

***In the Senate of the United States,***

*December 22, 1995.*

*Resolved,* That the bill from the House of Representatives (H.R. 665) entitled “An Act to control crime by mandatory victim restitution”, do pass with the following

**AMENDMENTS:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Victims Justice Act of*  
3 *1995”.*

4 ***SEC. 2. TABLE OF CONTENTS.***

5 *The table of contents for this Act is as follows:*

*Sec. 1. Short title.*

*Sec. 2. Table of contents.*

***TITLE I—RESTITUTION***

*Sec. 101. Order of restitution.*

*Sec. 102. Conditions of probation.*

*Sec. 103. Mandatory restitution.*

*Sec. 104. Order of restitution to victims of other crimes.*

*Sec. 105. Procedure for issuance and enforcement of restitution order.*

*Sec. 106. Procedure.*

*Sec. 107. Instruction to Sentencing Commission.*

*Sec. 108. Justice Department regulations.*

*Sec. 109. Special assessments on convicted persons.*

*Sec. 110. Effective date.*

## TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. *Crime victims fund.*

Sec. 202. *Victims of terrorism act.*

Sec. 203. *Severability.*

Sec. 204. *Study and report.*

1                   **TITLE I—RESTITUTION**2   **SEC. 101. ORDER OF RESTITUTION.**

3           *Section 3556 of title 18, United States Code, is amend-*  
4 *ed—*

5                   (1) *by striking “may” and inserting “shall”;*

6           *and*

7                   (2) *by striking “sections 3663 and 3664.” and*  
8 *inserting “3663A, and may order restitution in ac-*  
9 *cordance with section 3663. The procedures under sec-*  
10 *tion 3664 shall apply to all orders of restitution*  
11 *under this section.”.*

12   **SEC. 102. CONDITIONS OF PROBATION.**

13           *Section 3563 of title 18, United States Code, is amend-*  
14 *ed—*

15                   (1) *in subsection (a)—*

16                           (A) *in paragraph (3), by striking “and” at*  
17 *the end;*

18                           (B) *in the first paragraph (4) (relating to*  
19 *conditions of probation for a domestic crime of*  
20 *violence), by striking the period and inserting a*  
21 *semicolon;*

1           (C) by redesignating the second paragraph  
2           (4) (relating to conditions of probation concern-  
3           ing drug use and testing) as paragraph (5);

4           (D) in paragraph (5), as redesignated, by  
5           striking the period at the end and inserting a  
6           semicolon; and

7           (E) by inserting after paragraph (5), as re-  
8           designated, the following new paragraphs:

9           “(6) that the defendant—

10           “(A) make restitution in accordance with  
11           sections 2248, 2259, 2264, 2327, 3663, 3663A,  
12           and 3664; and

13           “(B) pay the assessment imposed in accord-  
14           ance with section 3013; and

15           “(7) that the defendant will notify the court of  
16           any material change in the defendant’s economic cir-  
17           cumstances that might affect the defendant’s ability to  
18           pay restitution, fines, or special assessments.”; and

19           (2) in subsection (b)—

20           (A) by striking paragraph (2);

21           (B) by redesignating paragraphs (3)  
22           through (22) as paragraphs (2) through (21), re-  
23           spectively; and

24           (C) by amending paragraph (2), as redesign-  
25           ated, to read as follows:



1 *estate, another family member, or any other person ap-*  
2 *pointed as suitable by the court, may assume the victim's*  
3 *rights under this section, but in no event shall the defendant*  
4 *be named as such representative or guardian.*

5       “(3) *The court shall also order, if agreed to by the par-*  
6 *ties in a plea agreement, restitution to persons other than*  
7 *the victim of the offense.*

8       “(b) *The order of restitution shall require that such*  
9 *defendant—*

10               “(1) *in the case of an offense resulting in dam-*  
11 *age to or loss or destruction of property of a victim*  
12 *of the offense—*

13                       “(A) *return the property to the owner of the*  
14 *property or someone designated by the owner; or*

15                       “(B) *if return of the property under sub-*  
16 *paragraph (A) is impossible, impracticable, or*  
17 *inadequate, pay an amount equal to—*

18                               “(i) *the greater of—*

19                                       “(I) *the value of the property on*  
20 *the date of the damage, loss, or destruc-*  
21 *tion; or*

22                                       “(II) *the value of the property on*  
23 *the date of sentencing, less*

1                   “(ii) the value (as of the date the prop-  
2                   erty is returned) of any part of the property  
3                   that is returned;

4                   “(2) in the case of an offense resulting in bodily  
5                   injury to a victim—

6                   “(A) pay an amount equal to the cost of  
7                   necessary medical and related professional serv-  
8                   ices and devices relating to physical, psychiatric,  
9                   and psychological care, including nonmedical  
10                  care and treatment rendered in accordance with  
11                  a method of healing recognized by the law of the  
12                  place of treatment;

13                  “(B) pay an amount equal to the cost of  
14                  necessary physical and occupational therapy and  
15                  rehabilitation; and

16                  “(C) reimburse the victim for income lost by  
17                  such victim as a result of such offense;

18                  “(3) in the case of an offense resulting in bodily  
19                  injury that results in the death of the victim, pay an  
20                  amount equal to the cost of necessary funeral and re-  
21                  lated services; and

22                  “(4) in any case, reimburse the victim for lost  
23                  income and necessary child care, transportation, and  
24                  other expenses incurred during participation in the

1 *investigation or prosecution of the offense or attend-*  
2 *ance at proceedings related to the offense.*

3 *“(c)(1) This section shall apply in all sentencing pro-*  
4 *ceedings for convictions of, or plea agreements relating to*  
5 *charges for, any offense—*

6 *“(A) that is—*

7 *“(i) a crime of violence, as defined in sec-*  
8 *tion 16;*

9 *“(ii) an offense against property under this*  
10 *title, including any offense committed by fraud*  
11 *or deceit; or*

12 *“(iii) an offense described in section 1365*  
13 *(relating to tampering with consumer products);*  
14 *and*

15 *“(B) in which an identifiable victim or victims*  
16 *has suffered a physical injury or pecuniary loss.*

17 *“(2) In the case of a plea agreement that does not re-*  
18 *sult in a conviction for an offense described in paragraph*  
19 *(1), this section shall apply only if the plea specifically*  
20 *states that an offense listed under such paragraph gave rise*  
21 *to the plea agreement.*

22 *“(3) This section shall not apply if the court finds,*  
23 *from facts on the record, that—*

24 *“(A) the number of identifiable victims is so*  
25 *large as to make restitution impracticable; or*



1           (C) by inserting “other than an offense de-  
2           scribed in section 3663A(c),” after “title 49,”;

3           (D) by inserting before the period at the end  
4           the following: “, or if the victim is deceased, to  
5           the victim’s estate”;

6           (E) by adding at the end the following new  
7           subparagraph:

8           “(B)(i) The court, in determining whether to order res-  
9           titution under this section, shall consider—

10           “(I) the amount of the loss sustained by each vic-  
11           tim as a result of the offense; and

12           “(II) the financial resources of the defendant, the  
13           financial needs and earning ability of the defendant  
14           and the defendant’s dependents, and such other factors  
15           as the court deems appropriate.

16           “(ii) To the extent that the court determines that the  
17           complication and prolongation of the sentencing process re-  
18           sulting from the fashioning of an order of restitution under  
19           this section outweighs the need to provide restitution to any  
20           victims, the court may decline to make such an order.”; and

21           (F) by amending paragraph (2) to read as  
22           follows:

23           “(2) For the purposes of this section, the term ‘victim’  
24           means a person directly and proximately harmed as a re-  
25           sult of the commission of an offense for which restitution

1 *may be ordered including, in the case of an offense that*  
2 *involves as an element a scheme, conspiracy, or pattern of*  
3 *criminal activity, any person directly harmed by the de-*  
4 *fendant’s criminal conduct in the course of the scheme, con-*  
5 *spiracy, or pattern. In the case of a victim who is under*  
6 *18 years of age, incompetent, incapacitated, or deceased, the*  
7 *legal guardian of the victim or representative of the victim’s*  
8 *estate, another family member, or any other person ap-*  
9 *pointed as suitable by the court, may assume the victim’s*  
10 *rights under this section, but in no event shall the defendant*  
11 *be named as such representative or guardian.”;*

12           (2) *by striking subsections (c) through (i); and*

13           (3) *by adding at the end the following new sub-*  
14 *sections:*

15           “(c)(1) *Notwithstanding any other provision of law*  
16 *(but subject to the provisions of subsections (a)(1)(B) (i)(II)*  
17 *and (ii), when sentencing a defendant convicted of an of-*  
18 *fense described in section 401, 408(a), 409, 416, 420, or*  
19 *422(a) of the Controlled Substances Act (21 U.S.C. 841,*  
20 *848(a), 849, 856, 861, 863), in which there is no identifiable*  
21 *victim, the court may order that the defendant make restitu-*  
22 *tion in accordance with this subsection.*

23           “(2)(A) *An order of restitution under this subsection*  
24 *shall be based on the amount of public harm caused by the*  
25 *offense, as determined by the court in accordance with*

1 *guidelines promulgated by the United States Sentencing*  
2 *Commission.*

3       “(B) *In no case shall the amount of restitution ordered*  
4 *under this subsection exceed the amount of the fine ordered*  
5 *for the offense charged in the case.*

6       “(3) *Restitution under this subsection shall be distrib-*  
7 *uted as follows:*

8               “(A) *65 percent of the total amount of restitution*  
9 *shall be paid to the Victim Assistance Administration*  
10 *of the State in which the crime occurred.*

11              “(B) *35 percent of the total amount of restitu-*  
12 *tion shall be paid to the State entity designated to re-*  
13 *ceive Federal substance abuse block grant funds.*

14       “(4) *The court shall not make an award under this*  
15 *subsection if it appears likely that such award would inter-*  
16 *fere with a forfeiture under section 981 or 982.*

17       “(5) *Notwithstanding section 3612(c) or any other pro-*  
18 *vision of law, a penalty assessment under section 3013 or*  
19 *a fine under subchapter C of chapter 227 shall take prece-*  
20 *dence over an order of restitution under this subsection.*

21       “(6) *Requests for community restitution under this*  
22 *subsection shall be considered in all plea agreements nego-*  
23 *tiated by the United States.*

24       “(7)(A) *The United States Sentencing Commission*  
25 *shall promulgate guidelines to assist courts in determining*

1 *the amount of restitution that may be ordered under this*  
2 *subsection.*

3       “(B) *No restitution shall be ordered under this sub-*  
4 *section until such time as the Sentencing Commission pro-*  
5 *mulgates guidelines pursuant to this paragraph.*

6       “(d) *An order of restitution made pursuant to this sec-*  
7 *tion shall be issued and enforced in accordance with section*  
8 *3664.”.*

9       (b) *SEXUAL ABUSE.—Section 2248 of title 18, United*  
10 *States Code, is amended—*

11           (1) *in subsection (a), by inserting “or 3663A”*  
12 *after “3663”;*

13           (2) *in subsection (b)—*

14                   (A) *by amending paragraph (1) to read as*  
15 *follows:*

16                           “(1) *DIRECTIONS.—The order of restitution*  
17 *under this section shall direct the defendant to pay to*  
18 *the victim (through the appropriate court mechanism)*  
19 *the full amount of the victim’s losses as determined by*  
20 *the court pursuant to paragraph (2).”;*

21                           (B) *by amending paragraph (2) to read as*  
22 *follows:*

23                           “(2) *ENFORCEMENT.—An order of restitution*  
24 *under this section shall be issued and enforced in ac-*

1       *cordance with section 3664 in the same manner as an*  
2       *order under section 3663A.”;*

3               *(C) in paragraph (4), by striking subpara-*  
4               *graphs (C) and (D); and*

5               *(D) by striking paragraphs (5) through*  
6               *(10);*

7               *(3) by striking subsections (c) through (e); and*

8               *(4) by redesignating subsection (f) as subsection*  
9               *(c).*

10       *(c) SEXUAL EXPLOITATION AND OTHER ABUSE OF*  
11       *CHILDREN.—Section 2259 of title 18, United States Code,*  
12       *is amended—*

13               *(1) in subsection (a), by inserting “or 3663A”*  
14               *after “3663”;*

15               *(2) in subsection (b)—*

16                       *(A) by amending paragraph (1) to read as*  
17                       *follows:*

18                       *“(1) DIRECTIONS.—The order of restitution*  
19                       *under this section shall direct the defendant to pay*  
20                       *the victim (through the appropriate court mechanism)*  
21                       *the full amount of the victim’s losses as determined by*  
22                       *the court pursuant to paragraph (2).”;*

23                       *(B) by amending paragraph (2) to read as*  
24                       *follows:*

1           “(2) *ENFORCEMENT.*—An order of restitution  
2           under this section shall be issued and enforced in ac-  
3           cordance with section 3664 in the same manner as an  
4           order under section 3663A.”;

5                   (C) in paragraph (4), by striking subpara-  
6                   graphs (C) and (D); and

7                   (D) by striking paragraphs (5) through  
8                   (10);

9                   (3) by striking subsections (c) through (e); and

10                  (4) by redesignating subsection (f) as subsection  
11                  (e).

12           (d) *DOMESTIC VIOLENCE.*—Section 2264 of title 18,  
13 *United States Code, is amended—*

14                   (1) in subsection (a), by inserting “or 3663A”  
15                   after “3663”;

16                   (2) in subsection (b)—

17                           (A) by amending paragraph (1) to read as  
18                           follows:

19                           “(1) *DIRECTIONS.*—The order of restitution  
20                           under this section shall direct the defendant to pay  
21                           the victim (through the appropriate court mechanism)  
22                           the full amount of the victim’s losses as determined by  
23                           the court pursuant to paragraph (2).”;

24                           (B) by amending paragraph (2) to read as  
25                           follows:

1           “(2) *ENFORCEMENT.*—An order of restitution  
2           under this section shall be issued and enforced in ac-  
3           cordance with section 3664 in the same manner as an  
4           order under section 3663A.”;

5                   (C) in paragraph (4), by striking subpara-  
6                   graphs (C) and (D); and

7                   (D) by striking paragraphs (5) through  
8                   (10);

9                   (3) by striking subsections (c) through (g); and

10                  (4) by adding at the end the following new sub-  
11                  section (c):

12           “(c) *VICTIM DEFINED.*—For purposes of this section,  
13           the term ‘victim’ means the individual harmed as a result  
14           of a commission of a crime under this chapter, including,  
15           in the case of a victim who is under 18 years of age, incom-  
16           petent, incapacitated, or deceased, the legal guardian of the  
17           victim or representative of the victim’s estate, another fam-  
18           ily member, or any other person appointed as suitable by  
19           the court, but in no event shall the defendant be named as  
20           such representative or guardian.”.

21           (e) *TELEMARKETING FRAUD.*—Section 2327 of title  
22           18, United States Code, is amended—

23                   (1) in subsection (a), by inserting “or 3663A”  
24                   after “3663”;

25                   (2) in subsection (b)—

1           (A) by amending paragraph (1) to read as  
2 follows:

3           “(1) *DIRECTIONS.*—The order of restitution  
4 under this section shall direct the defendant to pay to  
5 the victim (through the appropriate court mechanism)  
6 the full amount of the victim’s losses as determined by  
7 the court pursuant to paragraph (2).”;

8           (B) by amending paragraph (2) to read as  
9 follows:

10           “(2) *ENFORCEMENT.*—An order of restitution  
11 under this section shall be issued and enforced in ac-  
12 cordance with section 3664 in the same manner as an  
13 order under section 3663A.”;

14           (C) in paragraph (4), by striking subpara-  
15 graphs (C) and (D); and

16           (D) by striking paragraphs (5) through  
17 (10);

18           (3) by striking subsections (c) through (e); and

19           (4) by redesignating subsection (f) as subsection  
20 (c).

21 **SEC. 105. PROCEDURE FOR ISSUANCE AND ENFORCEMENT**  
22 **OF RESTITUTION ORDER.**

23           (a) *IN GENERAL.*—Section 3664 of title 18, United  
24 States Code, is amended to read as follows:

1 **“§ 3664. Procedure for issuance and enforcement of**  
2 **order of restitution**

3 “(a) For orders of restitution under this title, the court  
4 shall order the probation service of the court to obtain and  
5 include in its presentence report, or in a separate report,  
6 as the court directs, information sufficient for the court to  
7 exercise its discretion in fashioning a restitution order. The  
8 report shall include, to the extent practicable, a complete  
9 accounting of the losses to each victim, any restitution owed  
10 pursuant to a plea agreement, and information relating to  
11 the economic circumstances of each defendant. If the number  
12 or identity of victims cannot be reasonably ascertained, or  
13 other circumstances exist that make this requirement clearly  
14 impracticable, the probation service shall so inform the  
15 court.

16 “(b) The court shall disclose to both the defendant and  
17 the attorney for the Government all portions of the  
18 presentence or other report pertaining to the matters de-  
19 scribed in subsection (a) of this section.

20 “(c) The provisions of this chapter, chapter 227, and  
21 Rule 32(c) of the Federal Rules of Criminal Procedure shall  
22 be the only rules applicable to proceedings under this sec-  
23 tion.

24 “(d)(1) Within 60 days after conviction and, in any  
25 event, not later than 10 days prior to sentencing—

1           “(A)(i) the attorney for the Government, after  
2 consulting with all identified victims, shall promptly  
3 provide the probation service of the court with a list-  
4 ing of the amounts subject to restitution;

5           “(ii) the attorney for the Government shall pro-  
6 vide notice to all identified victims, informing the  
7 victims of the offenses of which the defendant was con-  
8 victed, the listing of amounts subject to restitution  
9 submitted to the probation service, the victim’s right  
10 to submit information to the probation service con-  
11 cerning the amount of the victim’s losses, and the  
12 scheduled date, time, and place of the sentencing hear-  
13 ing; and

14           “(iii) if any victim objects to any of the infor-  
15 mation provided to the probation service relating to  
16 the amount of the victim’s losses subject to restitution,  
17 the attorney for the Government shall advise the vic-  
18 tim that the victim may file a separate affidavit and  
19 shall provide the victim with an affidavit form which  
20 may be used to do so; and

21           “(B) each defendant shall prepare and file with  
22 the probation service of the court an affidavit fully  
23 describing the financial resources of the defendant, in-  
24 cluding a complete listing of all assets owned or con-  
25 trolled by the defendant as of the date on which the

1        *defendant was arrested, the financial needs and earn-*  
2        *ing ability of the defendant and the defendant's de-*  
3        *pendents, and other information the court requires re-*  
4        *lating to such other factors as the court deems appro-*  
5        *priate.*

6        *“(2) After reviewing the report of the probation service*  
7        *of the court, the court may require additional documenta-*  
8        *tion or hear testimony. The privacy of any records filed,*  
9        *or testimony heard, pursuant to this section shall be main-*  
10       *tained to the greatest extent possible, and such records may*  
11       *be filed or testimony heard in camera.*

12       *“(3) If the victim's losses are not ascertainable by the*  
13       *date that is 10 days prior to sentencing as provided in*  
14       *paragraph (1), the attorney for the Government shall so in-*  
15       *form the court, and the court shall set a date for the final*  
16       *determination of the victim's losses, not to exceed 90 days*  
17       *after sentencing. If the victim subsequently discovers further*  
18       *losses, the victim shall have 60 days after discovery of those*  
19       *losses in which to petition the court for an amended restitu-*  
20       *tion order. Such order may be granted only upon a showing*  
21       *of good cause for the failure to include such losses in the*  
22       *initial claim for restitutionary relief.*

23       *“(4) The court may refer any issue arising in connec-*  
24       *tion with a proposed order of restitution to a magistrate*  
25       *or special master for proposed findings of fact and rec-*

1 *ommendations as to disposition, subject to a de novo deter-*  
2 *mination of the issue by the court.*

3       “(e) *Any dispute as to the proper amount or type of*  
4 *restitution shall be resolved by the court by the preponder-*  
5 *ance of the evidence. The burden of demonstrating the*  
6 *amount of the loss sustained by a victim as a result of the*  
7 *offense shall be on the attorney for the Government. The*  
8 *burden of demonstrating the financial resources of the de-*  
9 *fendant and the financial needs of the defendant and such*  
10 *defendant’s dependents shall be on the defendant. The bur-*  
11 *den of demonstrating such other matters as the court deems*  
12 *appropriate shall be upon the party designated by the court*  
13 *as justice requires.*

14       “(f)(1)(A) *In each order of restitution, the court shall*  
15 *order restitution to each victim in the full amount of each*  
16 *victim’s losses as determined by the court and without con-*  
17 *sideration of the economic circumstances of the defendant.*

18       “(B) *In no case shall the fact that a victim has received*  
19 *or is entitled to receive compensation with respect to a loss*  
20 *from insurance or any other source be considered in deter-*  
21 *mining the amount of restitution.*

22       “(2) *Upon determination of the amount of restitution*  
23 *owed to each victim, the court shall, pursuant to section*  
24 *3572, specify in the restitution order the manner in which*

1 *and the schedule according to which the restitution is to*  
2 *be paid, in consideration of—*

3           “(A) *the financial resources and other assets of*  
4           *the defendant, including whether any of these assets*  
5           *are jointly controlled;*

6           “(B) *projected earnings and other income of the*  
7           *defendant; and*

8           “(C) *any financial obligations of the defendant;*  
9           *including obligations to dependents.*

10          “(3)(A) *A restitution order may direct the defendant*  
11 *to make a single, lump-sum payment, partial payment at*  
12 *specified intervals, in-kind payments, or a combination of*  
13 *payments at specified intervals and in-kind payments.*

14          “(B) *A restitution order may direct the defendant to*  
15 *make nominal periodic payments if the court finds from*  
16 *facts on the record that the economic circumstances of the*  
17 *defendant do not allow the payment of any amount of a*  
18 *restitution order, and do not allow for the payment of the*  
19 *full amount of a restitution order in the foreseeable future*  
20 *under any reasonable schedule of payments.*

21          “(4) *An in-kind payment described in paragraph (3)*  
22 *may be in the form of—*

23           “(A) *return of property;*

24           “(B) *replacement of property; or*

1           “(C) if the victim agrees, services rendered to the  
2           victim or a person or organization other than the vic-  
3           tim.

4           “(g)(1) No victim shall be required to participate in  
5           any phase of a restitution order.

6           “(2) A victim may at any time assign the victim’s in-  
7           terest in restitution payments to the Crime Victims Fund  
8           in the Treasury without in any way impairing the obliga-  
9           tion of the defendant to make such payments.

10          “(h) If the court finds that more than 1 defendant has  
11          contributed to the loss of a victim, the court may make each  
12          defendant liable for payment of the full amount of restitu-  
13          tion or may apportion liability among the defendants to  
14          reflect the level of contribution to the victim’s loss and eco-  
15          nomic circumstances of each defendant.

16          “(i) If the court finds that more than 1 victim has  
17          sustained a loss requiring restitution by a defendant, the  
18          court may issue an order of priority based on the type and  
19          amount of each victim’s loss, accounting for the economic  
20          circumstances of each victim. In any case in which the  
21          United States is a victim, the court shall ensure that all  
22          individual victims receive full restitution before the United  
23          States receives any restitution.

24          “(j)(1) If a victim has received or is entitled to receive  
25          compensation with respect to a loss from insurance or any

1 *other source, the court shall order that restitution shall be*  
2 *paid to the person who provided or is obligated to provide*  
3 *the compensation, but the restitution order shall provide*  
4 *that all restitution of victims required by the order be paid*  
5 *to the victims before any restitution is paid to such a pro-*  
6 *vider of compensation.*

7       “(2) *Any amount paid to a victim under an order of*  
8 *restitution shall be reduced by any amount later recovered*  
9 *as compensatory damages for the same loss by the victim*  
10 *in—*

11               “(A) *any Federal civil proceeding; and*

12               “(B) *any State civil proceeding, to the extent*  
13 *provided by the law of the State.*

14       “(k) *A restitution order shall provide that the defend-*  
15 *ant shall notify the court and the Attorney General of any*  
16 *material change in the defendant’s economic circumstances*  
17 *that might affect the defendant’s ability to pay restitution.*  
18 *The court may also accept notification of a material change*  
19 *in the defendant’s economic circumstances from the United*  
20 *States or from the victim. The Attorney General shall cer-*  
21 *tify to the court that the victim or victims owed restitution*  
22 *by the defendant have been notified of the change in cir-*  
23 *cumstances. Upon receipt of the notification, the court may,*  
24 *on its own motion, or the motion of any party, including*

1 *the victim, adjust the payment schedule, or require imme-*  
2 *diately payment in full, as the interests of justice require.*

3       “(l) *A conviction of a defendant for an offense involv-*  
4 *ing the act giving rise to an order of restitution shall estop*  
5 *the defendant from denying the essential allegations of that*  
6 *offense in any subsequent Federal civil proceeding or State*  
7 *civil proceeding, to the extent consistent with State law,*  
8 *brought by the victim.*

9       “(m)(1)(A)(i) *An order of restitution may be enforced*  
10 *by the United States in the manner provided for in sub-*  
11 *chapter C of chapter 227 and subchapter B of chapter 229*  
12 *of this title; or*

13       “(ii) *by all other available and reasonable means.*

14       “(B) *An order of restitution may also be enforced by*  
15 *a victim named in the order to receive the restitution, in*  
16 *the same manner as a judgment in a civil action.*

17       “(2) *An order of in-kind restitution in the form of serv-*  
18 *ices shall be enforced by the probation service of the court.*

19       “(n) *If a person obligated to provide restitution or pay*  
20 *a fine receives substantial resources from any source, in-*  
21 *cluding inheritance, settlement, or other judgment, during*  
22 *a period of incarceration, such person shall be required to*  
23 *apply the value of such resources to any restitution or fine*  
24 *still owed.”.*

1           (b) *TECHNICAL AMENDMENT.*—*The item relating to*  
 2 *section 3664 in the analysis for chapter 232 of title 18,*  
 3 *United States Code, is amended to read as follows:*

*“3664. Procedure for issuance and enforcement of order of restitution.”.*

4 **SEC. 106. PROCEDURE.**

5           (a) *AMENDMENT OF FEDERAL RULES OF CRIMINAL*  
 6 *PROCEDURE.*—*Rule 32(b) of the Federal Rules of Criminal*  
 7 *Procedure is amended—*

8                   (1) *in paragraph (1), by adding at the end the*  
 9 *following: “Notwithstanding the preceding sentence, a*  
 10 *presentence investigation and report, or other report*  
 11 *containing information sufficient for the court to*  
 12 *enter an order of restitution, as the court directs,*  
 13 *shall be required in any case in which restitution is*  
 14 *required to be ordered.”; and*

15                   (2) *in paragraph (4)—*

16                           (A) *by redesignating subparagraphs (F)*  
 17 *and (G) as subparagraphs (G) and (H), respec-*  
 18 *tively; and*

19                           (B) *by inserting after subparagraph (E),*  
 20 *the following new subparagraph:*

21                                   *“(F) in appropriate cases, information suf-*  
 22 *ficient for the court to enter an order of restitu-*  
 23 *tion;”.*

24           (b) *FINES.*—*Section 3572 of title 18, United States*  
 25 *Code, is amended—*

1           (1) in subsection (b) by inserting “other than the  
2           United States,” after “offense,”;

3           (2) in subsection (d)—

4                 (A) in the first sentence, by striking “A per-  
5                 son sentenced to pay a fine or other monetary  
6                 penalty” and inserting “(1) A person sentenced  
7                 to pay a fine or other monetary penalty, includ-  
8                 ing restitution,”;

9                 (B) by striking the third sentence; and

10                (C) by adding at the end the following:

11           “(2) If the judgment, or, in the case of a restitution  
12           order, the order, permits other than immediate payment,  
13           the length of time over which scheduled payments will be  
14           made shall be set by the court, but shall be the shortest time  
15           in which full payment can reasonably be made.

16           “(3) A judgment for a fine which permits payments  
17           in installments shall include a requirement that the defend-  
18           ant will notify the court of any material change in the de-  
19           fendant’s economic circumstances that might affect the de-  
20           fendant’s ability to pay the fine. Upon receipt of such notice  
21           the court may, on its own motion or the motion of any  
22           party, adjust the payment schedule, or require immediate  
23           payment in full, as the interests of justice require.”;

24           (3) in subsection (f), by inserting “restitution”  
25           after “special assessment,”;

1           (4) *in subsection (h), by inserting “or payment*  
2 *of restitution” after “A fine”; and*

3           (5) *in subsection (i)—*

4                 (A) *in the first sentence, by inserting “or*  
5 *payment of restitution” after “A fine”; and*

6                 (B) *by amending the second sentence to*  
7 *read as follows: “Notwithstanding any install-*  
8 *ment schedule, when a fine or payment of res-*  
9 *titution is in default, the entire amount of the*  
10 *fine or restitution is due within 30 days after*  
11 *notification of the default, subject to the provi-*  
12 *sions of section 3613A.”.*

13         (c) *POSTSENTENCE ADMINISTRATION.—*

14                 (1) *PAYMENT OF A FINE OR RESTITUTION.—Sec-*  
15 *tion 3611 of title 18, United States Code, is amend-*  
16 *ed—*

17                 (A) *by amending the heading to read as fol-*  
18 *lows:*

19         ***“§ 3611. Payment of a fine or restitution”;***

20                 *and*

21                 (B) *by striking “or assessment shall pay the*  
22 *fine or assessment” and inserting “, assessment,*  
23 *or restitution, shall pay the fine, assessment, or*  
24 *restitution”.*

1           (2) *COLLECTION*.—Section 3612 of title 18,  
2           *United States, is amended—*

3                   (A) *by amending the heading to read as fol-*  
4                   *lows:*

5           ***“§ 3612. Collection of unpaid fine or restitution”;***

6                   (B) *in subsection (b)(1)—*

7                           (i) *in the matter preceding subpara-*  
8                           *graph (A), by inserting “or restitution*  
9                           *order” after “fine”;*

10                           (ii) *in subparagraph (C), by inserting*  
11                           *“or restitution order” after “fine”;*

12                           (iii) *in subparagraph (E), by striking*  
13                           *“and”;*

14                           (iv) *in subparagraph (F)—*

15                                   (I) *by inserting “or restitution*  
16                                   *order” after “fine”; and*

17                                   (II) *by striking the period at the*  
18                                   *end and inserting “; and”; and*

19                           (v) *by adding at the end the following*  
20                           *new subparagraph:*

21                                   “(G) *in the case of a restitution order, in-*  
22                                   *formation sufficient to identify each victim to*  
23                                   *whom restitution is owed. It shall be the respon-*  
24                                   *sibility of each victim to notify the Attorney*  
25                                   *General, or the appropriate entity of the court,*

1           *by means of a form to be provided by the Attor-*  
2           *ney General or the court, of any change in the*  
3           *victim’s mailing address while restitution is still*  
4           *owed the victim. The confidentiality of any in-*  
5           *formation relating to a victim shall be main-*  
6           *tained.”;*

7           *(C) in subsection (c)—*

8                 *(i) in the first sentence, by inserting*  
9                 *“or restitution” after “fine”; and*

10                *(ii) by adding at the end the following:*  
11                *“Any money received from a defendant shall*  
12                *be disbursed so that each of the following ob-*  
13                *ligations is paid in full in the following se-*  
14                *quence:*

15                *“(1) A penalty assessment under section 3013 of*  
16                *title 18, United States Code.*

17                *“(2) Restitution of all victims.*

18                *“(3) All other fines, penalties, costs, and other*  
19                *payments required under the sentence.”;*

20           *(D) in subsection (d)—*

21                 *(i) by inserting “or restitution” after*  
22                 *“fine”; and*

23                 *(ii) by striking “is delinquent, to in-*  
24                 *form him that the fine is delinquent” and*

1           inserting “or restitution is delinquent, to  
2           inform the person of the delinquency”;

3           (E) in subsection (e)—

4                 (i) by inserting “or restitution” after  
5                 “fine”; and

6                 (ii) by striking “him that the fine is in  
7                 default” and inserting “the person that the  
8                 fine or restitution is in default”;

9           (F) in subsection (f)—

10                 (i) in the heading, by inserting “and  
11                 restitution” after “on fines”; and

12                 (ii) in paragraph (1), by inserting “or  
13                 restitution” after “any fine”;

14           (G) in subsection (g), by inserting “or res-  
15           titution” after “fine” each place it appears; and

16           (H) in subsection (i), by inserting “and res-  
17           titution” after “fines”.

18           (3) *CIVIL REMEDIES*.—Section 3613 of title 18,  
19           *United States Code*, is amended—

20                 (A) in subsection (b), by amending para-  
21                 graph (1) to read as follows:

22                     “(1) the later of 20 years after the entry of the  
23                     judgment or 20 years after the release from imprison-  
24                     ment of the person fined or ordered to pay restitution;  
25                     or”; and

1           (B) in subsection (e), by striking “, but in  
2           no event” and all that follows through the end of  
3           the subsection and inserting a period.

4           (4) *DEFAULT.*—Chapter 229 of title 18, United  
5           States Code, is amended by inserting after section  
6           3613 the following new section:

7           **“§ 3613A. Effect of default**

8           “(a)(1) Upon a finding that the defendant is in default  
9           on a payment of a fine or restitution, the court may, pursu-  
10          ant to section 3565, revoke probation or a term of super-  
11          vised release or modify the terms or conditions of probation  
12          on a term of supervised release, resentence a defendant pur-  
13          suant to section 3614, hold the defendant in contempt of  
14          court, enter a restraining order or injunction, order the sale  
15          of property of the defendant, accept a performance bond,  
16          enter or adjust a payment schedule, or take any other action  
17          necessary to obtain compliance with the order of a fine or  
18          restitution.

19          “(2) In determining what action to take, the court  
20          shall consider the defendant’s employment status, earning  
21          ability, financial resources, the willfulness in failing to  
22          comply with the restitution order, and any other cir-  
23          cumstances that may have a bearing on the defendant’s  
24          ability to comply with the order of a fine or restitution.

1       “(b)(1) Any hearing held pursuant to this section may  
2 be conducted by a magistrate judge, subject to de novo re-  
3 view by the court.

4       “(2) To the extent practicable, in a hearing held pursu-  
5 ant to this section involving a defendant who is confined  
6 in any jail, prison, or other correctional facility, proceed-  
7 ings in which the prisoner’s participation is required or  
8 permitted shall be conducted by telephone, video conference,  
9 or other communications technology without removing the  
10 prisoner from the facility in which the prisoner is confined.

11       “(3) Subject to the agreement of the official of the Fed-  
12 eral, State, or local unit of government with custody over  
13 the prisoner, hearings may be conducted at the facility in  
14 which the prisoner is confined. To the extent practicable,  
15 the court shall allow counsel to participate by telephone,  
16 video conference, or other communications technology in  
17 any hearing held at the facility.”.

18               (5) RESENTENCING.—Section 3614 of title 18,  
19 United States Code, is amended—

20                       (A) in the heading, by inserting “or restitu-  
21 tion” after “fine”;

22                       (B) in subsection (a), by inserting “or res-  
23 titution” after “fine”; and

24                       (C) by adding at the end the following new  
25 subsection:

1           “(c) *EFFECT OF INDIGENCY.*—*In no event shall a de-*  
 2 *fendant be incarcerated under this section solely on the*  
 3 *basis of inability to make payments because the defendant*  
 4 *is indigent.*”.

5           (d) *CONFORMING AMENDMENT.*—*The analysis for sub-*  
 6 *chapter B of chapter 229 of title 18, United States Code,*  
 7 *is amended to read as follows:*

“Sec.

“3611. *Payment of a fine or restitution.*

“3612. *Collection of an unpaid fine or restitution.*

“3613. *Civil remedies for collection of an unpaid fine or restitution.*

“3613A. *Effect of default.*

“3614. *Resentencing upon failure to pay a fine or restitution.*

“3615. *Criminal default.*”.

8   ***SEC. 107. INSTRUCTION TO SENTENCING COMMISSION.***

9           *Pursuant to section 994 of title 28, United States Code,*  
 10 *the United States Sentencing Commission shall promulgate*  
 11 *guidelines or amend existing guidelines to reflect this Act*  
 12 *and the amendments made by this Act.*

13   ***SEC. 108. JUSTICE DEPARTMENT REGULATIONS.***

14           *Not later than 90 days after the date of enactment of*  
 15 *this Act, the Attorney General shall promulgate guidelines,*  
 16 *or amend existing guidelines, to carry out this Act and to*  
 17 *ensure that—*

18           (1) *in all plea agreements negotiated by the*  
 19 *United States, consideration is given to requesting*  
 20 *that the defendant provide full restitution to all vic-*  
 21 *tims of all charges contained in the indictment or in-*

1        *formation, without regard to the counts to which the*  
 2        *defendant actually pleaded; and*

3                *(2) orders of restitution made pursuant to the*  
 4        *amendments made by this Act are enforced to the full-*  
 5        *est extent of the law.*

6        **SEC. 109. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.**

7        *Section 3013(a)(2) of title 18, United States Code, is*  
 8        *amended—*

9                *(1) in subparagraph (A), by striking “\$50” and*  
 10        *inserting “not less than \$100”; and*

11                *(2) in subparagraph (B), by striking “\$200” and*  
 12        *inserting “not less than \$400”.*

13        **SEC. 110. EFFECTIVE DATE.**

14        *The amendments made by this title shall be effective*  
 15        *for sentencing proceedings in cases in which the defendant*  
 16        *is convicted on or after the date of enactment of this Act.*

17                **TITLE II—MISCELLANEOUS**  
 18                **PROVISIONS**

19        **SEC. 201. CRIME VICTIMS FUND.**

20                *(a) PROHIBITION OF PAYMENTS TO DELINQUENT*  
 21        *CRIMINAL DEBTORS BY STATE CRIME VICTIM COMPENSA-*  
 22        *TION PROGRAMS.—*

23                *(1) IN GENERAL.—Section 1403(b) of the Victims*  
 24        *of Crime Act of 1984 (42 U.S.C. 10602(b)) is amend-*  
 25        *ed—*

1           (A) by striking “and” at the end of para-  
2           graph (7);

3           (B) by redesignating paragraph (8) as  
4           paragraph (9); and

5           (C) by inserting after paragraph (7) the fol-  
6           lowing new paragraph:

7           “(8) such program does not provide compensa-  
8           tion to any person who has been convicted of an of-  
9           fense under Federal law with respect to any time pe-  
10          riod during which the person is delinquent in paying  
11          a fine or other monetary penalty imposed for the of-  
12          fense; and”.

13           (2) *APPLICATION OF AMENDMENT.*—The amend-  
14          ment made by paragraph (1) shall not be applied to  
15          deny victims compensation to any person until the  
16          date on which the Attorney General, in consultation  
17          with the Director of the Administrative Office of the  
18          United States Courts, issues a written determination  
19          that a cost-effective, readily available criminal debt  
20          payment tracking system operated by the agency re-  
21          sponsible for the collection of criminal debt has estab-  
22          lished cost-effective, readily available communications  
23          links with entities that administer Federal victims  
24          compensation programs that are sufficient to ensure

1        *that victims compensation is not denied to any per-*  
2        *son except as authorized by law.*

3        *(b) EXCLUSION FROM INCOME FOR PURPOSES OF*  
4        *MEANS TESTS.—Section 1403 of the Victims of Crime Act*  
5        *of 1984 (42 U.S.C. 10602) is amended by inserting after*  
6        *subsection (b) the following new subsection:*

7        *“(c) EXCLUSION FROM INCOME FOR PURPOSES OF*  
8        *MEANS TESTS.—Notwithstanding any other law, for the*  
9        *purpose of any maximum allowed income eligibility re-*  
10       *quirement in any Federal, State, or local government pro-*  
11       *gram using Federal funds that provides medical or other*  
12       *assistance (or payment or reimbursement of the cost of such*  
13       *assistance) that becomes necessary to an applicant for such*  
14       *assistance in full or in part because of the commission of*  
15       *a crime against the applicant, as determined by the Direc-*  
16       *tor, any amount of crime victim compensation that the ap-*  
17       *plicant receives through a crime victim compensation pro-*  
18       *gram under this section shall not be included in the income*  
19       *of the applicant until the total amount of assistance that*  
20       *the applicant receives from all such programs is sufficient*  
21       *to fully compensate the applicant for losses suffered as a*  
22       *result of the crime.”.*

23       **SEC. 202. VICTIMS OF TERRORISM ACT.**

24       *(a) AUTHORITY TO PROVIDE ASSISTANCE AND COM-*  
25       *PENSATION TO VICTIMS OF TERRORISM.—The Victims of*

1 *Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended*  
2 *by inserting after section 1404A the following new section:*

3 ***“SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS***  
4 ***OF TERRORISM OR MASS VIOLENCE.***

5 *“(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE*  
6 *UNITED STATES.—The Director may make supplemental*  
7 *grants to States to provide compensation and assistance to*  
8 *the residents of such States who, while outside the territorial*  
9 *boundaries of the United States, are victims of a terrorist*  
10 *act or mass violence and are not persons eligible for com-*  
11 *ensation under title VIII of the Omnibus Diplomatic Secu-*  
12 *rity and Antiterrorism Act of 1986.*

13 *“(b) VICTIMS OF DOMESTIC TERRORISM.—The Direc-*  
14 *tor may make supplemental grants to States for eligible*  
15 *crime victim compensation and assistance programs to pro-*  
16 *vide emergency relief, including crisis response efforts, as-*  
17 *sistance, training, and technical assistance, for the benefit*  
18 *of victims of terrorist acts or mass violence occurring within*  
19 *the United States and may provide funding to United*  
20 *States Attorney’s Offices for use in coordination with State*  
21 *victims compensation and assistance efforts in providing*  
22 *emergency relief.”.*

23 *(b) FUNDING OF COMPENSATION AND ASSISTANCE TO*  
24 *VICTIMS OF TERRORISM, MASS VIOLENCE, AND CRIME.—*

1 *Section 1402(d)(4) of the Victims of Crime Act of 1984 (42*  
2 *U.S.C. 10601(d)(4)) is amended to read as follows:*

3           “(4)(A) *If the sums available in the Fund are*  
4 *sufficient to fully provide grants to the States pursu-*  
5 *ant to section 1403(a)(1), the Director may retain*  
6 *any portion of the Fund that was deposited during a*  
7 *fiscal year that was in excess of 110 percent of the*  
8 *total amount deposited in the Fund during the pre-*  
9 *ceding fiscal year as an emergency reserve. Such re-*  
10 *serve shall not exceed \$50,000,000.*

11           “(B) *The emergency reserve may be used for sup-*  
12 *plemental grants under section 1404B and to supple-*  
13 *ment the funds available to provide grants to States*  
14 *for compensation and assistance in accordance with*  
15 *sections 1403 and 1404 in years in which supple-*  
16 *mental grants are needed.”.*

17 *(c) CRIME VICTIMS FUND AMENDMENTS.—*

18           (1) *UNOBLIGATED FUNDS.—Section 1402 of the*  
19 *Victims of Crime Act of 1984 (42 U.S.C. 10601) is*  
20 *amended—*

21           (A) *in subsection (c), by striking “sub-*  
22 *section” and inserting “chapter”; and*

23           (B) *by amending subsection (e) to read as*  
24 *follows:*

1       “(e) *AMOUNTS AWARDED AND UNSPENT.*—Any  
2 amount awarded as part of a grant under this chapter that  
3 remains unspent at the end of a fiscal year in which the  
4 grant is made may be expended for the purpose for which  
5 the grant is made at any time during the 2 succeeding fiscal  
6 years, at the end of which period, any remaining unobli-  
7 gated sums in excess of \$500,000 shall be returned to the  
8 Treasury. Any remaining unobligated sums in an amount  
9 less than \$500,000 shall be returned to the Fund.”.

10           (2) *BASE AMOUNT.*—Section 1404(a)(5) of such  
11 Act (42 U.S.C. 10603(a)(5)) is amended to read as  
12 follows:

13           “(5) As used in this subsection, the term ‘base  
14 amount’ means—

15                   “(A) except as provided in subparagraph  
16 (B), \$500,000; and

17                   “(B) for the territories of the Northern Mar-  
18 iana Islands, Guam, American Samoa, and the  
19 Republic of Palau, \$200,000, with the Republic  
20 of Palau’s share governed by the Compact of Free  
21 Association between the United States and the  
22 Republic of Palau.”.

23 **SEC. 203. SEVERABILITY.**

24       If any provision of this Act, an amendment made by  
25 this Act, or the application of such provision or amendment

1 *to any person or circumstance is held to be unconstitu-*  
2 *tional, the remainder of this Act, the amendments made by*  
3 *this Act, and the application of the provisions of such to*  
4 *any person or circumstance shall not be affected thereby.*

5 **SEC. 204. STUDY AND REPORT.**

6       (a) *STUDY.*—*The Attorney General, in cooperation*  
7 *with the Director of the Administrative Office of the United*  
8 *States Courts, shall conduct a study of the funds paid out*  
9 *of the Crime Victims Fund and the impact that the amend-*  
10 *ments made by this Act have on funds available in the*  
11 *Crime Victims Fund, including an assessment of any reduc-*  
12 *tion or increase in fines collected and deposited into the*  
13 *Fund directly attributable to the amendments made by this*  
14 *Act.*

15       (b) *REPORT.*—*The Attorney General and the Director*  
16 *of the Administrative Office of the United States Courts*  
17 *shall report interim findings to the Chairman and ranking*  
18 *Member of the Committees on the Judiciary of the Senate*  
19 *and House of Representatives 1 year after the date of enact-*  
20 *ment of this Act, an annually thereafter until issuing a*  
21 *final report, together with recommendations, not later than*  
22 *4 years after the date of enactment of this Act.*

Amend the title so as to read: “An Act entitled the  
Victims Justice Act of 1995”.

Attest:

*Secretary.*

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 665**

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**AMENDMENTS**

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