

103^D CONGRESS
1ST SESSION

H. R. 3501

To impose mandatory sentence for crimes of violence and fraud against senior citizens, to provide for the death penalty for the homicide of a senior citizen, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 1993

Mr. MANTON introduced the following bill; which was referred jointly to the Committees on the Judiciary, Energy and Commerce, Banking, Finance and Urban Affairs, and Ways and Means

A BILL

To impose mandatory sentence for crimes of violence and fraud against senior citizens, to provide for the death penalty for the homicide of a senior citizen, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Senior Citizen Protec-
5 tion Act of 1993”.

1 **TITLE I—VIOLENT CRIMES**

2 **SEC. 101. MANDATORY PRISON TERMS.**

3 (a) IN GENERAL.—Chapter 227 of title 18, United
4 States Code, is amended by adding at the end the follow-
5 ing:

6 **“§ 3581. Mandatory sentence for felony against indi-**
7 **vidual of age sixty-five or over**

8 “(a) Upon conviction of any Federal felony crime of
9 violence, if any victim of such crime is an individual who
10 had attained the age of 65 years on or before the date
11 that the offense was committed, the court shall sentence
12 the defendant to imprisonment—

13 “(1) for a term of not less than three fourths
14 of the maximum term of imprisonment provided for
15 such crime, in the case of a first offense to which
16 this section is applicable; and

17 “(2) for a term of not less than the maximum
18 term of imprisonment provided for such crime, in
19 the case of a second or subsequent offense to which
20 this section is applicable.

21 “(b) Notwithstanding any other provision of law, with
22 respect to a sentence imposed under subsection (a) of this
23 section—

24 “(1) the court shall not suspend such sentence;

1 “(2) the court shall not give the defendant a
2 probationary sentence;

3 “(3) such sentence shall be served consecutively
4 to any other sentence imposed for a Federal offense;
5 and

6 “(4) the court shall reject any plea agreement
7 which would result in the imposition of a term of im-
8 prisonment less than that which would have been
9 imposed under subsection (a) of this section in con-
10 nection with any charged offense.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for chapter 227 of title 18, United States Code, is amend-
13 ed by adding at the end the following new item:

“3581. Mandatory sentence for felony against individual of age sixty-five or
over.”.

14 (c) CONFORMING AMENDMENTS TO RULES OF PRO-
15 CEDURE.—

16 (1) Rule 32(c) of the Federal Rules of Criminal
17 Procedure is amended—

18 (A) by adding at the end of the first para-
19 graph in paragraph (1) the following new sen-
20 tence: “Neither the defendant nor the court
21 may waive a presentence investigation and re-
22 port unless there is in the record information
23 sufficient for the court to determine whether a
24 mandatory sentence must be imposed pursuant

1 to title 18, United States Code, section 3581.’’;
2 and

3 (B) in paragraph (2)(D), by inserting after
4 “the offense” the following: “and information
5 relating to whether any victim of the offense
6 had attained age 65 on the date that the of-
7 fense was committed”.

8 (2) Rule 11(e)(1) of the Federal Rules of
9 Criminal Procedure is amended by striking out
10 “The” after “In General.” and inserting in lieu
11 thereof “Except as provided in title 18, United
12 States Code, section 3581, the”.

13 **SEC. 102. DEATH PENALTY.**

14 In any case in which Federal law punishes conduct
15 that is murder in the first degree, as defined in section
16 1111 of title 18, United States Code, shall, in addition
17 to any penalties imposed by the provision of law prohibit-
18 ing that conduct, be subject to the penalty of death. When
19 the Government seeks a sentence of death under this sec-
20 tion, the procedures with respect to death penalties under
21 section 903 of the Federal Aviation Act of 1958 shall, as
22 nearly as may be, apply with respect to death penalties
23 under this section.

1 (2) by adding at the end the following: “The
2 Commission may bring a criminal contempt action
3 for violations of orders obtained in cases brought
4 under section 13(b) of this Act in the same manner
5 as civil penalty and other Federal court actions to
6 which this subsection applies. Such cases may be ini-
7 tiated by the Commission on its own complaint, or
8 pursuant to its acceptance of an appointment by a
9 court to assist it in enforcing such orders pursuant
10 to Rule 42(b) of the Federal Rules of Criminal Pro-
11 cedure.”.

12 **SEC. 202. SENTENCING GUIDELINES.**

13 (a) FRAUD AND DECEIT.—The United States Sen-
14 tencing Commission shall amend its sentencing guidelines
15 relating to fraud and deceit so as to provide for increases
16 in offense levels based on the number of persons that the
17 offender has victimized.

18 (b) ELDERLY VICTIMS.—The United States Sentenc-
19 ing Commission shall amend its sentencing guidelines re-
20 lating to vulnerable victims so as to provide that if the
21 offender knew or should have known that the victim was
22 65 years of age or old, the offense level shall be increased
23 by 7 levels.

1 **SEC. 203. MANDATORY RESTITUTION.**

2 (a) ORDER OF RESTITUTION.—Section 3663(a) of
3 title 18, United States Code, is amended by striking “may
4 order” and inserting “shall order”.

5 (b) PROCEDURE.—Section 3664(a) of title 18,
6 United States Code, is amended by striking “in determin-
7 ing whether to order restitution under section 3663 of this
8 title and the amount of such restitution” and inserting
9 “in determining the amount of restitution under section
10 3663”.

11 **SEC. 204. SENSE OF CONGRESS CONCERNING THE NA-**
12 **TIONAL TELEMARKETING FRAUD WORKING**
13 **GROUP.**

14 It is the sense of Congress that—

15 (1) all United States Attorneys should regularly
16 enter information on telemarketing fraud into the
17 database of the National Telemarketing Fraud
18 Working Group; and

19 (2) the National Telemarketing Fraud Working
20 Group and the States should continue to cooperate
21 with each other in coordinating the prosecution of
22 offenders in venues that are convenient to the vic-
23 tims of their offenses.

24 **SEC. 205. CONSUMER AND ANTI-FRAUD ACTIVITIES.**

25 The Attorney General shall designate 50 existing full-
26 time equivalent positions for attorneys and sufficient sup-

1 port staff to be assigned to the prosecution of consumer
2 fraud and for law enforcement and consumer fraud edu-
3 cation programs.

4 **SEC. 206. FORFEITURES.**

5 (a) CIVIL FORFEITURE.—Section 981 of title 18,
6 United States Code, is amended—

7 (1) in subsection (a)(1)—

8 (A) in subparagraph (D) by inserting “(i)”
9 before “Any” and redesignating clauses (i), (ii),
10 (iii), (iv), (v), and (vi) as subclauses (I), (II),
11 (III), (IV), (V), and (VI), respectively;

12 (B) by striking “(E) With respect to an of-
13 fense listed in subsection (a)(1)(D)” and insert-
14 ing “(ii) With respect to an offense described in
15 clause (i)”;

16 (C) by adding at the end the following new
17 subparagraph:

18 “(E) Any property, real or personal, that con-
19 stitutes, represents, is derived from, or is traceable
20 to the proceeds of a violation of section 1029, 1341,
21 or 1343 of this title if such violation relates to
22 crimes against individuals 65 years of age or older.
23 Notwithstanding the provisions of section 524 of
24 title 28, United States Code, up to 25 percent of the
25 amounts forfeited pursuant to this subparagraph for

1 an offense may be used to provide restitution to any
2 victim of the offense.”.

3 (b) CRIMINAL FORFEITURE.—Section 982(a) of title
4 18, United States Code, is amended by adding at the end
5 thereof the following:

6 “(5) The court, in imposing sentence on a person con-
7 victed of a violation of, or a conspiracy to violate, section
8 1029, 1341 or 1343 of this title, affecting an individual
9 65 years of age or older, shall order that the person forfeit
10 to the United States any property constituting, or derived
11 from, proceeds the person obtained directly or indirectly,
12 as the result of such violation. Notwithstanding the provi-
13 sions of section 524 of title 28, United States Code, up
14 to 25 percent of the amounts forfeited pursuant to this
15 paragraph for an offense may be used to provide restitu-
16 tion to any victim of the offense.”.

17 (c) CRIMINAL CONTEMPT AUTHORITY.—Section
18 16(a)(1) of the Federal Trade Commission Act (15 U.S.C.
19 56(a)(1)) is amended—

20 (1) in subparagraph (A) by striking “civil” the
21 first place it appears and inserting in lieu thereof
22 “Federal court”; and

23 (2) by adding at the end the following: “The
24 Commission may bring a criminal contempt action
25 for violations of orders obtained in cases brought

1 under section 13(b) of this Act in the same manner
2 as civil penalty and other Federal court actions to
3 which this subsection applies. Such cases may be ini-
4 tiated by the Commission on its own complaint, or
5 pursuant to its acceptance of an appointment by a
6 court to assist it in enforcing such orders pursuant
7 to Rule 42(b) of the Federal Rules of Criminal Pro-
8 cedure.”.

9 **SEC. 207. UNIFORM LAWS GOVERNING LICENSING OF**
10 **HOME REPAIR CONTRACTORS, MORTGAGE**
11 **COMPANIES, AND PRIZE GIVEAWAY COMPA-**
12 **NIES.**

13 The Attorney General, in consultation with the Amer-
14 ican Law Institute, the National Conference of Commis-
15 sioners on Uniform State Laws, or other interested per-
16 sons, shall prepare model State law on each of the follow-
17 ing subjects:

- 18 (1) Licensing of home repair contractors.
- 19 (2) Licensing of mortgage companies.
- 20 (3) Licensing of prize giveaway companies.

21 **SEC. 208. MAIL FRAUD.**

22 (a) OFFENSE.—Section 1341 of title 18, United
23 States Code, is amended—

- 24 (1) by inserting “or places in any private cou-
25 rier service office or authorized depository for receipt

1 of matter to be delivered by private courier service,”
2 after “mail matter.”;

3 (2) by inserting “or by a private courier serv-
4 ice” after “Postal Service”; and

5 (3) by inserting “or private courier service”
6 after “by mail”.

7 (b) DEFINITION.—

8 (1) PRIVATE COURIER SERVICE.—Section 1346
9 of title 18, United States Code, is amended to read
10 as follows:

11 **“§ 1346. Definitions**

12 “In this chapter—

13 “‘private courier service’ means a private entity
14 providing services provided by the United States
15 Postal Service.

16 “‘scheme or artifice to defraud’ includes a
17 scheme or artifice to deprive another of the intangi-
18 ble right of honest services.”.

19 (2) TECHNICAL AMENDMENT.—The chapter
20 analysis for chapter 63 of title 18, United States
21 Code, is amended by striking the item for section
22 1346 and inserting the following item:

“1346. Definitions.”.

1 **SEC. 209. STUDY ON MEDICAID FRAUD AND SOCIAL SECUR-**
2 **RITY FRAUD.**

3 The Social Security Administration shall conduct a
4 study of Medicaid fraud and Social Security fraud. Not
5 later than 180 days after the date of the enactment of
6 this Act, the Administration shall report to Congress the
7 results of that study.

○