under section 36(a) of the State Depart-
9 ment Basic Authorities Act of 1956,

10 and, if the Attorney General (or with respect to
11 clause (ii), the Secretary of State and the Attorney
12 General jointly) considers it to be appropriate, the
13 spouse, children, and parents of an alien described
14 in clause (i) or (ii) if accompanying, or following to
15 join, the alien.”.

16 (b) CONDITIONS OF ENTRY.—

17 (1) WAIVER OF GROUNDS FOR EXCLUSION.—

18 Section 212(d) of the Immigration and Nationality
19 Act (8 U.S.C. 1182(d)) is amended by inserting at
20 the beginning the following new paragraph:

21 “(1) The Attorney General shall determine whether
22 a ground for exclusion exists with respect to a non-
23 immigrant described in section 101(a)(15)(S). The Attor-
24 ney General, in the Attorney General’s discretion, may
25 waive the application of subsection (a) (other than para-

1 graph (3)(E)) in the case of a nonimmigrant described in
2 section 101(a)(15)(S), if the Attorney General considers
3 it to be in the national interest to do so. Nothing in this
4 section shall be regarded as prohibiting the Immigration
5 and Naturalization Service from instituting deportation
6 proceedings against an alien admitted as a nonimmigrant
7 under section 101(a)(15)(S) for conduct committed after
8 the alien's admission into the United States, or for con-
9 duct or a condition that was not disclosed to the Attorney
10 General prior to the alien's admission as a nonimmigrant
11 under section 101(a)(15)(S)".

12 (2) NUMERICAL LIMITATIONS; PERIOD OF AD-
13 MISSION; ETC.—Section 214 of the Immigration and
14 Nationality Act (8 U.S.C. 1184) is amended by add-
15 ing at the end the following new subsection:

16 "(j)(1) The number of aliens who may be provided
17 a visa as nonimmigrants under section 101(a)(15)(S)(i)
18 in any fiscal year may not exceed 100. The number of
19 aliens who may be provided a visa as nonimmigrants
20 under section 101(a)(15)(S)(ii) in any fiscal year may not
21 exceed 25.

22 "(2) No alien may be admitted into the United States
23 as such a nonimmigrant more than 5 years after the date
24 of the enactment of this subsection.

1 “(3) The period of admission of an alien as such a
2 nonimmigrant may not exceed 3 years. Such period may
3 not be extended by the Attorney General.

4 “(4) As a condition for the admission, and continued
5 stay in lawful status, of such a nonimmigrant, the
6 nonimmigrant—

7 “(A) shall report not less often than quarterly
8 to the Attorney General such information concerning
9 the alien’s whereabouts and activities as the Attor-
10 ney General may require;

11 “(B) may not be convicted of any criminal of-
12 fense punishable by a term of imprisonment of 1
13 year or more after the date of such admission;

14 “(C) must have executed a form that waives the
15 nonimmigrant’s right to contest, other than on the
16 basis of an application for withholding of deporta-
17 tion, any action for deportation of the alien insti-
18 tuted before the alien obtains lawful permanent resi-
19 dent status; and

20 “(D) shall abide by any other condition, limita-
21 tion, or restriction imposed by the Attorney General.

22 “(5) The Attorney General shall submit a report an-
23 nually to the Committee on the Judiciary of the House
24 of Representatives and the Committee on the Judiciary
25 of the Senate concerning—

1 “(A) the number of such nonimmigrants admit-
2 ted;

3 “(B) the number of successful criminal prosecu-
4 tions or investigations resulting from cooperation of
5 such aliens;

6 “(C) the number of terrorist acts prevented or
7 frustrated resulting from cooperation of such aliens;

8 “(D) the number of such nonimmigrants whose
9 admission or cooperation has not resulted in success-
10 ful criminal prosecution or investigation or the pre-
11 vention or frustration of a terrorist act; and

12 “(E) the number of such nonimmigrants who
13 have failed to report quarterly (as required under
14 paragraph (4)) or who have been convicted of crimes
15 in the United States after the date of their admis-
16 sion as such a nonimmigrant.”.

17 (3) PROHIBITION OF CHANGE OF STATUS.—
18 Section 248(1) of the Immigration and Naturaliza-
19 tion Act (8 U.S.C. 1258(1)) is amended by striking
20 “or (K)” and inserting “(K), or (S)”.

21 (c) ADJUSTMENT TO PERMANENT RESIDENT STA-
22 TUS.—

23 (1) IN GENERAL.—Section 245 of the Immigra-
24 tion and Nationality Act (8 U.S.C. 1255) is amend-

1 ed by adding at the end the following new sub-
2 section:

3 “(i)(1) If, in the opinion of the Attorney General—

4 “(A) a nonimmigrant admitted into the United
5 States under section 101(a)(15)(S)(i) has supplied
6 information described in subclause (I) of such sec-
7 tion; and

8 “(B) the provision of such information has sub-
9 stantially contributed to the success of an authorized
10 criminal investigation or the prosecution of an indi-
11 vidual described in subclause (III) of that section,

12 the Attorney General may adjust the status of the alien
13 (and the spouse, children, and parents of the alien if ad-
14 mitted under that section) to that of an alien lawfully ad-
15 mitted for permanent residence if the alien is not de-
16 scribed in section 212(a)(3)(E).

17 “(2) If, in the opinion of the Attorney General—

18 “(A) a nonimmigrant admitted into the United
19 States under section 101(a)(15)(S)(ii) has supplied
20 information described in subclause (I) of such sec-
21 tion, and

22 “(B) the provision of such information has sub-
23 stantially contributed to—

1 “(i) the prevention or frustration of an act
2 of terrorism against a United States person or
3 United States property, or

4 “(ii) the success of an authorized criminal
5 investigation of, or the prosecution of, an indi-
6 vidual involved in such an act of terrorism, and

7 “(C) the nonimmigrant has received a reward
8 under section 36(a) of the State Department Basic
9 Authorities Act of 1956,

10 the Attorney General may adjust the status of the alien
11 (and the spouse, children, and parents of the alien if ad-
12 mitted under such section) to that of an alien lawfully ad-
13 mitted for permanent residence if the alien is not de-
14 scribed in section 212(a)(3)(E).

15 “(3) Upon the approval of adjustment of status under
16 paragraphs (1) or (2), the Attorney General shall record
17 the alien’s lawful admission for permanent residence as
18 of the date of such approval and the Secretary of State
19 shall reduce by one the number of visas authorized to be
20 issued under sections 201(d) and 203(b)(4) for the fiscal
21 year then current.”.

22 (2) EXCLUSIVE MEANS OF ADJUSTMENT.—Sec-
23 tion 245(c) of the Immigration and Nationality Act
24 (8 U.S.C. 1255(c)) is amended by striking “or” be-
25 fore “(4)” and by inserting before the period at the

1 end the following: “; or (5) an alien who was admit-
2 ted as a nonimmigrant described in section
3 101(a)(15)(S)”.

4 (d) EXTENSION OF PERIOD OF DEPORTATION FOR
5 CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of
6 the Immigration and Nationality Act (8 U.S.C.
7 1251(a)(2)(A)(i)(I)) is amended by inserting “(or 10
8 years in the case of an alien provided lawful permanent
9 resident status under section 245(i))” after “five years”.

10 **SEC. 5002. DEPORTATION PROCEDURES FOR CERTAIN**
11 **CRIMINAL ALIENS WHO ARE NOT PERMA-**
12 **NENT RESIDENTS.**

13 (a) ELIMINATION OF ADMINISTRATIVE HEARING FOR
14 CERTAIN CRIMINAL ALIENS.—Section 242A of the Immi-
15 gration and Nationality Act (8 U.S.C. 1252a) is amended
16 by adding at the end the following new subsection:

17 “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-
18 MANENT RESIDENTS.—

19 “(1) Notwithstanding section 242, and subject
20 to paragraph (5), the Attorney General may issue a
21 final order of deportation against any alien described
22 in paragraph (2) whom the Attorney General deter-
23 mines to be deportable under section
24 241(a)(2)(A)(iii) (relating to conviction of an aggra-
25 vated felony).

1 “(2) An alien is described in this paragraph if
2 the alien—

3 “(A) was not lawfully admitted for perma-
4 nent residence at the time that proceedings
5 under this section commenced, or

6 “(B) had permanent resident status on a
7 conditional basis (as described in section 216)
8 at the time that proceedings under this section
9 commenced.

10 “(3) No alien described in this section shall be
11 eligible for any relief from deportation that the At-
12 torney General may grant in his discretion.

13 “(4) The Attorney General may not execute any
14 order described in paragraph (1) until 30 calendar
15 days have passed from the date that such order was
16 issued, unless waived by the alien, in order that the
17 alien has an opportunity to apply for judicial review
18 under section 106.

19 “(5) Proceedings before the Attorney General
20 under this subsection shall be in accordance with
21 such regulations as the Attorney General shall pre-
22 scribe. The Attorney General shall provide that—

23 “(A) the alien is given reasonable notice of
24 the charges and of the opportunity described in
25 subparagraph (C);

✓

1 “(B) the alien has an opportunity to have
2 assistance of counsel during such proceedings
3 at no expense to the Government;

4 “(C) the alien has a reasonable oppor-
5 tunity to inspect the evidence and rebut the
6 charges;

7 “(D) the determination of deportability is
8 supported by clear, convincing, and unequivocal
9 evidence and a record is maintained for judicial
10 review; and

11 “(E) the final order of deportation is not
12 entered by the same person who issues the
13 charges.”.

14 (b) LIMITED JUDICIAL REVIEW.—Section 106 of the
15 Immigration and Nationality Act (8 U.S.C. 1105a) is
16 amended—

17 (1) in the first sentence of subsection (a), by in-
18 serting “or pursuant to section 242A” after “under
19 section 242(b)”;

20 (2) in subsection (a)(1) and subsection (a)(3),
21 by inserting “(including an alien described in section
22 242A)” after “aggravated felony”; and

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

1 “(d)(1) A petition for review or for habeas corpus on
2 behalf of an alien against whom a final order of deporta-
3 tion has been issued pursuant to section 242A(c) may
4 challenge only—

5 “(A) whether the alien is in fact the alien de-
6 scribed in the order;

7 “(B) whether the alien is in fact an alien de-
8 scribed in section 242A(c)(2);

9 “(C) whether the alien has been finally con-
10 victed of an aggravated felony; and

11 “(D) whether the alien was afforded the proce-
12 dures required by section 242A(c)(5).

13 “(2) No court shall have jurisdiction to review any
14 issue other than an issue described in paragraph (1).”.

15 (c) TECHNICAL AMENDMENTS.—Section 242A of the
16 Immigration and Nationality Act (8 U.S.C. 1252a) is
17 amended—

18 (1) by amending the heading to read as follows:

19 “EXPEDITED DEPORTATION OF ALIENS CONVICTED OF
20 COMMITTING AGGRAVATED FELONIES”;

21 (2) by inserting after the section heading the
22 following new subsection:

23 “(a) PRESUMPTION OF DEPORTABILITY.—An alien
24 convicted of an aggravated felony shall be deportable from
25 the United States.”;

1 (3) in subsection (a), as designated prior to en-
2 actment of this Act, by striking “(a) IN GENERAL.—
3 ” and inserting the following:

4 “(b) DEPORTATION OF PERMANENT RESIDENT
5 ALIENS.—

6 “(1) IN GENERAL.—”;

7 (4) in subsection (b), as designated prior to en-
8 actment of this Act, by striking “(b) IMPLEMENTA-
9 TION.—” and inserting “(2) IMPLEMENTATION.—”;

10 (5) by striking subsection (c);

11 (6) in subsection (d)—

12 (A) by striking “(d) EXPEDITED PRO-
13 CEEDINGS.—(1)” and inserting “(3) EXPE-
14 DITED PROCEEDINGS.—(A)”;

15 (B) by striking “(2)” and inserting “(B)”;

16 and

17 (7) in subsection (e)—

18 (A) by striking “(e) REVIEW.—(1)” and
19 inserting “(4) REVIEW.—(A)”;

20 (B) by striking the second sentence; and

21 (C) by striking “(2)” and inserting “(B)”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to all aliens against whom deporta-
24 tion proceedings are initiated after the date of enactment
25 of this Act.

1 **Subtitle B—Immigration and**
2 **Border Enforcement**

3 **SEC. 1321. ASYLUM.**

4 (a) FINDINGS.—The Senate finds that—

5 (1) in the last decade applications for asylum
6 have greatly exceeded the original 5,000 annual limit
7 provided in the Refugee Act of 1980, with more than
8 150,000 asylum applications filed in fiscal year
9 1993, and the backlog of cases growing to 340,000;

10 (2) this flood of asylum claims has swamped
11 the system, creating delays in the processing of ap-
12 plications of up to several years;

13 (3) the delay in processing asylum claims due
14 to the overwhelming numbers has contributed to nu-
15 merous problems, including—

16 (A) an abuse of the asylum laws by fraud-
17 ulent applicants whose primary interest is ob-
18 taining work authority in the United States
19 while their claim languishes in the backlogged
20 asylum processing system;

21 (B) the growth of alien smuggling oper-
22 ations, often involving organized crime;

23 (C) a drain on limited resources resulting
24 from the high cost of processing frivolous asy-

1 lum claims through our multilayered system;
2 and

3 (D) an erosion of public support for asy-
4 lum, which is a treaty obligation.

5 (4) asylum, a safe haven protection for aliens
6 abroad who cannot return home, has been perverted
7 by some aliens who use asylum claims to circumvent
8 our immigration and refugee laws and procedures;
9 and

10 (5) a comprehensive revision of our asylum law
11 and procedures is required to address these prob-
12 lems.

13 (b) POLICY.—It is the sense of the Senate that—

14 (1) asylum is a process intended to protect
15 aliens in the United States who cannot safely return
16 home;

17 (2) persons outside their country of nationality
18 who have a well-founded fear of persecution if they
19 return should apply for refugee status at one of our
20 refugee processing offices abroad; and

21 (3) the immigration, refugee and asylum laws
22 of the United States should be reformed to
23 provide—

24 (A) a procedure for the expeditious exclu-
25 sion of any asylum applicant who arrives at a

1 port-of-entry with fraudulent documents, or no
2 documents, and makes a noncredible claim of
3 asylum; and

4 (B) the immigration, refugee and asylum
5 laws of the United States should be reformed to
6 provide for a streamlined affirmative asylum
7 processing system for asylum applicants who
8 make their application after they have entered
9 the United States.

10 **SEC. 1322. EXPEDITED DEPORTATION FOR DENIED ASYLUM**
11 **APPLICANTS.**

12 (a) **IN GENERAL.**—The Attorney General may pro-
13 vide for the expeditious adjudication of asylum claims and
14 the expeditious deportation of asylum applicants whose
15 applications have been finally denied, unless the applicant
16 remains in an otherwise valid nonimmigrant status.

17 (b) **EMPLOYMENT AUTHORIZATION.**—Section 208 of
18 the Immigration and Nationality Act (8 U.S.C. 1158) is
19 amended by adding at the end the following new sub-
20 section:

21 “(e) An applicant for asylum is not entitled to em-
22 ployment authorization except as may be provided by regu-
23 lation in the discretion of the Attorney General.”.

24 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
25 are authorized to be appropriated to carry out this section

1 \$_____ for fiscal years 1995, 1996, 1997, 1998, and
2 1999.

3 **SEC. 1323. IMPROVING BORDER CONTROLS.**

4 There are authorized to be appropriated \$_____ for the Immigration and Naturalization Service to in-
5 crease the number of agent positions (and necessary sup-
6 port personnel positions) in the Border Patrol and to in-
7 crease the resources for the Border Patrol, the Inspections
8 Program, and the Deportation Branch to apprehend ille-
9 gal aliens who attempt clandestine entry into the United
10 States or entry into the United States with fraudulent doc-
11 uments or who remain in the country after their non-
12 immigrant visas expire.

14 **SEC. 1324. EXPANDED SPECIAL DEPORTATION PROCEED-**
15 **INGS.**

16 (a) **IN GENERAL.**—Subject to the availability of ap-
17 propriations, the Attorney General may expand the pro-
18 gram authorized by section 242A(d) of the Immigration
19 and Nationality Act to ensure that such aliens are imme-
20 diately deportable upon their release from incarceration.

21 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
22 are authorized to be appropriated \$_____ to carry out
23 this section for fiscal years 1995, 1996, 1997, and 1998.

1 **SEC. 1325. CONSTRUCTION OF INS SERVICE PROCESSING**
2 **CENTERS TO DETAIN CRIMINAL ALIENS.**

3 There are authorized to be appropriated \$ _____
4 for fiscal year 1996 to construct or contract for the con-
5 struction of 2 Immigration and Naturalization Service
6 Processing Centers to detain criminal aliens.

7 **SEC. 1326. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE.**

8 (a) **IN GENERAL.**—Subject to subsection (b) and not-
9 withstanding any other provision of law, the Attorney Gen-
10 eral, in the discretion of the Attorney General, is author-
11 ized to accept, hold, administer, and utilize gifts of prop-
12 erty and services (which may not include cash assistance)
13 for the purpose of assisting the Immigration and Natu-
14 ralization Service in transporting deportable aliens who
15 are subject to charges for misdemeanor or felony crimes
16 under State or Federal law and who are either unlawfully
17 within the United States or willing to submit to voluntary
18 deportation under safeguard. Any property acquired pur-
19 suant to this section shall be acquired in the name of the
20 United States.

21 (b) **LIMITATION.**—The Attorney General shall termi-
22 nate or rescind the exercise of the authority under sub-
23 section (a) if the Attorney General determines that the
24 exercise of such authority has resulted in discrimination
25 in law enforcement on the basis of race, color, or national
26 origin.

1 **SEC. 2431. PASSPORT AND VISA OFFENSES PENALTIES IM-**
2 **PROVEMENT.**

3 (a) IN GENERAL.—Chapter 75 of title 18, United
4 States Code, is amended—

5 (1) in section 1541 by striking “not more than
6 \$500 or imprisoned not more than one year” and in-
7 serting “under this title, imprisoned not more than
8 10 years”;

9 (2) in each of sections 1542, 1543, and 1544
10 by striking “not more than \$2,000 or imprisoned
11 not more than five years” and inserting “under this
12 title, imprisoned not more than 10 years”;

13 (3) in section 1545 by striking “not more than
14 \$2,000 or imprisoned not more than three years”
15 and inserting “under this title, imprisoned not more
16 than 10 years”;

17 (4) in section 1546(a) by striking “five years”
18 and inserting “10 years”;

19 (5) in section 1546(b) by striking “in accord-
20 ance with this title, or imprisoned not more than two
21 years” and inserting “under this title, imprisoned
22 not more than 5 years”; and

23 (6) by adding at the end the following new sec-
24 tion:

1 **“§ 1547. Alternative imprisonment maximum for cer-**
2 **tain offenses**

3 “Notwithstanding any other provision of this title,
4 the maximum term of imprisonment that may be imposed
5 for an offense under this chapter (other than an offense
6 under section 1545)—

7 “(1) if committed to facilitate a drug traffick-
8 ing crime (as defined in 929(a) of this title) is 15
9 years; and

10 “(2) if committed to facilitate an act of inter-
11 national terrorism (as defined in section 2331 of this
12 title) is 20 years.”.

13 (b) TECHNICAL AMENDMENT.—The chapter analysis
14 for chapter 75 of title 18, United States Code, is amended
15 by adding at the end the following new item:

“1547. Alternative imprisonment maximum for certain offenses.”.

16 **TITLE XIV—YOUTH VIOLENCE**

17 **SEC. 1101. PROSECUTION AS ADULTS OF CERTAIN JUVE-**
18 **NILES FOR CRIMES OF VIOLENCE.**

19 The 4th undesignated paragraph of section 5032 of
20 title 18, United States Code, is amended by striking “;
21 however” and inserting “. In the application of the preced-
22 ing sentence, if the crime of violence is an offense under
23 section 113(a), 113(b), 113(c), 1111, 1113, or, if the juve-
24 nile possessed a firearm during the offense, section 2111,
25 2113, 2241(a), or 2241(c), ‘thirteen’ shall be substituted

1 for 'fifteen' and 'thirteenth' shall be substituted for 'fif-
2 teenth'. Notwithstanding sections 1152 and 1153, no per-
3 son subject to the criminal jurisdiction of an Indian tribal
4 government shall be subject to the preceding sentence for
5 any offense the Federal jurisdiction for which is predi-
6 cated solely on Indian country (as defined in section
7 1151), and which has occurred within the boundaries of
8 such Indian country, unless the governing body of the
9 tribe has elected that the preceding sentence have effect
10 over land and persons subject to its criminal jurisdiction.
11 However".

12 **SEC. 1102. COMMENCEMENT OF JUVENILE PROCEEDING.**

13 Section 5032 of title 18, United States Code, is
14 amended by striking "Any proceedings against a juvenile
15 under this chapter or as an adult shall not be commenced
16 until" and inserting "A juvenile shall not be transferred
17 to adult prosecution nor shall a hearing be held under sec-
18 tion 5037 (disposition after a finding of juvenile delin-
19 quency) until".

20 **SEC. 1103. SEPARATION OF JUVENILE FROM ADULT OF-**
21 **FENDERS.**

22 Section 5039 of title 18, United States Code, is
23 amended by inserting ", whether pursuant to an adjudica-
24 tion of delinquency or conviction for an offense," after
25 "committed" the first place it appears.

1 SEC. ____ BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVE-
2 NILES

3 Section 501(b) of title I of the Omnibus Crime Con-
4 trol and Safe Streets Act of 1968 (42 U.S.C. 3751), as
5 amended by section 1002, is amended—

6 (1) by striking “and” at the end of paragraph
7 (21);

8 (2) by striking the period at the end of para-
9 graph (22) and inserting “; and”; and

10 (3) by adding at the end the following new
11 paragraph:

12 “(23) programs that address the need for effec-
13 tive bindover systems for the prosecution of violent
14 16- and 17-year-old juveniles in courts with jurisdic-
15 tion over adults for the crimes of—

16 “(A) murder in the first degree;

17 “(B) murder in the second degree;

18 “(C) attempted murder;

19 “(D) armed robbery when armed with a
20 firearm;

21 “(E) aggravated battery or assault when
22 armed with a firearm;

23 “(F) criminal sexual penetration when
24 armed with a firearm; and

25 “(G) drive-by shootings as described in
26 section 36 of title 18, United States Code.”

1 **SEC. 618. AMENDMENT CONCERNING RECORDS OF CRIMES**
2 **COMMITTED BY JUVENILES.**

3 Section 5038 of title 18, United States Code, is
4 amended—

5 (1) by striking subsection (d) and inserting the
6 following:

7 “(d) Whenever a juvenile has been found guilty of
8 committing an act which if committed by an adult would
9 be an offense described in clause (3) of the first paragraph
10 of section 5032 of this title, the juvenile shall be
11 fingerprinted and photographed, and the fingerprints shall
12 be sent to the Federal Bureau of Investigation. The court
13 shall also transmit to the Federal Bureau of Investigation
14 the information concerning the adjudication, including
15 name, date of adjudication, court, offenses, and sentence,
16 along with the notation that the matter was a juvenile ad-
17 judication. The fingerprints, photograph, and other
18 records and information relating to a juvenile described
19 in this subsection shall be made available for criminal jus-
20 tice purposes in the manner applicable to adult defend-
21 ants.”;

22 (2) in subsection (e) by inserting after the pe-
23 riod the following: “Fingerprints and photographs of
24 a juvenile who is prosecuted as an adult shall be
25 made available in the manner applicable to adult de-
26 fendants.”; and

1 (3) by striking subsection (f).

2 **TITLE XV—CRIMINAL STREET**
3 **GANGS**

4 **SEC. 603. CRIMINAL STREET GANGS.**

5 (a) IN GENERAL.—Part I of title 18, United States
6 Code, is amended by inserting after chapter 25 the follow-
7 ing new chapter:

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

9 **“§ 521. Criminal street gangs**

10 “(a) DEFINITIONS.—

11 “ ‘conviction’ includes a finding, under State or
12 Federal law, that a person has committed an act of
13 juvenile delinquency involving a violent or controlled
14 substances felony.

15 “ ‘criminal street gang’ means an on-going
16 group, club, organization, or association of five or
17 more persons—

18 “(1) that has as 1 of its primary purposes
19 the Commission of 1 or more of the criminal of-
20 fenses described in subsection (c);

21 “(2) the members of which engage, or have
22 engaged within the past 5 years, in a continu-
23 ing series of offenses described in subsection
24 (c); and

1 “(3) the activities of which affect interstate
2 or foreign commerce.

3 “(b) PENALTY.—The sentence of a person convicted
4 of an offense described in subsection (c) shall be increased
5 by up to 10 years if the offense is committed under the
6 circumstances described in subsection (d).

7 “(c) OFFENSES.—The offenses described in this sec-
8 tion are—

9 “(1) a Federal felony involving a controlled sub-
10 stance (as defined in section 102 of the Controlled
11 Substances Act (21 U.S.C. 802)) for which the max-
12 imum penalty is not less than 5 years;

13 “(2) a Federal felony crime of violence that has
14 as an element the use or attempted use of physical
15 force against the person of another; and

16 “(3) a conspiracy to commit an offense de-
17 scribed in paragraph (1) or (2).

18 “(d) CIRCUMSTANCES.—The circumstances described
19 in this section are that the offense described in subsection
20 (c) was committed by a person who—

21 “(1) participates in a criminal street gang with
22 knowledge that its members engage in or have en-
23 gaged in a continuing series of offenses described in
24 subsection (c);

1 “(2) intends to promote or further the felonious
2 activities of the criminal street gang or maintain or
3 increase his or her position in the gang; and

4 “(3) has been convicted within the past 5 years
5 for—

6 “(A) an offense described in subsection (c);

7 “(B) a State offense—

8 “(i) involving a controlled substance
9 (as defined in section 102 of the Controlled
10 Substances Act (21 U.S.C. 802)) for which
11 the maximum penalty is not less than 5
12 years’ imprisonment; or

13 “(ii) that is a felony crime of violence
14 that has as an element the use or at-
15 tempted use of physical force against the
16 person of another;

17 “(C) any Federal or State felony offense
18 that by its nature involves a substantial risk
19 that physical force against the person of an-
20 other may be used in the course of committing
21 the offense; or

22 “(D) a conspiracy to commit an offense de-
23 scribed in subparagraph (A), (B), or (C).”.

24 (b) TECHNICAL AMENDMENT.—The part analysis for
25 part I of title 18, United States Code, is amended by in-

1 serting after the item relating to chapter 25 the following
2 new item:

“26. Criminal street gangs 521”.

3 **SEC. 614. ADULT PROSECUTION OF SERIOUS JUVENILE OF-**
4 **FENDERS.**

5 Section 5032 of title 18, United States Code, is
6 amended—

7 (1) in the first undesignated paragraph by
8 striking “922(p)” and inserting “924(b), (g), or
9 (h)”;

10 (2) in the fourth undesignated paragraph by in-
11 sserting “or in section 924(b), (g), or (h) of this
12 title,” before “criminal prosecution” the first place
13 it appears; and

14 (3) in the fifth undesignated paragraph by add-
15 ing at the end the following: “In considering the na-
16 ture of the offense, as required by this paragraph,
17 the court shall consider the extent to which the juve-
18 nile played a leadership role in an organization, or
19 otherwise influenced other persons to take part in
20 criminal activities, involving the use or distribution
21 of controlled substances or firearms. Such a factor,
22 if found to exist, shall weigh in favor of a transfer
23 to adult status, but the absence of this factor shall
24 not preclude such a transfer.”.

1 **SEC. 614. INCREASED PENALTIES FOR EMPLOYING CHIL-**
2 **DREN TO DISTRIBUTE DRUGS NEAR SCHOOLS**
3 **AND PLAYGROUNDS.**

4 Section 419 of the Controlled Substances Act (21
5 U.S.C. 860) is amended—

6 (1) by redesignating subsections (c) and (d) as
7 subsections (d) and (e), respectively; and

8 (2) by inserting after subsection (b) the follow-
9 ing new subsection:

10 “(c) Notwithstanding any other law, any person at
11 least 21 years of age who knowingly and intentionally—

12 “(1) employs, hires, uses, persuades, induces,
13 entices, or coerces a person under 18 years of age
14 to violate this section; or

15 “(2) employs, hires, uses, persuades, induces,
16 entices, or coerces a person under 18 years of age
17 to assist in avoiding detection or apprehension for
18 any offense under this section by any Federal, State,
19 or local law enforcement official,

20 is punishable by a term of imprisonment, a fine, or both,
21 up to triple those authorized by section 401.”.

22 **SEC. 616. INCREASED PENALTIES FOR TRAVEL ACT CRIMES**
23 **INVOLVING VIOLENCE AND CONSPIRACY TO**
24 **COMMIT CONTRACT KILLINGS.**

25 (a) **TRAVEL ACT PENALTIES.**—Section 1952(a) of
26 title 18, United States Code, is amended by striking “and

1 thereafter performs or attempts to perform any of the acts
2 specified in subparagraphs (1), (2), and (3), shall be fined
3 not more than \$10,000 or imprisoned for not more than
4 five years, or both.” and inserting “and thereafter per-
5 forms or attempts to perform—

6 “(A) an act described in paragraph (1) or (3)
7 shall be fined under this title, imprisoned not more
8 than 5 years, or both; or

9 “(B) an act described in paragraph (2) shall be
10 fined under this title, imprisoned for not more than
11 20 years, or both, and if death results shall be im-
12 prisoned for any term of years or for life.”.

13 (b) MURDER CONSPIRACY PENALTIES.—Section
14 1958(a) of title 18, United States Code, is amended by
15 inserting “or who conspires to do so” before “shall be
16 fined” the first place it appears.

17 **SEC. 618. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING**

18 **OBJECTIVE.**

19 Section 501(b) of title I of the Omnibus Crime Con-
20 trol and Safe Streets Act of 1968 (42 U.S.C. 3751) is
21 amended—

22 (1) in paragraph (20) by striking “and” at the
23 end;

24 (2) in paragraph (21) by striking the period
25 and inserting “; and”; and

1 programs including prevention and enforcement programs
2 to reduce—

3 “(1) the formation or continuation of juvenile
4 gangs; and

5 “(2) the use and sale of illegal drugs by juve-
6 niles.

7 “(b) PARTICULAR PURPOSES.—The grants made
8 under this section can be used for any of the following
9 specific purposes:

10 “(1) To reduce the participation of juveniles in
11 drug-related crimes (including drug trafficking and
12 drug use), particularly in and around elementary
13 and secondary schools.

14 “(2) To reduce juvenile involvement in orga-
15 nized crime, drug and gang-related activity, particu-
16 larly activities that involve the distribution of drugs
17 by or to juveniles.

18 “(3) To develop within the juvenile justice sys-
19 tem, including the juvenile corrections system, inno-
20 vative means to address the problems of juveniles
21 convicted of serious drug-related and gang-related
22 offenses.

23 “(4) To reduce juvenile drug and gang-related
24 activity in public housing projects.

1 “(5) To develop and provide parenting classes
2 to parents of at-risk youth, giving parents the skills
3 they need to provide adequate care and supervision
4 of such youth and to counteract the influences lead-
5 ing youth to a life of gangs, crime, and drugs.

6 “(6) To develop and provide training in meth-
7 ods of nonviolent dispute resolution to youth of jun-
8 ior high school and high school age.

9 “(7) To reduce and prevent juvenile drug and
10 gang-related activity in rural areas.

11 “(8) To provide technical assistance and train-
12 ing to personnel and agencies responsible for the ad-
13 judicatory and corrections components of the juve-
14 nile justice system to—

15 “(A) identify drug-dependent or gang-in-
16 volved juvenile offenders; and

17 “(B) provide appropriate counseling and
18 treatment to such offenders.

19 “(9) To promote the involvement of all juveniles
20 in lawful activities, including in-school and after-
21 school programs for academic, athletic, or artistic
22 enrichment that also teach that drug and gang in-
23 volvement are wrong.

24 “(10) To facilitate Federal and State coopera-
25 tion with local school officials to develop education,

1 prevention, and treatment programs for juveniles
2 who are likely to participate in drug trafficking,
3 drug use, or gang-related activities.

4 “(11) To prevent juvenile drug and gang in-
5 volvement in public housing projects through pro-
6 grams establishing youth sports and other activities,
7 including girls’ and boys’ clubs, scout troops, and lit-
8 tle leagues.

9 “(12) To provide pre- and post-trial drug abuse
10 treatment to juveniles in the juvenile justice system
11 with the highest possible priority to providing drug
12 abuse treatment to drug-dependent pregnant juve-
13 niles and drug-dependent juvenile mothers.

14 “(13) To provide education and treatment pro-
15 grams for juveniles exposed to severe violence in
16 their homes, schools, or neighborhoods.

17 “(14) To establish sports mentoring and coach-
18 ing programs in which athletes serve as role models
19 for juveniles to teach that athletics provides a posi-
20 tive alternative to drug and gang involvement.

21 “AUTHORIZATION OF APPROPRIATIONS

22 “SEC. 283A. There is authorized to be appropriated
23 to carry out this subpart \$_____ for fiscal years
24 1995 and 1996.

1 "APPLICATION

2 "SEC. 283B. (a) IN GENERAL.—Each State or entity
3 applying for a grant under section 283 shall submit an
4 application to the Administrator in such form and contain-
5 ing such information as the Administrator shall prescribe.

6 "(b) REGULATIONS.—To the extent practicable, the
7 Administrator shall prescribe regulations governing appli-
8 cations for this subpart that are substantially similar to
9 the regulations governing applications required under part
10 D, including the regulations relating to competition.

11 "MENTAL HEALTH SCREENING

12 "SEC. 283C. (a) SENSE OF THE CONGRESS.—It is
13 the sense of the Congress that no child should have to
14 be incarcerated in a State youth center or detention facil-
15 ity solely in order to receive mental health treatment.

16 "(b) IN GENERAL.—Not later than 2 years after the
17 date of enactment of this subpart, the Attorney General,
18 acting through the Administrator of the Office of Juvenile
19 Justice and Delinquency Prevention, in collaboration with
20 the Secretary of Health and Human Services, acting
21 through the Administrator of Substance Abuse and Men-
22 tal Health Services Administration, shall, subject to the
23 availability of appropriations—

24 "(1) study the nature and prevalence of mental
25 illness among youth in the juvenile justice system at
26 several different points in the system, including the

1 arrest stage, the adjudication, and dispositional
2 state, and the commitment stage;

3 “(2) develop a model system that the States
4 can use to assess, diagnose, and treat the mental
5 health needs of youth who come in contact with the
6 juvenile justice system for mental illness; and

7 “(3) disseminate the results of the study and
8 the model to each State’s Juvenile Justice Advisory
9 Group.

10 “(c) STUDY.—The study should include analysis of—

11 “(1) national prevalence of rates of the dif-
12 ferent clinical categories of mental illness for youth
13 who come in contact with the juvenile justice system;

14 “(2) the prevalence of multiple mental disorders
15 among youth who have come in contact with the ju-
16 venile justice system;

17 “(3) recommendations to the Committee on the
18 Judiciary of the Senate and the Committees on Edu-
19 cation and Labor of the House of Representatives on
20 the appropriateness and need for further Federal ac-
21 tion; and

22 “(4) such other analysis as is appropriate.

23 “(d) MODEL.—The model should provide—

24 “(1) guidelines for accurate and timely assess-
25 ment, diagnosis, and treatment at several different

1 points in the juvenile justice system including the ar-
2 rest stage, the adjudication and dispositional stage,
3 and the commitment stage;

4 “(2) a method for fostering collaboration be-
5 tween the mental health agencies, juvenile justice
6 agencies, educational agencies, social services agen-
7 cies, substance abuse treatment agencies, police, and
8 families;

9 “(3) a funding mechanism for the model; and

10 “(4) such other guidelines as are appropriate.”

11 **SEC. 632. GRANTS FOR YOUTH DEVELOPMENT CENTERS.**

12 Part B of title II of the Juvenile Justice and Delin-
13 quency Prevention Act of 1974 (42 U.S.C. 5631 et seq.),
14 is amended—

15 (1) by inserting before section 221 the following
16 heading:

17 “Subpart I—Juvenile Justice and Delinquency
18 Prevention Formula Grant Program”;
19 and

20 (2) by adding at the end the following new sub-
21 part:

22 “Subpart II—Youth Violence Prevention Block Grants

23 “SEC. 232. (a) IN GENERAL.—The Administrator of
24 the Office of Juvenile Justice and Delinquency Prevention
25 shall subject to availability of appropriations make grants

1 to States to assist the States in planning, establishing, op-
2 erating, coordinating, and evaluating programs directly or
3 through grants and contracts with public and private
4 agencies for the development of more effective education,
5 training, research, prevention, diversion, treatment, and
6 rehabilitation programs in the area of juvenile violence.

7 “(b) ISSUES TO BE ADDRESSED.—A program fund-
8 ed under subsection (a) shall address issues identified as
9 contributing to youth violence, which may include—

10 “(1) conflict resolution programs in schools;

11 “(2) alternatives to school suspension;

12 “(3) juvenile court diversion programs; and

13 “(4) other innovative projects.

14 “(c) ALLOCATION OF FUNDS.—The amount appro-
15 priated under this section for a fiscal year shall be allo-
16 cated among the States by allocating to each State an
17 amount that bears the same proportion to the amount ap-
18 propriated as the number of residents of the State under
19 the age of 18 years bears to the number of residents of
20 all of the States under the age of 18 years.

21 “(d) ADMINISTRATION.—Grants made under this sec-
22 tion shall be administered by the State office designated
23 under section 507 of the Omnibus Crime Control and Safe
24 Streets Act of 1968 (42 U.S.C. 3757).

1 “(e) APPLICATIONS BY PUBLIC AND PRIVATE AGEN-
2 CIES.—

3 “(1) IN GENERAL.—A public or private agency
4 desiring to receive a grant or enter into a contract
5 under this subpart shall submit an application at
6 such time, in such manner, and containing such in-
7 formation as the office described in subsection (d)
8 may prescribe.

9 “(2) CONTENTS.—In accordance with guide-
10 lines established by the office described in subsection
11 (d), an application under paragraph (1) shall—

12 “(A) set forth a program or activity for
13 carrying out 1 or more of the purposes de-
14 scribed in subsections (a) and (b) and specifi-
15 cally identify each such purpose that the pro-
16 gram or activity is designed to carry out;

17 “(B) provide that the program or activity
18 will be administered by or under the supervision
19 of the applicant;

20 “(C) provide for the proper and efficient
21 administration of the program or activity;

22 “(D) provide for regular evaluation of the
23 program or activity;

24 “(E) provide an assurance that the pro-
25 posed program or activity will supplement, not

1 supplant, similar programs and activities al-
2 ready available in the community;

3 “(F) describe how the program or activity
4 will be coordinated with programs, activities,
5 and services available locally;

6 “(G) provide that regular reports on such
7 program or activity shall be sent to the admin-
8 istering office named in subsection (d); and

9 “(H) provide for such fiscal control and
10 fund accounting procedures as may be nec-
11 essary to ensure prudent use, proper disburse-
12 ment, and accurate accounting of funds re-
13 ceived under this subpart.

14 “(f) MATCHING FUNDS REQUIREMENTS.—

15 “(1) FUNDS RECEIVED UNDER THIS SUB-
16 PART.—Funds received through a grant under this
17 section may not be expended for more than 75 per-
18 cent of the cost of any program that is so funded.

19 “(2) FUNDS FROM OTHER SOURCES.—In pro-
20 viding for the 25 percent share of the cost of a pro-
21 gram from other sources, a State—

22 “(A) shall provide for such share through
23 a payment in cash or in kind, fairly evaluated,
24 including facilities, equipment, or services; and

1 “(B) may provide for such share through
2 State sources, local sources, private sources,
3 nonprofit sources, other Federal sources, or any
4 combination of these sources.

5 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
6 is authorized to be appropriated to carry out this section
7 \$ _____ for each of fiscal years 1995 and 1996.”.

8 **SEC. 633. MENTORING PROGRAM.**

9 Section 288C of part G of title II of the Juvenile Jus-
10 tice and Delinquency Prevention Act of 1974 is amended
11 to read as follows:

12 “REGULATIONS AND GUIDELINES

13 “SEC. 288C. (a) PROGRAM GUIDELINES.—The Ad-
14 ministrators shall issue program guidelines to implement
15 this part. The program guidelines shall be effective only
16 after a period for public notice and comment.

17 “(b) MODEL SCREENING GUIDELINES.—The Admin-
18 istrator shall develop and distribute to program partici-
19 pants specific model guidelines for the screening of pro-
20 spective program mentors.”.

21 **TITLE XVI—Child Pornography**

22 **SEC. 824. PENALTIES FOR INTERNATIONAL TRAFFICKING**

23 **IN CHILD PORNOGRAPHY.**

24 (a) IMPORT RELATED OFFENSE.—Chapter 110 of
25 title 18, United States Code, is amended by adding at the
26 end the following new section:

1 **“§ 2258. Production of sexually explicit depictions of**
2 **a minor for importation into the United**
3 **States**

4 “(a) USE OF MINOR.—A person who, outside the
5 United States, employs, uses, persuades, induces, entices,
6 or coerces any minor to engage in, or who has a minor
7 assist any other person to engage in, or who transports
8 any minor with the intent that the minor engage in any
9 sexually explicit conduct for the purpose of producing any
10 visual depiction of such conduct, intending that the visual
11 depiction will be imported into the United States or into
12 waters within 12 miles of the coast of the United States,
13 shall be punished as provided in subsection (c).

14 “(b) USE OF VISUAL DEPICTION.—A person who,
15 outside the United States, knowingly receives, transports,
16 ships, distributes, sells, or possesses with intent to trans-
17 port, ship, sell, or distribute any visual depiction of a
18 minor engaging in sexually explicit conduct (if the produc-
19 tion of the visual depiction involved the use of a minor
20 engaging in sexually explicit conduct), intending that the
21 visual depiction will be imported into the United States
22 or into waters within a distance of 12 miles of the coast
23 of the United States, shall be punished as provided in sub-
24 section (c).

25 “(c) PENALTIES.—A person who violates subsection
26 (a) or (b), or conspires or attempts to do so—

1 “(1) shall be fined under this title, imprisoned
2 not more than 10 years, or both; and

3 “(2) if the person has a prior conviction under
4 this chapter or chapter 109A, shall be fined under
5 this title, imprisoned not more than 20 years, or
6 both.”.

7 (b) TECHNICAL AMENDMENT.—

8 (1) CHAPTER ANALYSIS.—The chapter analysis
9 for chapter 110 of title 18, United States Code, is
10 amended by adding at the end the following new
11 item:

“2258. Production of sexually explicit depictions of a minor for importation into
the United States.”.

12 (2) FINE PROVISIONS.—Section 2251(d) of title
13 18, United States Code, is amended—

14 (A) by striking “not more than \$100,000,
15 or” and inserting “under this title,”;

16 (B) by striking “not more than \$200,000,
17 or” and inserting “under this title,”; and

18 (C) by striking “not more than \$250,000”
19 and inserting “under this title”.

20 (c) SECTION 2251 PENALTY ENHANCEMENT.—Sec-
21 tion 2251(d) of title 18, United States Code, is amended
22 by striking “this section” the second place it appears and
23 inserting “this chapter or chapter 109A”.

1 (d) SECTION 2252 PENALTY ENHANCEMENT.—Sec-
2 tion 2252(b)(1) of title 18, United States Code, is amend-
3 ed by striking “this section” and inserting “this chapter
4 or chapter 109A”.

5 (e) CONSPIRACY AND ATTEMPT.—Sections 2251(d)
6 and 2252(b) of title 18, United States Code, are each
7 amended by inserting “, or attempts or conspires to vio-
8 late,” after “violates” each place it appears.

9 (f) RICO AMENDMENT.—Section 1961(l) of title 18,
10 United States Code, is amended by striking “2251–2252”
11 and inserting “2251, 2252, and 2258”.

12 (g) TRANSPORTATION OF MINORS.—Section 2423 of
13 title 18, United States Code, is amended—

14 (1) by striking “(a) Whoever” and inserting
15 “(a) TRANSPORTATION WITH INTENT TO ENGAGE
16 IN CRIMINAL SEXUAL ACTIVITY.—A person who”;
17 and

18 (2) by adding at the end the following new sub-
19 section:

20 “(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL
21 ACT WITH A JUVENILE.—A person who travels in inter-
22 state commerce, or conspires to do so, or a United States
23 citizen or an alien admitted for permanent residence in
24 the United States who travels in foreign commerce, or con-
25 spires to do so, for the purpose of engaging in any sexual

1 act (as defined in section 2245) with a person under 18
2 years of age that would be in violation of chapter 109A
3 if the sexual act occurred in the special maritime and ter-
4 ritorial jurisdiction of the United States shall be fined
5 under this title, imprisoned not more than 10 years, or
6 both.”

7 **SEC. 825. SENSE OF CONGRESS CONCERNING STATE LEGIS-**
8 **LATION REGARDING CHILD PORNOGRAPHY.**

9 It is the sense of the Congress that each State that
10 has not yet done so should enact legislation prohibiting
11 the production, distribution, receipt, or simple possession
12 of materials depicting a person under 18 years of age en-
13 gaging in sexually explicit conduct (as defined in section
14 2256 of title 18, United States Code) and providing for
15 a maximum imprisonment of at least 1 year and for the
16 forfeiture of assets used in the commission or support of,
17 or gained from, such offenses.

18 **SEC. 826. CONFIRMATION OF INTENT OF CONGRESS IN EN-**
19 **ACTING SECTIONS 2252 AND 2256 OF TITLE 18,**
20 **UNITED STATES CODE.**

21 (a) **DECLARATION.**—The Congress declares that in
22 enacting sections 2252 and 2256 of title 18, United States
23 Code, it was and is the intent of Congress that—

24 (1) the scope of “exhibition of the genitals or
25 pubic area” in section 2256(2)(E), in the definition

1 of "sexually explicit conduct", is not limited to nude
2 exhibitions or exhibitions in which the outlines of
3 those areas were discernible through clothing; and

4 (2) the requirements in section 2252(a) (1)(A),
5 (2)(A), (3)(B)(i), and (4)(B)(i) that the production
6 of a visual depiction involve the use of a minor en-
7 gaging in "sexually explicit conduct" of the kind de-
8 scribed in section 2256(2)(E) are satisfied if a per-
9 son photographs a minor in such a way as to exhibit
10 the child in a lascivious manner.

11 (b) SENSE OF THE CONGRESS.—It is the sense of
12 the Congress that in filing its brief in *United States v.*
13 *Knox*, No. 92-1183, and thereby depriving the United
14 States Supreme Court of the adverseness necessary for
15 full and fair presentation of the issues arising in the case,
16 the Department of Justice did not accurately reflect the
17 intent of Congress in arguing that "the videotapes in [the
18 *Knox* case] constitute 'lascivious exhibition[s] of the geni-
19 tals or pubic area' only if those body parts are visible in
20 the tapes and the minors posed or acted lasciviously."

1 **TITLE XVII—CRIMES AGAINST**
2 **CHILDREN**
3 **Subtitle A—Jacob Wetterling**
4 **Crimes Against Children and**
5 **Sexually Violent Offender Reg-**
6 **istration Act**

7 **SEC. 1301. ESTABLISHMENT OF PROGRAM.**

8 (a) IN GENERAL.—

9 (1) STATE GUIDELINES.—The Attorney General
10 shall establish guidelines for State programs requir-
11 ing any person who is convicted of a criminal offense
12 against a victim who is a minor, or of any other sex-
13 ually violent offense to register a current address
14 with a designated State law enforcement agency for
15 10 years after release from prison, or being placed
16 on parole, supervised release, or probation.

17 (2) DEFINITION.—For purposes of this
18 subsection—

19 (A) the term “criminal offense against a
20 victim who is a minor” means any criminal of-
21 fense that consists of—

22 (i) kidnapping of a minor, except by a
23 parent;

24 (ii) false imprisonment of a minor, ex-
25 cept by a parent;

1 (iii) criminal sexual conduct toward a
2 minor;

3 (iv) solicitation of a minor to engage
4 in sexual conduct;

5 (v) use of a minor in a sexual per-
6 formance;

7 (vi) solicitation of a minor to practice
8 prostitution;

9 (vii) any conduct that by its nature is
10 a sexual offense against a minor; or

11 (viii) an attempt to commit an offense
12 described in any of clauses (i) through
13 (vii), if the State—

14 (I) makes such an attempt a
15 criminal offense; and

16 (II) chooses to include such an
17 offense in those which are criminal of-
18 fenses against a victim who is a minor
19 for the purposes of this section; and

20 (B) the term “sexually violent offense”
21 means any criminal offense that consists of ag-
22 gravated sexual abuse or sexual abuse (as de-
23 scribed in sections 2241 and 2242 of title 18,
24 United States Code) or an offense that has as
25 its elements engaging in physical contact with

1 another person or using or brandishing a weap-
2 on against another person with intent to com-
3 mit aggravated sexual abuse or sexual abuse (as
4 described in sections 2241 and 2242 of title 18,
5 United States Code).

6 (b) REGISTRATION REQUIREMENT UPON RELEASE,
7 PAROLE, SUPERVISED RELEASE, OR PROBATION.—An
8 approved State registration program established under
9 this section shall contain the following requirements:

10 (1) DUTY OF STATE PRISON OFFICIAL OR
11 COURT.—If a person who is required to register
12 under this section is released from prison, or placed
13 on parole, supervised release, or probation, a State
14 prison officer, or in the case of probation, the court,
15 shall—

16 (A) inform the person of the duty to reg-
17 ister and obtain the information required for
18 such registration;

19 (B) inform the person that if the person
20 changes residence address, the person shall give
21 the new address to a designated State law en-
22 forcement agency in writing within 10 days;

23 (C) inform the person that if the person
24 changes residence to another State, the person
25 shall register the new address with the law en-

1 enforcement agency with whom the person last
2 registered, and the person is also required to
3 register with a designated law enforcement
4 agency in the new State not later than 10 days
5 after establishing residence in the new State, if
6 the new State has a registration requirement;

7 (D) obtain fingerprints and a photograph
8 of the person if these have not already been ob-
9 tained in connection with the offense that trig-
10 gers registration; and

11 (E) require the person to read and sign a
12 form stating that the duty of the person to reg-
13 ister under this section has been explained.

14 (2) TRANSFER OF INFORMATION TO STATE AND
15 THE F.B.I.—The officer, or in the case of a person
16 placed on probation, the court, shall, within 3 days
17 after receipt of information described in paragraph
18 (1), forward it to a designated State law enforce-
19 ment agency. The State law enforcement agency
20 shall immediately enter the information into the ap-
21 propriate State law enforcement record system and
22 notify the appropriate law enforcement agency hav-
23 ing jurisdiction where the person expects to reside.
24 The State law enforcement agency shall also imme-

1 diately transmit the conviction data and fingerprints
2 to the Federal Bureau of Investigation.

3 (3) ANNUAL VERIFICATION.—On each anniver-
4 sary of a person's initial registration date during the
5 period in which the person is required to register
6 under this section, the designated State law enforce-
7 ment agency shall mail a nonforwardable verification
8 form to the last reported address of the person. The
9 person shall mail the verification form to the des-
10 ignated State law enforcement agency within 10
11 days after receipt of the form. The verification form
12 shall be signed by the person, and state that the per-
13 son still resides at the address last reported to the
14 designated State law enforcement agency. If the per-
15 son fails to mail the verification form to the des-
16 ignated State law enforcement agency within 10
17 days after receipt of the form, the person shall be
18 in violation of this section unless the person proves
19 that the person has not changed his or her residence
20 address.

21 (4) NOTIFICATION OF LOCAL LAW ENFORCE-
22 MENT AGENCIES OF CHANGES IN ADDRESS.—Any
23 change of address by a person required to register
24 under this section reported to the designated State
25 law enforcement agency shall immediately be re-

1 ported to the appropriate law enforcement agency
2 having jurisdiction where the person is residing. The
3 designated law enforcement agency shall, if the per-
4 son changes residence to another State, notify the
5 law enforcement agency with which the person must
6 register in the new State, if the new State has a reg-
7 istration requirement.

8 (5) PRIVACY OF DATA.—The information col-
9 lected under a State registration program shall be
10 treated as private data on individuals and may be
11 disclosed only to law enforcement agencies for inves-
12 tigative purposes or to government agencies conduct-
13 ing confidential background checks with fingerprints
14 on applicants for child care positions or other posi-
15 tions involving contact with children.

16 (c) REGISTRATION FOR CHANGE OF ADDRESS TO
17 ANOTHER STATE.—A person who has been convicted of
18 an offense which triggered registration in a State shall
19 register the new address with a designated law enforce-
20 ment agency in another State to which the person moves
21 not later than 10 days after such person establishes resi-
22 dence in the new State, if the new State has a registration
23 requirement.

24 (d) REGISTRATION FOR 10 YEARS.—A person re-
25 quired to register under this section shall continue to com-