

104TH CONGRESS  
1ST SESSION

# H. R. 920

To repeal the Violent Crime Control and Law Enforcement Act of 1994  
and to combat crime.

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1995

Mr. VOLKMER (for himself, Mr. BREWSTER, Mr. TAYLOR of Mississippi, Mr. PETERSON of Minnesota, Mr. SKELTON, Mr. RAHALL, Mr. STENHOLM, Mr. MYERS of Indiana, and Mr. QUILLEN) introduced the following bill; which was referred to the Committee on the Judiciary

---

## A BILL

To repeal the Violent Crime Control and Law Enforcement  
Act of 1994 and to combat crime.

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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Back-To-Basics Crime Control Act of 1995”.

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

Sec. 1. Short title and table of contents.

TITLE I—REPEAL OF THE VIOLENT CRIME CONTROL AND LAW  
ENFORCEMENT ACT OF 1994

Sec. 101. Repeal.

TITLE II—GRANTS FOR CORRECTIONAL FACILITIES

- Sec. 201. Grants authorized.
- Sec. 202. Limitation of funds.
- Sec. 203. Definitions.

TITLE III—STATE AND LOCAL LAW ENFORCEMENT GRANTS

Sec. 301. Grants authorized.

TITLE IV—PROTECTION AGAINST SEXUALLY VIOLENT  
PREDATORS

- Sec. 401. Definitions.
- Sec. 402. Establishment of program.

TITLE V—ELIMINATION OF UNNECESSARY AND REDUNDANT  
APPEALS; ENFORCEMENT OF DEATH PENALTY

- Sec. 501. Period of limitation for filing writ of habeas corpus following final judgment of a State Court.
- Sec. 502. Authority of Appellate Judges to issue certificates of probable cause for appeal in habeas corpus and Federal collateral relief proceedings.
- Sec. 503. Conforming amendment to the rules of appellate procedure.
- Sec. 504. Discretion to deny habeas corpus application despite failure to exhaust State remedies.
- Sec. 505. Period of limitation for Federal prisoners filing for collateral remedy.
- Sec. 506. Special procedures for collateral proceedings in capital cases.

TITLE VI—REFORM OF “EXCLUSIONARY RULE”

Sec. 601. Reform of exclusionary rule.

TITLE VII—TRUTH-IN-SENTENCING

- Sec. 701. Release of prisoner.
- Sec. 702. Computation generally.

TITLE VIII—PRISON WORK REQUIRED; LUXURIES ABOLISHED

- Sec. 801. Luxuries abolished.
- Sec. 802. Award of Pell Grants to prisoners prohibited.

TITLE IX—IMPROVING BORDER CONTROLS

- Sec. 901. Grants for border control.
- Sec. 902. Expediting criminal alien deportation and exclusion.
- Sec. 903. Authorizing registration of aliens on criminal probation or criminal parole.
- Sec. 904. Expansion in definition of “aggravated felony”.
- Sec. 905. Deportation procedures for certain criminal aliens who are not permanent residents.
- Sec. 906. Judicial deportation.
- Sec. 907. Restricting defenses to deportation for certain criminal aliens.
- Sec. 908. Enhancing penalties for failing to depart, or reentering, after final order of deportation.

- Sec. 909. Miscellaneous and technical changes.  
 Sec. 910. Authorization of appropriations for criminal alien information system.

TITLE X—ENHANCED GUN PENALTIES

- Sec. 1001. Enhanced penalties for persons convicted of using or carrying a firearm during and in relation to a felony.  
 Sec. 1002. Mandatory minimum sentence for unlawful possession of a firearm by convicted felon, fugitive from justice, addict or unlawful user of controlled substance, or transferor or receiver of stolen firearm.

TITLE XI—VIOLENT CRIME REDUCTION TRUST FUND

- Sec. 1101. Creation of Violent Crime Reduction Trust Fund.  
 Sec. 1102. Extension of authorizations of appropriations for fiscal years for which the full amount authorized is not appropriated.  
 Sec. 1103. Flexibility in making of appropriations.

TITLE XII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

- Sec. 1201. Mandatory life imprisonment for persons convicted of certain felonies.  
 Sec. 1202. Limited grant of authority to Bureau of Prisons.

1 **TITLE I—REPEAL OF THE VIOLENT CRIME**  
 2 **CONTROL AND LAW ENFORCEMENT**  
 3 **ACT OF 1994**

4 **SEC 101. REPEAL.**

- 5 (a) REPEAL.—Public Law 103–322, the Violent  
 6 Crime Control and Law Enforcement Act of 1994 is here-  
 7 by repealed, effective October 1, 1995.

8 **TITLE II—GRANTS FOR CORRECTIONAL**  
 9 **FACILITIES**

10 **SEC. 201. GRANTS AUTHORIZED.**

- 11 (a) GRANT AUTHORIZATION.—The Attorney General  
 12 shall make grants to individual States to construct, ex-  
 13 pand, and improve prisons and jails.

1 (b) AMOUNTS AUTHORIZED.—Grants totalling  
2 \$3,000,000,000 shall be made to each State not later than  
3 October 30, 1995, and grants to each State totalling  
4 \$3,000,000,000 shall be made annually thereafter in each  
5 of the years from fiscal year 1997 through fiscal year  
6 1998.

7 (c) GRANT ALLOCATION.—All such grants shall be  
8 made without conditions imposed by the Federal Govern-  
9 ment, notwithstanding any other provision of Federal law,  
10 except to comply with the provisions of this title and that  
11 the use of such funds shall be exclusively for the construc-  
12 tion of prisons and jails. States shall be encouraged to al-  
13 locate appropriate portions of their grants to local govern-  
14 ments within their jurisdictions for the construction of  
15 jails.

16 (d) AUTHORIZATION OF APPROPRIATION.—There are  
17 authorized to be appropriated to carry out this title  
18 \$3,000,000,000 for each of fiscal years 1996, 1997, and  
19 1998. All such moneys shall be appropriated from the Vio-  
20 lent Crime Reduction Trust Fund.

21 (e) DISTRIBUTION OF FUNDS IN FISCAL YEAR  
22 1996.—Of the total amount of funds appropriated under  
23 this title in fiscal year 1996, there shall be allocated to  
24 each State an amount which bears the same ratio to the  
25 amount of funds appropriated pursuant to this title as the

1 number of part I violent crimes reported by the States  
2 to the Federal Bureau of Investigation for 1993 bears to  
3 the number of part I violent crimes reported by all States  
4 to the Federal Bureau of Investigation for 1993.

5 (f) DISTRIBUTION OF FUNDS IN FISCAL YEAR 1997  
6 AND 1998.—75 percent of the total amount of funds ap-  
7 propriated under this title in fiscal year 1997 and 1998,  
8 shall be allocated to each State according to the formula  
9 established in subsection (e) adjusted to reflect in each  
10 year the most recent data from the Federal Bureau of In-  
11 vestigation reporting part I violent crimes.

12 **SEC. 202. LIMITATIONS OF FUNDS.**

13 (a) NONSUPPLANTING REQUIREMENT.—Funds made  
14 available under the title shall not be used to supplant  
15 State funds, but shall be used to increase the amount of  
16 funds that would, in the absence of Federal funds, be  
17 made available from State sources.

18 (b) ADMINISTRATIVE COSTS.—Not more than 3 per-  
19 cent of the funds available under the title may be used  
20 for administrative costs.

21 (c) MATCHING FUNDS.—The portion of the costs of  
22 a program provided by a grant under this title shall be  
23 90 percent of the total costs of the program as described  
24 in application.

1 (d) CARRY OVER OF APPROPRIATIONS.—Any funds  
2 appropriated but not expended as provided by this section  
3 during any fiscal year shall be carried over and will be  
4 made available until expended.

5 **SEC. 203. DEFINITIONS.**

6 For purposes of this title—

7 (1) the term “violent crime” means—

8 (A) a felony offense that has as an element  
9 the use, attempted use, or threatened use of  
10 physical force against the person of another, or

11 (B) any other offense that is a felony and  
12 that, by its nature, involves substantial risk  
13 that physical force against the person of an-  
14 other may be used in the course of committing  
15 the offense;

16 (2) the term “serious drug offender” has the  
17 same meaning as that is used in section  
18 924(e)(2)(A) of title 18, United States Code;

19 (3) the term “State” means any of the United  
20 States and the District of Columbia;

21 (4) the term “convicted” means convicted and  
22 sentenced to a term in a State corrections institution  
23 or a period of formal probation; and

24 (5) the term “part I violent crimes” means  
25 murder, rape, robbery, and aggravated assault as

1 those offenses are reported to the Federal Bureau of  
2 Investigation for purposes of the Uniform Crime Re-  
3 ports.

4 **TITLE III—STATE AND LOCAL LAW**  
5 **ENFORCEMENT GRANTS**

6 **SEC. 301. GRANTS AUTHORIZED.**

7 (a) GRANT AUTHORIZATION.—The Attorney General  
8 shall make grants to individual States to increase the  
9 number of law enforcement officers in service.

10 (b) AMOUNTS AUTHORIZED.—Grants totalling  
11 \$3,000,000,000 shall be made to each State not later than  
12 October 30, 1995, and grants to each State totalling  
13 \$3,000,000,000 shall be made annually thereafter in each  
14 of the fiscal years from fiscal year 1997 through fiscal  
15 year 1998.

16 (c) GRANT ALLOCATION.—All such grants shall be  
17 made without conditions imposed by the Federal Govern-  
18 ment, notwithstanding any other provision of Federal law,  
19 except that the use of such funds shall be exclusively to  
20 increase the number of law enforcement officers in service.

21 (d) GRANT FORMULA.—States shall be required to  
22 allocate 80 percent of their grants to local government for  
23 use by local law enforcement, as nearly as possible in pro-  
24 portion to the populations served by such local law en-  
25 forcement agencies.

1           **TITLE IV—PROTECTION AGAINST**  
2           **SEXUALLY VIOLENT PREDATORS**

3 **SEC. 401. DEFINITIONS.**

4           As used in this title:

5           (1) **MENTAL ABNORMALITY.**—The term “men-  
6           tal abnormality” means a congenital or acquired  
7           condition of a person that affects the emotional or  
8           volitional capacity of the person in a manner that  
9           predisposes the person to the commission of criminal  
10          sexual acts to a degree that makes the person a  
11          menace to the health and safety of other persons.

12          (2) **PREDATORY.**—The term “predatory”, with  
13          respect to an act, means an act directed toward a  
14          stranger, or a person with whom a relationship has  
15          been established or promoted, for the primary pur-  
16          pose of victimization.

17          (3) **SEXUALLY VIOLENT OFFENSE.**—The term  
18          “sexually violent offense” means an act that is a vio-  
19          lation of title 18, United States Code or State crimi-  
20          nal code that—

21                  (A) involves the use or attempted or  
22                  threatened use of physical force against the per-  
23                  son or property of another person; and

24                  (B) is determined beyond a reasonable  
25                  doubt to be sexually motivated.

1           (4) SEXUALLY VIOLENT PREDATOR.—The term  
2           “sexually violent predator” means a person who has  
3           been convicted of a sexually violent offense and who  
4           suffers from a mental abnormality or personality  
5           disorder that makes the person likely to engage in  
6           predatory sexually violent offenses.

7   **SEC. 402. ESTABLISHMENT OF PROGRAM.**

8           (a) IN GENERAL.—

9           (1) STATE GUIDELINE.—In accordance with  
10          this section, the Attorney General shall establish  
11          guidelines for State programs to require a sexually  
12          violent predator to register a current address with a  
13          designated State law enforcement agency upon re-  
14          lease from prison, being placed on parole, or being  
15          placed on supervised release. The Attorney General  
16          shall approve each State program that complies with  
17          the guidelines.

18          (2) STATE COMPLIANCE.—

19                (A) IMPLEMENTATION DATE.—A State  
20                that does not implement a program described in  
21                paragraph (1) by the date that is 3 years after  
22                the date of enactment of this Act, and maintain  
23                the implementation thereafter, shall be ineli-  
24                gible for funds in accordance with subpara-  
25                graph (B).

1 (B) INELIGIBILITY FOR FUNDS.—

2 (i) IN GENERAL.—A State that does  
3 not implement the program as described in  
4 subparagraph (A) shall not receive 10 per-  
5 cent of the funds that would otherwise be  
6 allocated to the State under section 506 of  
7 the Omnibus Crime Control and Safe  
8 Streets Act of 1968 (42 U.S.C. 3756).

9 (ii) REALLOCATION OF FUNDS.—  
10 Funds made available under clause (i)  
11 shall be reallocated, in accordance with  
12 such section, to such States as implement  
13 the program as described in subparagraph  
14 (A).

15 (b) REGISTRATION REQUIREMENT UPON RELEASE,  
16 PAROLE, OR SUPERVISED RELEASE.—

17 (1) IN GENERAL.—An approved State program  
18 established in accordance with this section shall con-  
19 tain the requirements described in this section.

20 (2) DETERMINATION.—The determination that  
21 a person is a “sexually violent predator” and the de-  
22 termination that a person is no longer a “sexually  
23 violent predator” shall be made by the sentencing  
24 court after receiving a report by a board of experts  
25 on sexual offenses. Each State shall establish a

1 board composed of experts in the field of the behav-  
2 ior and treatment of sexual offenders.

3 (3) NOTIFICATION.—If a person who is re-  
4 quired to register under this section is anticipated to  
5 be released from prison, paroled, or placed on super-  
6 vised release, a State prison officer shall, not later  
7 than 90 days before the anticipated date of the re-  
8 lease or commencement of the parole—

9 (A) inform the person of the duty to reg-  
10 ister;

11 (B) inform the person that if the person  
12 changes residence address, the person shall give  
13 the new address to a designated State law en-  
14 forcement agency in writing not later than 10  
15 days after the change of address;

16 (C) obtain the name of the person, identi-  
17 fying factors, anticipated future residence, of-  
18 fense history, and documentation of any treat-  
19 ment received for the mental abnormality or  
20 personality disorder of the person; and

21 (D) require the person to read and sign a  
22 form stating that the duty of the person to reg-  
23 ister under this section has been explained.

24 (4) TRANSFER OF INFORMATION TO STATE AND  
25 THE FBI.—Not later than 3 days after the receipt

1 of the information described in paragraph (3)(C),  
2 the officer shall forward the information to a des-  
3 ignated State law enforcement agency. As soon as  
4 practicable after the receipt of the information by  
5 the State law enforcement agency, the agency  
6 shall—

7 (A) enter the information into the appro-  
8 priate State law enforcement record system and  
9 notify the appropriate law enforcement agency  
10 that has jurisdiction over the area in which the  
11 person expects to reside; and

12 (B) transmit the information to the Identi-  
13 fication Division of the Federal Bureau of In-  
14 vestigation.

15 (5) QUARTERLY VERIFICATION.—

16 (A) MAILING TO PERSON.—Not less than  
17 every 90 days after the date of the release or  
18 commencement of parole of a person required to  
19 register under this section, the designated State  
20 law enforcement agency shall mail a  
21 nonforwardable verification form to the last re-  
22 ported address of the person.

23 (B) RETURN OF VERIFICATION FORM.—

24 (i) IN GENERAL.—The person shall  
25 return, by mail, the verification form to

1 the agency not later than 10 days after the  
2 receipt of the form. The verification form  
3 shall be signed by the person, and shall  
4 state that the person continues to reside at  
5 the address last reported to the designated  
6 State law enforcement agency.

7 (ii) FAILURE TO RETURN.—If the per-  
8 son fails to mail the verification form to  
9 the designated State law enforcement  
10 agency by the date that is 10 days after  
11 the receipt of the form by the person, the  
12 person shall be in violation of this section  
13 unless the person proves that the person  
14 has not changed the residence address of  
15 the person.

16 (6) NOTIFICATION OF LOCAL LAW ENFORCE-  
17 MENT AGENCIES OF CHANGES IN ADDRESS.—Any  
18 change of address by a person required to register  
19 under this section that is reported to the designated  
20 State law enforcement agency shall as soon as prac-  
21 ticable be reported to the appropriate law enforce-  
22 ment agency that has jurisdiction over the area in  
23 which the person is residing.

24 (7) PENALTY.—A person required to register  
25 under a State program established pursuant to this

1 section who knowingly fails to register and keep the  
2 registration current shall be subject to criminal pen-  
3 alties in the State. It is the sense of Congress that  
4 the penalties should include imprisonment for not  
5 less than 180 days.

6 (8) TERMINATION OF OBLIGATION TO REG-  
7 ISTER.—The obligation of a person to register under  
8 this section shall terminate on a determination made  
9 in accordance with the provision of paragraph (2) of  
10 this section that the person no longer suffers from  
11 a mental abnormality or personality disorder that  
12 would make the person likely to engage in a preda-  
13 tory sexually violent offense.

14 (c) COMMUNITY NOTIFICATION.—The designated  
15 State law enforcement agency shall release relevant infor-  
16 mation that is necessary to protect the public concerning  
17 a specific sexually violent predator required to register  
18 under this section.

19 (d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law  
20 enforcement agencies, employees of law enforcement agen-  
21 cies, and State officials shall be immune from liability for  
22 any good faith conduct under this section.

1     **TITLE V—ELIMINATING EXCESSIVE AND**  
2                     **REDUNDANT APPEALS**

3     **SEC. 501. PERIOD OF LIMITATION FOR FILING WRIT OF HA-**  
4                     **BEAS CORPUS FOLLOWING FINAL JUDGMENT**  
5                     **OF A STATE COURT.**

6             Section 2244 of title 28, United States Code, is  
7 amended by adding at the end the following:

8             “(d) A 1-year period of limitation shall apply to an  
9 application for a writ of habeas corpus by a person in cus-  
10 tody pursuant to the judgment of a State court. The limi-  
11 tation period shall run from the latest of the following  
12 times:

13             “(1) The time at which State remedies are ex-  
14 hausted.

15             “(2) The time at which the impediment to filing  
16 an application created by State action in violation of  
17 the Constitution or laws of the United States is re-  
18 moved, where the applicant was prevented from fil-  
19 ing by such State action.

20             “(3) The time at which the Federal right as-  
21 sserted was initially recognized by the Supreme  
22 Court, where the right has been newly recognized by  
23 the Court and is retroactively applicable.

24             “(4) The time at which the factual predicate of  
25 the claim or claims presented could have been dis-

1 covered through the exercise of reasonable dili-  
2 gence.”.

3 **SEC. 502. AUTHORITY OF APPELLATE JUDGES TO ISSUE**  
4 **CERTIFICATES OF PROBABLE CAUSE FOR AP-**  
5 **PEAL IN HABEAS CORPUS AND FEDERAL COL-**  
6 **LATERAL RELIEF PROCEEDINGS.**

7 Section 2253 of title 28, United States Code, is  
8 amended to read as follows:

9 **“§ 2253. Appeal**

10 “(a) In a habeas corpus proceeding or a proceeding  
11 under section 2255 of this title before a circuit or district  
12 judge, the final order shall be subject to review, on appeal,  
13 by the court of appeals for the circuit where the proceed-  
14 ing is had.

15 “(b) There shall be no right of appeal from such an  
16 order in a proceeding to test the validity of a warrant to  
17 remove, to another district or place for commitment or  
18 trial, a person charged with a criminal offense against the  
19 United States, or to test the validity of his detention pend-  
20 ing removal proceedings.

21 “(c) An appeal may not be taken to the court of ap-  
22 peals from the final order in a habeas corpus proceeding  
23 where the detention complained of arises out of process  
24 issued by a State court, or from the final order in a pro-

1 ceeding under section 2255 of this title, unless a circuit  
2 justice or judge issues a certificate of probable cause.”.

3 **SEC. 503. CONFORMING AMENDMENT TO THE RULES OF AP-**  
4 **PELLATE PROCEDURE.**

5 Federal Rule of Appellate Procedure 22 is amended  
6 to read as follows:

7 **“Rule 22. Habeas Corpus and Section 2255 Proceed-**  
8 **ings**

9 “(a) APPLICATION FOR AN ORIGINAL WRIT OF HA-  
10 BEAS CORPUS.—An application for a writ of habeas cor-  
11 pus shall be made to the appropriate district court. If an  
12 application is made to a circuit judge, the application will  
13 ordinarily be transferred to the appropriate district court.  
14 If an application is made to or transferred to the district  
15 court and denied, renewal of the application before a cir-  
16 cuit judge is not favored; the proper remedy is by appeal  
17 to the court of appeals from the order of the district court  
18 denying the writ.

19 “(b) NECESSITY OF CERTIFICATE OR PROBABLE  
20 CAUSE FOR APPEAL.—In a habeas corpus proceeding in  
21 which the detention complained of arises out of process  
22 issued by a State court, and in a motion proceeding pursu-  
23 ant to section 2255 of title 28, United States Code, an  
24 appeal by the applicant or movant may not proceed unless  
25 a circuit judge issues a certificate of probable cause. If

1 a request for a certificate of probable cause is addressed  
2 to the court of appeals, it shall be deemed addressed to  
3 the judges thereof and shall be considered by a circuit  
4 judge or judges as the court deems appropriate. If no ex-  
5 press request for a certificate is filed, the notice of appeal  
6 shall be deemed to constitute a request addressed to the  
7 judges of the court of appeals. If an appeal is taken by  
8 a State or the Government or its representative, a certifi-  
9 cate of probable cause is not required.”.

10 **SEC. 504. DISCRETION TO DENY HABEAS CORPUS APPLICA-**  
11 **TION DESPITE FAILURE TO EXHAUST STATE**  
12 **REMEDIES.**

13 Section 2254(b) of title 28, United States Code, is  
14 amended to read as follows:

15 “(b) An application for a writ of habeas corpus in  
16 behalf of a person in custody pursuant to the judgment  
17 of a State court shall not be granted unless it appears  
18 that the applicant has exhausted the remedies available  
19 in the courts of the State, or that there is either an ab-  
20 sence of available State corrective process or the existence  
21 of circumstances rendering such process ineffective to pro-  
22 tect the rights of the applicant. An application may be  
23 denied on the merits notwithstanding the failure of the  
24 applicant to exhaust the remedies available in the courts  
25 of the State.”.

1 **SEC. 505. PERIOD OF LIMITATION FOR FEDERAL PRIS-**  
2 **ONERS FILING FOR COLLATERAL REMEDY.**

3 Section 2255 of title 28, United States Code, is  
4 amended by striking the second paragraph and the penul-  
5 timate paragraph thereof, and by adding at the end the  
6 following new paragraphs:

7 “A 2-year period of limitation shall apply to a motion  
8 under this section. The limitation period shall run from  
9 the latest of the following times:

10 “(1) The time at which the judgment of convic-  
11 tion becomes final.

12 “(2) The time at which the impediment to mak-  
13 ing a motion created by governmental action in vio-  
14 lation of the Constitution or laws of the United  
15 States is removed, where the movant was prevented  
16 from making a motion by such governmental action.

17 “(3) The time at which the right asserted was  
18 initially recognized by the Supreme Court, where the  
19 right has been newly recognized by the Court and is  
20 retroactively applicable.

21 “(4) The time at which the factual predicate of  
22 the claim or claims presented could have been dis-  
23 covered through the exercise of reasonable dili-  
24 gence.”.

1 **SEC. 506. SPECIAL PROCEDURES FOR COLLATERAL PRO-**  
 2 **CEEDINGS IN CAPITAL CASES.**

3 Title 28, United States Code, is amended by inserting  
 4 the following new chapter immediately following chapter  
 5 153:

6 **“CHAPTER 154—HABEAS CORPUS PROCEDURES**  
 7 **IN CAPITAL CASES**

“Sec.

“2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

“2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

“2258. Filing of habeas corpus petition; time requirements; tolling rules.

“2259. Evidentiary hearings; scope of Federal review; district court adjudication.

“2260. Certificate of probable cause inapplicable.

“2261. Application to State unitary review procedures.

“2262. Limitation periods for determining petitions.

“2263. Rule of construction.

8 **“SEC. 2256. PRISONERS IN STATE CUSTODY SUBJECT TO**  
 9 **CAPITAL SENTENCE; APPOINTMENT OF**  
 10 **COUNSEL; REQUIREMENT OF RULE OF**  
 11 **COURT OR STATUTE; PROCEDURES FOR AP-**  
 12 **POINTMENT.**

13 “(a) This chapter shall apply to cases arising under  
 14 section 2254 brought by prisoners in State custody who  
 15 are subject to a capital sentence. It shall apply only if the  
 16 provisions of subsections (b) and (c) are satisfied.

17 “(b) This chapter is applicable if a State establishes  
 18 by rule of its court of last resort or by statute a mecha-  
 19 nism for the appointment, compensation and payment of

1 reasonable litigation expenses of competent counsel in  
2 State postconviction proceedings brought by indigent pris-  
3 oners whose capital convictions and sentences have been  
4 upheld on direct appeal to the court of last resort in the  
5 State or have otherwise become final for State law pur-  
6 poses. The rule of court or statute must provide standards  
7 of competency for the appointment of such counsel.

8       “(c) Any mechanism for the appointment, compensa-  
9 tion and reimbursement of counsel as provided in sub-  
10 section (b) must offer counsel to all State prisoners under  
11 capital sentence and must provide for the entry of an  
12 order by a court of record—

13           (1) appointing one or more counsel to represent  
14 the prisoner upon a finding that the prisoner is indi-  
15 gent and accepted the offer or is unable competently  
16 to decide whether to accept or reject the offer;

17           (2) finding, after a hearing if necessary, that  
18 the prisoner rejected the offer of counsel and made  
19 the decision with an understanding of its legal con-  
20 sequences; or

21           (3) denying the appointment of counsel upon a  
22 finding that the prisoner is not indigent.

23       “(d) No counsel appointment pursuant to subsections  
24 (b) and (c) to represent a State prisoner under capital  
25 sentence shall have previously represented the prisoner at

1 trial or on direct appeal in the case for which the appoint-  
2 ment is made unless the prisoner and counsel expressly  
3 request continued representation.

4 “(e) The ineffectiveness or incompetence of counsel  
5 during State or Federal collateral postconviction proceed-  
6 ings in a capital case shall not be a ground for relief in  
7 a proceeding arising under section 2254 of this chapter.  
8 This limitation shall not preclude the appointment of dif-  
9 ferent counsel, on the court’s own motion or at the request  
10 of the prisoner, at any phase of State or Federal  
11 postconviction proceedings on the basis of the ineffective-  
12 ness or incompetence of counsel in such proceedings.

13 **“SEC. 2257. MANDATORY STAY OF EXECUTION; DURATION;**  
14 **LIMITS ON STAYS OF EXECUTION; SUCCES-**  
15 **SIVE PETITIONS.**

16 “(a) Upon the entry in the appropriate State court  
17 of record of an order under section 2256(c), a warrant  
18 or order setting an execution date for a State prisoner  
19 shall be stayed upon application to any court that would  
20 have jurisdiction over any proceedings filed under section  
21 2254. The application must recite that the State has in-  
22 voked the postconviction review procedures of this chapter  
23 and that the scheduled execution is subject to stay.

24 “(b) A stay of execution granted pursuant to sub-  
25 section (a) shall expire if—

1           “(1) a State prisoner fails to file a habeas cor-  
2           pus petition under section 2254 within the time re-  
3           quired in section 2258, or fails to make a timely ap-  
4           plication for court of appeals review following the de-  
5           nial of such a petition by a district court;

6           “(2) upon completion of district court and court  
7           of appeals review under section 2254 the petition for  
8           relief is denied and—

9                   (A) the time for filing a petition for certio-  
10                  rari has expired and no petition has been filed;

11                  (B) a timely petition for certiorari was  
12                  filed and the Supreme Court denied the peti-  
13                  tion; or

14                  (C) a timely petition for certiorari was  
15                  filed and upon consideration of the case, the  
16                  Supreme Court disposed of it in a manner that  
17                  left the capital sentence undisturbed; or

18           “(3) before a court of competent jurisdiction, in  
19           the presence of counsel and after having been ad-  
20           vised of the consequences of his decision, a State  
21           prisoner under capital sentence waives the right to  
22           pursue habeas corpus review under section 2254.

23           “(c) If one of the conditions in subsection (b) has  
24           occurred, no Federal court thereafter shall have the au-

1 thority to enter a stay of execution of grant relief in a  
2 capital case unless—

3 “(1) the basis for the stay and request for relief  
4 is a claim not previously presented in the State or  
5 Federal courts;

6 “(2) the failure to raise the claim is—

7 (A) the result of State action in violation  
8 of the Constitution or laws of the United  
9 States;

10 (B) the result of the Supreme Court rec-  
11 ognition of a new Federal right that is retro-  
12 actively applicable; or

13 (C) based on a factual predicate that could  
14 not have been discovered through the exercise  
15 of reasonable diligence in time to present the  
16 claim for State or Federal postconviction re-  
17 view; and

18 “(3) The facts underlying the claim would be  
19 sufficient to establish by clear and convincing evi-  
20 dence that but for constitutional error, no reasonable  
21 fact finder would have found the petitioner guilty of  
22 the underlying offense or eligible for the death pen-  
23 alty under State law.

24 “(d) Notwithstanding any other provision of law, no  
25 Federal district court or appellate judge shall have the au-

1 thority to enter a stay of execution, issue injunctive relief,  
2 or grant any equitable or other relief in a capital case on  
3 any successive habeas petition (or other action which fol-  
4 lows the final determination of a first habeas corpus peti-  
5 tion) unless the court first determines the petition or other  
6 action does not constitute an abuse of the writ. This deter-  
7 mination shall be made only by the district judge or appel-  
8 late panel who adjudicated the merits of the original ha-  
9 beas petition (or to the district judge or appellate panel  
10 to which the case may have been subsequently assigned  
11 as a result of the unavailability of the original court or  
12 judges). In the Federal courts of appeal, a stay may issue  
13 pursuant to the terms of this provision only when a major-  
14 ity of the original panel or majority of the active judges  
15 determines the petition does not constitute an abuse of  
16 the writ.

17 **“SEC. 2258. FILING OF HABEAS CORPUS PETITION; TIME**  
18 **REQUIREMENTS; TOLLING RULES.**

19 “Any petition for habeas corpus relief under section  
20 2254 must be filed in the appropriate district court within  
21 one hundred and eighty days from the filing in the appro-  
22 priate State court of record of an order under section  
23 2256(c). The time requirements establish by this section  
24 shall be tolled—

1           “(1) from the date that a petition for certiorari  
2 is filed in the Supreme Court until the date of final  
3 disposition of the petition if a State prisoner files  
4 the petition to secure review by the Supreme Court  
5 of the affirmance of a capital sentence on direct re-  
6 view by the court of last resort of the State or other  
7 final State court decision on direct review;

8           “(2) during any period in which a State pris-  
9 oner under capital sentence has a properly filed re-  
10 quest for postconviction review pending before a  
11 State court of competent jurisdiction; if all State fil-  
12 ing rules are met in a timely manner, this period  
13 shall run continuously from the date that the State  
14 prisoner initially files for postconviction review until  
15 final disposition of the case by the highest court of  
16 the State, but the time requirements established by  
17 this section are not tolled during the pendency of a  
18 petition for certiorari before the Supreme Court ex-  
19 cept as provided in paragraph (1); and

20           “(3) during an additional period not to exceed  
21 sixty days, if (A) a motion for an extension of time  
22 is filed in the Federal district court that would have  
23 proper jurisdiction over the case upon the filing of  
24 a habeas corpus petition under section 2254; and  
25 (B) a showing of good cause is made for the failure

1 to file the habeas corpus petition within the time pe-  
2 riod established by this section.

3 **“SEC. 2259. EVIDENTIARY HEARINGS; SCOPE OF FEDERAL**  
4 **REVIEW; DISTRICT COURT ADJUDICATION.**

5 “(a) Whenever a State prisoner under a capital sen-  
6 tence files a petition for habeas corpus relief to which this  
7 chapter applies, the district court shall—

8 “(1) determine the sufficiency of the record for  
9 habeas corpus review based on the claims actually  
10 presented and litigated in the State courts except  
11 when the prisoner can show that the failure to raise  
12 or develop a claim in the State courts is—

13 (A) the result of State action in violation  
14 of the Constitution or laws of the United  
15 States;

16 (B) the result of the Supreme Court rec-  
17 ognition of a new Federal right that is retro-  
18 actively applicable; or

19 (C) based on a factual predicate that could  
20 not have been discovered through the exercise  
21 of reasonable diligence in time to present the  
22 claim for State postconviction review; and

23 “(2) conduct any requested evidentiary hearing  
24 necessary to complete the record for habeas corpus  
25 review.



1 court of statute must provide standards of competency for  
2 the appointment of such counsel.

3 “(b) A unitary review procedure, to qualify under this  
4 section, must include an offer of counsel following trial  
5 for the purpose of representation on unitary review, and  
6 entry of an order, as provided in section 2256(c), concern-  
7 ing appointment of counsel or waiver or denial of appoint-  
8 ment of counsel for that purpose. No counsel appointed  
9 to represent the prisoner in the unitary review proceedings  
10 shall have previously represented the prisoner at trial in  
11 the case for which the appointment is made unless the  
12 prisoner and counsel expressly request continued represen-  
13 tation.

14 “(c) Sections 2257, 2258, 2259, 2260, and 2262  
15 shall apply in relation to cases involving a sentence of  
16 death from any State having a unitary review procedure  
17 that qualifies under this section. References to State ‘post-  
18 conviction review’ and ‘direct review’ in those sections  
19 shall be understood as referring to unitary review under  
20 the State procedure. The references in sections 2257(a)  
21 and 2258 to ‘an order under section 2256(c)’ shall be un-  
22 derstood as referring to the post-trial order under sub-  
23 section (b) concerning representation in the unitary review  
24 proceedings, but if a transcript of the trial proceedings  
25 is unavailable at the time of the filing of such an order

1 in the appropriate State court, then the start of the one  
2 hundred and eighty day limitation period under section  
3 2258 shall be deferred until a transcript is made available  
4 to the prisoner or his counsel.

5 **“SEC. 2262. LIMITATION PERIODS FOR DETERMINING PETI-**  
6 **TIONS.**

7 “(a)(1) A Federal district court shall determine such  
8 a petition or motion within 60 days of any argument heard  
9 on an evidentiary hearing, or where no evidentiary hearing  
10 is held, within 60 days of any final argument heard in  
11 the case.

12 “(2)(A) The court of appeals shall hear and deter-  
13 mine any appeal relating to such a petition or motion with-  
14 in 90 days after the filing of any reply brief or within  
15 90 days after such reply brief would be due. For purposes  
16 of this provision, any reply brief shall be due within 14  
17 days of the opposition brief.

18 “(B) The court of appeals shall decide any petition  
19 for rehearing and or request by an appropriate judge for  
20 rehearing en banc within 20 days of the filing of such a  
21 petition or request unless a responsive pleading is required  
22 in which case the court of appeals shall decide the applica-  
23 tion within 20 days of the filing of the responsive pleading.  
24 If en banc consideration is granted, that en banc court

1 shall determine the appeal within 90 days of the decision  
2 to grant such consideration.

3 “(3) The time limitations contained in paragraphs  
4 (1) and (2) may be extended only once for 20 days, upon  
5 an express good cause finding by the court that the inter-  
6 ests of justice warrant such a one-time extension. The spe-  
7 cific grounds for the good cause finding shall be set forth  
8 in writing in any extension order of the court.

9 “(4) Since the matters under paragraphs (1) and  
10 (2)(A) are to be handled on a priority basis, the time from  
11 filing of the petition or motion to final argument (under  
12 paragraph (1)) or of the notice of appeal to the hearing  
13 of the appeal (under paragraph (2)(A)) shall not exceed  
14 4 months, unless exceptional circumstances require a  
15 longer period. Where such time period exceeds 4 months  
16 in any petition or motion (under paragraph (2)(A), the  
17 court shall set forth in writing the exceptional cir-  
18 cumstances causing the delay.

19 “(b) The time limitations under section (a) shall  
20 apply to an initial petition or motion, and to any second  
21 or successive petition or motion. The same limitations  
22 shall also apply to the redetermination of a petition or mo-  
23 tion or related appeal following a remand by the court of  
24 appeals or the Supreme Court for further proceedings, and

1 in such case the limitation period shall run from the date  
2 of the remand.

3 “(c) The time limitations under this section shall not  
4 be construed to entitle a petitioner or movant to a stay  
5 of execution, to which the petitioner or movant would oth-  
6 erwise not be entitled, for the purpose of litigating any  
7 petition, motion, or appeal.

8 “(d) The failure of a court to meet or comply with  
9 the time limitations under this section shall not be a  
10 ground for granting relief from a judgment of conviction  
11 or sentence. The State or Government may enforce the  
12 time limitations under this section by applying to the court  
13 of appeals or the Supreme Court for a writ of mandamus.

14 “(e) The Administrative Office of United States  
15 Courts shall report annually to Congress on the compli-  
16 ance by the courts with the time limits established in this  
17 section.

18 **“SEC. 2263. RULE OF CONSTRUCTION.**

19 “This chapter shall be construed to promote the expe-  
20 ditious conduct and conclusion of State and Federal court  
21 review in capital cases.”.

22 (b) CLERICAL AMENDMENT.—The table of chapters  
23 at the beginning of part VI of title 28, United States Code,  
24 is amended by inserting after the item relating to chapter  
25 153 the following new item:

“154. Special habeas corpus procedures in capital cases 2256.”.

1     **TITLE VI—REFORM OF EXCLUSIONARY**  
2                                   **RULE**

3     **SEC. 601. REFORM OF EXCLUSIONARY RULE.**

4           (a) IN GENERAL.—Chapter 223 of title 18, United  
5 States Code, is amended by adding at the end the follow-  
6 ing:

7     **“§ 3510. Admissibility of evidence obtained by search**  
8                                   **or seizure assured**

9           “(a) EVIDENCE OBTAINED BY OBJECTIVELY REA-  
10 SONABLE SEARCH OR SEIZURE.—Evidence which is ob-  
11 tained as a result of a search or seizure shall not be ex-  
12 cluded in a proceeding in a court of the United States  
13 on the grounds that the search or seizure was in violation  
14 of the fourth amendment to the Constitution of the United  
15 States, if the search or seizure was carried out in cir-  
16 cumstances justifying an objectively reasonable belief that  
17 it was in conformity with the fourth amendment. The fact  
18 that evidence was obtained pursuant to and within the  
19 scope of a warrant constitutes prima facie evidence of the  
20 existence of such circumstances.

21           “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR  
22 RULE.—Evidence shall not be excluded in a proceeding  
23 in a court of the United States on the ground that it was  
24 obtained in violation of a statute, an administrative rule  
25 or regulation, or a rule of procedure unless exclusion is

1 expressly authorized by statute or by a rule prescribed by  
2 the Supreme Court pursuant to statutory authority.

3 “(c) RULE OF CONSTRUCTION.—This section shall  
4 not be construed to require or authorize the exclusion of  
5 evidence in any proceeding.

6 “(d) LIMITATION.—This section shall not apply with  
7 respect to a search or seizure carried out by, or under  
8 the authority of, the Bureau of Alcohol, Tobacco, and  
9 Firearms and the Internal Revenue Service.”.

10 (b) CLERICAL AMENDMENT.—The table of sections  
11 at the beginning of chapter 223 of title 18, United States  
12 Code, is amended by adding at the end the following:

“3510. Admissibility of evidence obtained by search or seizure.”.

## 13 **TITLE VII—TRUTH IN SENTENCING**

### 14 **SEC. 701. RELEASE OF PRISONER.**

15 (a) Section 3624(a) of title 18, United States Code,  
16 is amended—

17 (1) by deleting, “less any time credited forward  
18 the service of his sentence as provided in subsection  
19 (b).”; and

20 (2) substituting “plus any discretionary addi-  
21 tional time up to 15 percent of that term that may  
22 have been imposed for unsatisfactory behavior.”.

23 (b) Section 3624(b) of title 18, United States Code,  
24 is amended by—

1           (1) deleting the caption “Credit toward service  
2 of sentence for satisfactory behavior” and substitut-  
3 ing therefor “Additional term of imprisonment for  
4 unsatisfactory behavior.”; and

5           (2) deleting the entire section and substituting  
6 the following: “No person may be kept in prison by  
7 reason of this section for a term longer than the  
8 maximum term set by Act of Congress for the of-  
9 fense. Notwithstanding any other provision of law,  
10 such maximum term shall be deemed to be increased  
11 by 15 percent in order to facilitate the implementa-  
12 tion of this section. A prisoner who is serving a term  
13 of imprisonment of more than one year, other than  
14 a term of imprisonment for the duration of his life,  
15 shall have additional time added to his sentence, be-  
16 yond the time served, of up to fifty-four days at the  
17 end of each year of this term of imprisonment, be-  
18 ginning after the first year of the term if the Bureau  
19 of Prisons determines that during that year, he has  
20 not satisfactorily complied with such institutional  
21 disciplinary regulations as have been approved by  
22 the Attorney General and issued to the prisoner.  
23 The Bureau’s determination shall be made within  
24 fifteen days after the end of each year of the sen-  
25 tence. Such additional time of sentence vests at the

1 time that is received. Additional time that has vested  
2 may not later be withdrawn. The last year or portion  
3 of a year of the term of imprisonment shall be pro-  
4 rated within the last six weeks of the sentence. Any  
5 additional time that, by reason of this section, is  
6 spent in prison beyond the term otherwise nominally  
7 imposed for the offense shall be deemed a part of  
8 that term for purposes of subsection (c) of this sec-  
9 tion. Under no circumstances, notwithstanding any  
10 other provision of law, shall a sentence be reduced  
11 for satisfactory behavior to a term less than the  
12 original sentence nominally imposed.”.

13 **SEC. 702. COMPUTATION GENERALLY.**

14 (a) Section 4161 of title 18 is amended by deleting  
15 “has faithfully observed all the rules and has not been sub-  
16 jected to punishment, shall be entitled to a deduction” and  
17 substituting “who has displayed poor conduct, may be sub-  
18 jected to an increase in the term of his sentence up to  
19 the 15 percent additional discretionary term imposed by  
20 this title.”

21 (b) Section 4162 of title 18 is amended by deleting  
22 “be allowed deduction from his sentence” and substituting  
23 “be confined for additional time up to the 15 percent addi-  
24 tional discretionary term of his sentence imposed by this  
25 title,” and by deleting “allowance may be made to” and

1 substituting “additional term may also be imposed only”;  
2 and by deleting “meritorious service or performing duties  
3 of outstanding importance” and substituting “poorly”.

4 (c) Section 4163 of title 18 is amended by deleting  
5 “less the time deducted for good conduct” and substitut-  
6 ing “plus the time, if any, added toward the 15 percent  
7 discretionary term imposed by this title.”.

8 **TITLE VIII—PRISON WORK REQUIRED;**  
9 **LUXURIES ABOLISHED**

10 **SEC. 801. LUXURIES ABOLISHED.**

11 Section 4001(b)(2) of title 18 is amended by adding  
12 at the end: “The Attorney General shall, not later than  
13 120 days from the enactment of this section, implement  
14 and enforce regulations mandating prison work for all  
15 able-bodied inmates in Federal penal and correctional in-  
16 stitutions. Such regulations shall also prohibit the Govern-  
17 ment provision in inmates’ cells of television, radio, tele-  
18 phone stereo, or other similar amenities.”.

19 **SEC. 802. AWARDS OF PELL GRANTS TO PRISONERS PRO-**  
20 **HIBITED.**

21 (a) **IN GENERAL.**—Section 401(b)(8) of the Higher  
22 Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amend-  
23 ed to read as follows:

1           “(8) No basic grant shall be awarded under this  
2           subpart to any individual who is incarcerated in any  
3           Federal or State penal institution.”.

4           (b) APPLICATION OF AMENDMENT.—The amendment  
5           made by this section shall apply with respect to periods  
6           of enrollment beginning on or after the date of enactment  
7           of this Act.

8                           **TITLE IX—IMPROVING BORDER**  
9   **CONTROLS**

10           **SEC. 901. GRANTS FOR BORDER CONTROL.**

11           The Attorney General is authorized and directed to  
12           use the funds authorized in this section to permit the com-  
13           mander of the border patrol to increase by at least 6,000  
14           the number of border patrol agent positions in the border  
15           patrol above the number of such positions as of July 1,  
16           1995.

17           There are authorized to be appropriated to carry out  
18           this section \$500,000,000 in each of fiscal years 1996,  
19           1997, and 1998.

20           **SEC. 802. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**  
21   **EXCLUSION.**

22           (a) CONVICTED DEFINED.—Section 241(a)(2) of the  
23           Immigration and Nationality Act (8 U.S.C. 1251(a)(2))  
24           is amended by adding at the end the following new sub-  
25           paragraph:

1           “(E) CONVICTED DEFINED.—In this para-  
2           graph, the term ‘convicted’ means a judge or  
3           jury has found the alien guilty or the alien has  
4           entered a plea of guilty or nolo contendere,  
5           whether or not the alien appeals therefrom.”.

6           (b) DEPORTATION OF CONVICTED ALIENS.—

7           (1) IMMEDIATE DEPORTATION.—Section 242(h)  
8           of such Act (8 U.S.C. 1252(h)) is amended—

9                   (A) by striking “(h) An alien” and insert-  
10                  ing “(h)(1) Subject to paragraph (2), an alien”;  
11                  and

12                   (B) by adding at the end the following new  
13                  paragraph:

14           “(2) An alien sentenced to imprisonment may be de-  
15           ported prior to the termination of such imprisonment by  
16           the release of the alien from confinement, if the Service  
17           petitions the appropriate court or other entity with author-  
18           ity concerning the alien to release the alien into the cus-  
19           tody of the Service for execution of an order of deporta-  
20           tion.”.

21           (2) PROHIBITION OF REENTRY INTO THE  
22           UNITED STATES.—Section 212(a)(2) of such Act (8  
23           U.S.C. 1182(a)(2)) is amended—

24                   (A) by redesignating subparagraph (F) as  
25                  subparagraph (G); and

1 (B) by inserting after subparagraph (E)  
2 the following new subparagraph:

3 “(F) ALIENS DEPORTED BEFORE SERVING  
4 MINIMUM PERIOD OF CONFINEMENT.—In addi-  
5 tion to any other period of exclusion which may  
6 apply an alien deported pursuant to section  
7 242(h)(2) is excludable during the minimum pe-  
8 riod of confinement to which the alien was sen-  
9 tenced.”.

10 (c) EXECUTION OF DEPORTATION ORDERS.—Section  
11 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-  
12 ing at the end the following: “An order of deportation may  
13 not be executed until all direct appeals relating to the con-  
14 viction which is the basis of the deportation order have  
15 been exhausted.”.

16 **SEC. 903. AUTHORIZING REGISTRATION OF ALIENS ON**  
17 **CRIMINAL PROBATION OR CRIMINAL PA-**  
18 **ROLE.**

19 Section 263(a) of the Immigration and Nationality  
20 Act (8 U.S.C. 1303(a)) is amended by striking “and (5)”  
21 and inserting “(5) aliens who are or have been on criminal  
22 probation or criminal parole within the United States, and  
23 (6)”.

1 **SEC. 904. EXPANSION IN DEFINITION OF “AGGRAVATED**  
2 **FELONY”.**

3 (a) EXPANSION IN DEFINITION.—Section 101(a)(43)  
4 of the Immigration and Nationality Act (8 U.S.C.  
5 1101(a)(43)) is amended to read as follows:

6 “(43) The term ‘aggravated felony’ means—

7 “(A) murder;

8 “(B) any illicit trafficking in any con-  
9 trolled substance (as defined in section 102 of  
10 the Controlled Substances Act), including any  
11 drug trafficking crime as defined in section  
12 924(c)(2) of title 18, United States Code;

13 “(C) any illicit trafficking in any firearms  
14 or destructive devices as defined in section 921  
15 of title 18, United States Code, or in explosive  
16 materials as defined in section 841(c) of title  
17 18, United States Code;

18 “(D) any offense described in sections  
19 1951 through 1963 of title 18, United States  
20 Code;

21 “(E) any offense described in—

22 “(i) subsection (h) or (i) of section  
23 842, title 18, United States Code or sub-  
24 section (d), (e), (f), (g), (h), or (i) of sec-  
25 tion 844 of title 18, United States Code  
26 (relating to explosive materials offenses);

1           “(ii) paragraph (1), (2), (3), (4), or  
2           (5) of section 922(g), subsection (j), (n),  
3           (o), (p), or (r) of section 922, section  
4           924(b), or section 924(h) of title 18,  
5           United States Code (relating to firearms  
6           offenses); and

7           “(iii) section 5861 of the Internal  
8           Revenue Code of 1986 (relating to fire-  
9           arms offenses); and

10          “(F) any crime of violence (as defined in  
11          section 16 of title 18, United States Code, not  
12          including a purely political offense) for which  
13          the term of imprisonment imposed (regardless  
14          of any suspension of such imprisonment) is at  
15          least five years;

16          “(G) any theft offense (including receipt of  
17          stolen property) or any burglary offense, where  
18          a sentence of five years imprisonment or more  
19          may be imposed;

20          “(H) any offense described in section 875,  
21          section 876, section 877, or section 1202 of  
22          title 18, United States Code (relating to the de-  
23          mand for or receipt of ransom);

24          “(I) any offense described in section 2251,  
25          section 2251A or section 2252 of title 18,

1 United States Code (relating to child pornog-  
2 raphy);

3 “(J) any offense described in section 1084  
4 of title 18, United States Code, where a sen-  
5 tence of five years’ imprisonment or more may  
6 be imposed;

7 “(K) any offense relating to commercial  
8 bribery, counterfeiting, forgery or trafficking in  
9 vehicles whose identification numbers have been  
10 altered, where a sentence of five years’ impris-  
11 onment or more may be imposed;

12 “(L) any offense—

13 “(i) relating to the owning, control-  
14 ling, managing or supervising of a pros-  
15 titution business;

16 “(ii) described in section 2421  
17 through 2424 of title 18, United States  
18 Code, for commercial advantage; or

19 “(iii) described in sections 1581  
20 through 1585, or section 1588, of title 18,  
21 United States Code (relating to peonage,  
22 slavery, and involuntary servitude);

23 “(M) any offense relating to perjury or  
24 subornation of perjury where a sentence of five  
25 years’ imprisonment or more may be imposed;

1 “(N) any offense described in—

2 “(i) section 793 (relating to gathering  
3 or transmitting national defense informa-  
4 tion), section 798 (relating to disclosure of  
5 classified information), section 2153 (relat-  
6 ing to sabotage) or section 2381 or section  
7 2382 (relating to treason) of title 18,  
8 United States Code; or

9 “(ii) section 421 of title 50, United  
10 States Code (relating to protecting the  
11 identity of undercover intelligence agents);

12 “(O) any offense—

13 “(i) involving fraud or deceit where  
14 the loss to the victim or victims exceeded  
15 \$200,000; or

16 “(ii) described in section 7201 of title  
17 26, United States Code (relating to tax  
18 evasion), where the tax loss to the Govern-  
19 ment exceeds \$200,000;

20 “(P) any offense described in section  
21 274(a)(1) of the Immigration and Nationality  
22 Act (relating to alien smuggling) for the pur-  
23 pose of commercial advantage;

24 “(Q) any violation of section 1546(a) of  
25 title 18, United States Code (relating to docu-



1       “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-  
2 MANENT RESIDENTS.—(1) Notwithstanding section 242,  
3 and subject to paragraph (5), the Attorney General may  
4 issue a final order of deportation against any alien de-  
5 scribed in paragraph (2) whom the Attorney General de-  
6 termines to be deportable under section 241(a)(2)(A)(iii)  
7 (relating to conviction of an aggravated felony).

8       “(2) An alien is described in this paragraph if the  
9 alien—

10           “(A) was not lawfully admitted for permanent  
11 residence at the time that proceedings under this  
12 section commenced, or

13           “(B) had permanent resident status on a condi-  
14 tional basis (as described in section 216) at the time  
15 that proceedings under this section commenced.

16       “(3) The Attorney General may delegate the author-  
17 ity in this section to the Commissioner or to any District  
18 Director of the Service.

19       “(4) No alien described in this section shall be eligible  
20 for—

21           “(A) any relief from deportation that the Attor-  
22 ney General may grant in his discretion; or

23           “(B) relief under section 243(h).

24       “(5) The Attorney General may not execute any order  
25 described in paragraph (1) until 14 calendar days have

1 passed from the date that such order was issued, in order  
2 that the alien has an opportunity to apply for judicial re-  
3 view under section 106.”.

4 (b) LIMITED JUDICIAL REVIEW.—Section 106 of the  
5 Immigration and Nationality Act (8 U.S.C. 1105a) is  
6 amended—

7 (1) in the first sentence of subsection (a), by in-  
8 serting “or pursuant to section 242A” after “under  
9 section 242(b)”;

10 (2) in subsection (a)(1) and subsection (a)(3),  
11 by inserting “(including an alien described in section  
12 242A” after “aggravated felony”; and

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

15 “(d) Notwithstanding subsection (c), a petition for  
16 review or for habeas corpus on behalf of an alien described  
17 in section 242A(c) may only challenge whether the alien  
18 is in fact an alien described in such section, and no court  
19 shall have jurisdiction to review any other issue.”.

20 (c) TECHNICAL AND CONFORMING CHANGES.—Sec-  
21 tion 242A of the Immigration and Nationality Act (8  
22 U.S.C. 1252a) is amended as follows:

23 (1) In subsection (a)—

1 (A) by striking “(a) IN GENERAL.—” and  
2 inserting “(b) DEPORTATION OF PERMANENT  
3 RESIDENT ALIENS.—(1) IN GENERAL.”; and

4 (B) by inserting in the first sentence “per-  
5 manent resident” after “correctional facilities  
6 for”.

7 (2) In subsection (b)—

8 (A) by striking “(b) IMPLEMENTATION—”  
9 and inserting “(2) IMPLEMENTATION.—”; and

10 (B) by striking “respect to an” and insert-  
11 ing “respect to a permanent resident”.

12 (3) By striking out subsection (c).

13 (4) In subsection (d)—

14 (A) by striking “(d) EXPEDITED PRO-  
15 CEEDINGS.—(1)” and inserting “(3) EXPE-  
16 DITED PROCEEDINGS.—(A)”;

17 (B) by inserting “permanent resident”  
18 after “in the case of any”; and

19 (C) by striking “(2)” and inserting “(B)”.

20 (5) In subsection (e)—

21 (A) by striking “(e) REVIEW.—(1)” and  
22 inserting “(4) REVIEW.—(A)”;

23 (B) by striking the second sentence; and

24 (C) by striking “(2)” and inserting “(B)”.

1           (6) By inserting after the section heading the  
2 following new subsection:

3           “(a) PRESUMPTION OF DEPORTABILITY.—An alien  
4 convicted of an aggravated felony shall be conclusively pre-  
5 sumed to be deportable from the United States.”.

6           (7) The heading of such section is amended to  
7 read as follows:

8           **“EXPEDITED DEPORTATION OF ALIENS CONVICTED OF**  
9                                   **COMMITTING AGGRAVATED FELONIES”.**

10          (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to all aliens against whom deporta-  
12 tion proceedings are initiated after the date of enactment  
13 of this Act.

14           **SEC. 906. JUDICIAL DEPORTATION.**

15          (a) JUDICIAL DEPORTATION.—Section 242A of the  
16 Immigration and Nationality Act (8 U.S.C. 1252a) is  
17 amended by inserting at the end the following new sub-  
18 section:

19          “(d) JUDICIAL DEPORTATION.—

20               “(1) AUTHORITY.—Notwithstanding any other  
21 provision of this Act, a United States district court  
22 shall have jurisdiction to enter a judicial order of de-  
23 portation at the time of sentencing against an alien  
24 whose criminal conviction causes such alien to be de-  
25 portable under section 241(a)(2)(A)(iii) (relating to

1 conviction of an aggravated felony), if such an order  
2 has been requested prior to sentencing by the United  
3 States Attorney with the concurrence of the Com-  
4 missioner.

5 “(2) PROCEDURE.—

6 “(A) The United States Attorney shall pro-  
7 vide notice of intent to request judicial deporta-  
8 tion promptly after the entry in the record of  
9 an adjudication of guilt or guilty plea. Such no-  
10 tice shall be provided to the court, to the alien,  
11 and to the alien’s counsel of record.

12 “(B) Notwithstanding section 242B, the  
13 United States Attorney, with the concurrence of  
14 the Commissioner, shall file at least 20 days  
15 prior to the date set for sentencing a charge  
16 containing factual allegations regarding the  
17 alienage of the defendant and satisfaction by  
18 the defendant of the definition of aggravated  
19 felony.

20 “(C) If the court determines that the de-  
21 fendant has presented substantial evidence to  
22 establish prima facie eligibility for relief from  
23 deportation under section 212(c), the Commis-  
24 sioner shall provide the court with a rec-  
25 ommendation and report regarding the alien’s

1 eligibility for relief under such section. The  
2 court shall either grant or deny the relief  
3 sought.

4 “(D)(i) The alien shall have a reasonable  
5 opportunity to examine the evidence against  
6 him or her, to present evidence on his or her  
7 own behalf, and to cross-examine witnesses pre-  
8 sented by the Government.

9 “(ii) The court, for the purposes of deter-  
10 mining whether to enter an order described in  
11 paragraph (1), shall only consider evidence that  
12 would be admissible in proceedings conducted  
13 pursuant to section 242(b).

14 “(iii) Nothing in this subsection shall limit  
15 the information a court of the United States  
16 may receive or consider for the purposes of im-  
17 posing an appropriate sentence.

18 “(iv) The court may order the alien de-  
19 ported if the Attorney General demonstrates by  
20 clear and convincing evidence that the alien is  
21 deportable under this Act.

22 “(3) NOTICE, APPEAL, AND EXECUTION OF JU-  
23 DICIAL ORDER OF DEPORTATION.—

24 “(A)(i) A judicial order of deportation or  
25 denial of such order may be appealed by either

1 party to the court of appeals for the circuit in  
2 which the district court is located.

3 “(ii) Except as provided in clause (iii),  
4 such appeal shall be considered consistent with  
5 the requirements described in section 106.

6 “(iii) Upon execution by the defendant of  
7 a valid waiver of the right to appeal the convic-  
8 tion on which the order of deportation is based,  
9 the expiration of the period described in section  
10 106(a)(1), or the final dismissal of an appeal  
11 from such conviction, the order of deportation  
12 shall become final and shall be executed at the  
13 end of the prison term in accordance with the  
14 terms of the order.

15 “(B) As soon as is practicable after entry  
16 of a judicial order of deportation, the Commis-  
17 sioner shall provide the defendant with written  
18 notice of the order of deportation, which shall  
19 designate the defendant’s country of choice for  
20 deportation and any alternate country pursuant  
21 to section 243(a).

22 “(4) DENIAL OF JUDICIAL ORDER.—Denial of a  
23 request for a judicial order of deportation shall not  
24 preclude the Attorney General from initiating depor-  
25 tation proceedings pursuant to section 242 upon the

1 same ground of deportability or upon any other  
2 ground of deportability provided under section  
3 241(a).”.

4 (b) TECHNICAL AND CONFORMING CHANGES.—The  
5 ninth sentence of section 242(b) of the Immigration and  
6 Nationality Act (8 U.S.C. 1252(b)) is amended by striking  
7 out “The” and inserting in lieu thereof “Except as pro-  
8 vided in section 242A(d), the”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to all aliens whose adjudication of  
11 guilt or guilty plea is entered in the record after the date  
12 of enactment of this Act.

13 **SEC. 907. RESTRICTING DEFENSES TO DEPORTATION FOR**  
14 **CERTAIN CRIMINAL ALIENS.**

15 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-  
16 NENT RESIDENCE.—The last sentence of section 212(c)  
17 of the Immigration and Nationality Act (8 U.S.C.  
18 1182(c)) is amended by striking out “has served for such  
19 felony or felonies” and all that follows through the period  
20 and inserting in lieu thereof “has been sentenced for such  
21 felony or felonies to a term of imprisonment of at least  
22 5 years: *Provided*, That the time for appealing such con-  
23 viction or sentence has expired and the sentence has be-  
24 come final.”.

1 (b) DEFENSES BASED ON WITHHOLDING OF DEPOR-  
2 TATION.—Section 243(h)(2) of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1253(h)(2)) is amended by—

4 (1) striking out the final sentence and inserting  
5 in lieu thereof the following new subparagraph:

6 “(E) the alien has been convicted of an ag-  
7 gravated felony.”; and

8 (2) striking out the “or” at the end of subpara-  
9 graph (C) and inserting “or” at the end of subpara-  
10 graph (D).

11 **SEC. 908. ENHANCING PENALTIES FOR FAILING TO DE-**  
12 **PART, OR REENTERING, AFTER FINAL ORDER**  
13 **OF DEPORTATION.**

14 (a) FAILURE TO DEPART.—Section 242(e) of the Im-  
15 migration and Nationality Act (8 U.S.C. 1252(e)) is  
16 amended—

17 (1) by striking out “paragraph (2), (3), or (4)  
18 of” the first time it appears, and

19 (2) by striking out “shall be imprisoned not  
20 more than ten years” and inserting in lieu thereof,  
21 “shall be imprisoned not more than two years, or  
22 shall be imprisoned not more than ten years if the  
23 alien is a member of any of the classes described in  
24 paragraph (2), (3), or (4) of section 241(a).”.

1 (b) REENTRY.—Section 276(b) of the Immigration  
2 and Nationality Act (8 U.S.C. 1326(b)) is amended—

3 (1) in paragraph (1), by (A) inserting after  
4 “commission of” the following: “three or more mis-  
5 demeanors or”, and (B) striking out “5” and insert-  
6 ing in lieu thereof “10”,

7 (2) in paragraph (2), by striking out “15” and  
8 inserting in lieu thereof “20”, and

9 (3) by adding at the end the following sentence:  
10 “For the purpose of this subsection, the term ‘de-  
11 portation’ shall include any agreement where an  
12 alien stipulates to deportation during a criminal trial  
13 under either Federal or State law.”.

14 (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-  
15 TATION ORDER.—Section 276 of the Immigration and Na-  
16 tionality Act (8 U.S.C. 1326) is amended by inserting  
17 after subsection (b) the following new subsection:

18 “(c) In any criminal proceeding under this section,  
19 no alien may challenge the validity of the deportation  
20 order described in subsection (a)(1) of subsection (b) un-  
21 less the alien demonstrates—

22 “(1) that the alien exhausted the administrative  
23 remedies (if any) that may have been available to  
24 seek relief against such order,

1           “(2) that the deportation proceedings at which  
2           such order was issued improperly deprived the alien  
3           of the opportunity for judicial review, and

4           “(3) that the entry of such order was fun-  
5           damentally unfair.”.

6 **SEC. 909. MISCELLANEOUS AND TECHNICAL CHANGES.**

7           (a) FORM OF DEPORTATION HEARINGS.—The sec-  
8           ond sentence of section 242(b) of the Immigration and  
9           Nationality Act (8 U.S.C. 1252(b)) is amended by insert-  
10          ing before the period the following: “, except that nothing  
11          in this subsection shall preclude the Attorney General  
12          from authorizing proceedings by electronic or telephonic  
13          media (with or without the consent of the alien) or, where  
14          waived or agreed to by the parties, in the absence of the  
15          alien.”.

16          (b) CONSTRUCTION OF EXPEDITED DEPORTATION  
17          REQUIREMENTS.—No amendment made by this Act and  
18          nothing in section 242(i) of the Immigration and Nation-  
19          ality Act (8 U.S.C. 1252(ii)), shall be construed to create  
20          any right or benefit, substantive or procedural, which is  
21          legally enforceable by any party against the United States,  
22          its agencies, its officers or any other person.

1 **SEC. 910. AUTHORIZATION OF APPROPRIATIONS FOR**  
2 **CRIMINAL ALIEN INFORMATION SYSTEM.**

3 There is authorized to be appropriated to carry out  
4 section 242(a)(3)(A) of the Immigration and Nationality  
5 Act, \$5,000,000 for fiscal year 1996 and \$2,000,000 for  
6 each of the fiscal years 1997, and 1998.

7 **TITLE X—ENHANCED GUN PENALTIES**

8 **SEC. 1001. ENHANCED PENALTIES FOR PERSONS CON-**  
9 **VICTED OF USING OR CARRYING A FIREARM**  
10 **DURING AND IN RELATION TO A FELONY.**

11 (a) IN GENERAL.—Section 924(c) of title 18, United  
12 States Code, is amended to read as follows:

13 “(c) Whoever, during and in relation to a crime that  
14 is a felony (including a felony which provides for an en-  
15 hanced punishment if committed by the use of a deadly  
16 or dangerous weapon or device) for which he may be pros-  
17 ecuted in a court of the United States, uses or carries a  
18 firearm, shall, in addition to the punishment provided for  
19 such crime, be sentenced to imprisonment for 5 years, and  
20 if the firearm is a short-barreled rifle or short-barreled  
21 shotgun, to imprisonment for 10 years, and if the firearm  
22 is a machinegun or destructive device, or is equipped with  
23 a firearm silencer or firearm muffler, to imprisonment for  
24 30 years. In the case of the 2nd or subsequent conviction  
25 of the person under this subsection, the person shall be  
26 sentenced to life imprisonment without release. Notwith-

1 standing any other provision of law, a term of imprison-  
2 ment imposed under this subsection shall not run concur-  
3 rently with any other term of imprisonment including that  
4 imposed for the crime in which the firearm was used or  
5 carried.”.

6 (b) CONFORMING AMENDMENT.—Section 101(a)(43)  
7 of the Immigration and Nationality Act (8 U.S.C.  
8 1101(a)(43)) is amended by inserting “(as in effect imme-  
9 diately before the enactment of the Gun Crime Control  
10 Act)” after “18” the first place such term appears.

11 **SEC. 1002. MANDATORY MINIMUM SERVICE FOR UNLAWFUL**  
12 **POSSESSION OF A FIREARM BY CONVICTED**  
13 **FELON, FUGITIVE FROM JUSTICE, ADDICT OR**  
14 **UNLAWFUL USER OF CONTROLLED SUB-**  
15 **STANCE, OR TRANSFEROR OR RECEIVER OF**  
16 **STOLEN FIREARM.**

17 Section 924(a) of title 18, United States Code, is  
18 amended by adding at the end the following:

19 “(6) Whoever knowingly possesses a firearm in  
20 violation of paragraph (1), (2), or (3) of section  
21 922(g), or in violation of subsection (i) of (j), shall  
22 be imprisoned not less than 5 years. Notwithstand-  
23 ing any other provision of law, the court shall not  
24 place on probation or suspend the sentence of any  
25 person convicted under this paragraph, nor shall the

1 term of imprisonment imposed under this paragraph  
2 run concurrently with any other term of imprison-  
3 ment imposed under any other provision of law.”.

4 **SEC. 1003. INCREASE IN GENERAL PENALTY FOR VIOLA-**  
5 **TION OF FEDERAL FIREARMS LAWS.**

6 Section 924(a)(1) of title 18, United States Code, is  
7 amended—

8 “(1) by striking “not more than \$5,000” and  
9 inserting “under this title”; and

10 “(2) by striking “five” and inserting “10”.

11 **TITLE XI—VIOLENT CRIME REDUCTION**  
12 **TRUST FUND**

13 **SEC. 1101. CREATION OF VIOLENT CRIME REDUCTION**  
14 **TRUST FUND**

15 (a) VIOLENT CRIME REDUCTION TRUST FUND.—

16 There is established a separate account in the Treasury,  
17 known as the “Violent Crime Reduction Trust Fund” (re-  
18 ferred to in this section as the “Fund”) into which shall  
19 be transferred, in accordance with subsection (b), savings  
20 realized from implementation of section 5 of the Federal  
21 Workforce Restructuring Act of 1994 (5 U.S.C. 3101  
22 note; Public Law 103–226).

23 (b) TRANSFERS INTO THE FUND.—On the first day  
24 of the following fiscal years (or as soon thereafter as pos-  
25 sible for fiscal year 1995), such sums as may be necessary

1 shall be transferred from the general fund to the Fund  
2 for fiscal years 1995, 1996, 1997, and 1998.

3 (c) APPROPRIATIONS FROM THE FUND.—(1)  
4 Amounts in the Fund may be appropriated exclusively for  
5 the purposes authorized in this Act and for those expenses  
6 authorized by any Act enacted before this Act that are  
7 expressly qualified for expenditure from the Fund.

8 (2) Amounts appropriated under paragraph (1) and  
9 outlays flowing from such appropriations shall not be  
10 taken into account for purposes of any budget enforce-  
11 ment procedures under the Balanced Budget and Emer-  
12 gency Deficit Control Act of 1985 except section 251A of  
13 that Act as added by subsection (g), or for purposes of  
14 section 605(b) of the Congressional Budget Act of 1974.  
15 Amounts of new budget authority and outlays under para-  
16 graph (1) that are included in concurrent resolutions on  
17 the budget shall not be taken into account for purposes  
18 of sections 601(b), 606(b), and 606(c) of the Congres-  
19 sional Budget Act of 1974, or for purposes of section 24  
20 of House Concurrent Resolution 218 (One Hundred Third  
21 Congress).

22 (d) LISTING OF THE FUND AMONG GOVERNMENT  
23 TRUST FUNDS.—Section 1321(a) of title 31, United  
24 States Code, is amended by inserting at the end the follow-  
25 ing new paragraph:

1 “(91) Violent crime reduction trust funds.”.

2 (e) REQUIREMENT FOR THE PRESIDENT TO REPORT  
3 ANNUALLY ON THE STATUS OF THE TRUST FUND.—Sec-  
4 tion 1105(a) of title 31, United States Code, is amended  
5 by adding at the end the following new paragraphs:

6 “(30) information about the Violent Crime Re-  
7 duction Trust Fund, including a separate statement  
8 of amounts in that Trust Fund.

9 “(31) an analysis displaying, by agency, pro-  
10 posed reductions in full-time equivalent positions  
11 compared to the current year’s level in order to com-  
12 ply with section 5 of the Federal Workforce Restruc-  
13 turing Act of 1994.”.

14 (f) ALLOCATION AND SUBALLOCATION OF AMOUNTS  
15 IN THE FUNDS.—

16 (1) IN GENERAL.—Section 602(a) of the Con-  
17 gressional Budget Act of 1974 is amended—

18 (A) in paragraph (1)(A) by striking “and”  
19 at the end of clause (ii), by striking the semi-  
20 colon and inserting a comma at the end of  
21 clause (iii), and by adding after the clause (iii)  
22 the following:

23 “(iv) new budget authority from the  
24 Violent Crime Reduction Trust Fund, and

1                   “(v) outlays from the Violent Crime  
2                   Reduction Trust Fund;”;

3                   (B) in paragraph (2) by striking “and” at  
4                   the end of subparagraph (B) and by adding  
5                   after subparagraph (C) the following:

6                   “(D) new budget authority from the Vio-  
7                   lent Crime Reduction Trust Fund; and

8                   “(E) outlay from the Violent Crime Reduc-  
9                   tion Trust Fund;”;

10                  (C) by adding at the end the following new  
11                  paragraph:

12                  “(4) NO DOUBLE COUNTING.—Amounts allo-  
13                  cated among committees under clause (iv) or (v) of  
14                  paragraph (1)(A) or under subparagraph (D) or (E)  
15                  of paragraph (2) shall not be included within any  
16                  other allocation under that paragraph.”.

17                  (2) FISCAL YEAR 1996.—The chairman of the  
18                  Committee on the Budget shall submit to the House  
19                  of Representatives or the Senate, as the case may  
20                  be, appropriately revised allocations under clauses  
21                  (iv) and (v) of paragraph (1)(A) or subparagraphs  
22                  (D) and E) of paragraph (2) of section 602(a) of the  
23                  Congressional Budget Act of 1974 for fiscal year  
24                  1996 to carry out subsection (b)(1).

1 **SEC. 1102. EXTENSION OF AUTHORIZATIONS OF APPRO-**  
2 **PRIATIONS FOR FISCAL YEARS FOR WHICH**  
3 **THE FULL AMOUNT AUTHORIZED IS NOT**  
4 **APPROPRIATED.**

5 If, in making an appropriation under any provision  
6 of this Act or amendment made by this Act that author-  
7 izes the making of an appropriation for a certain purpose  
8 for a certain fiscal year in a certain amount, the Congress  
9 makes an appropriation for that purpose for that fiscal  
10 year in a lesser amount, that provision or amendment shall  
11 be considered to authorize the making of appropriations  
12 for that purpose for later fiscal years in an amount equal  
13 to the difference between the amount authorized to be ap-  
14 propriated and the amount that has been appropriated.

15 **SEC. 1103. FLEXIBILITY IN MAKING OF APPROPRIATIONS.**

16 (a) **FEDERAL LAW ENFORCEMENT.**—In the making  
17 of appropriations under any provision of this Act or  
18 amendment made by this Act that authorizes the making  
19 of an appropriation for a Federal law enforcement pro-  
20 gram for a certain fiscal year in a certain amount out of  
21 the Violent Crime Reduction Trust Fund, not to exceed  
22 10 percent of that amount is authorized to be appro-  
23 priated for that fiscal year for any other Federal law en-  
24 forcement program for which appropriations are author-  
25 ized by any other Federal law enforcement provision of  
26 this Act or amendment made by this Act. The aggregate

1 reduction in the authorization for any particular Federal  
2 law enforcement program may not exceed 10 percent of  
3 the total amount authorized to be appropriated from the  
4 Violent Crime Reduction Trust Fund for that program in  
5 this Act or amendment made by this Act.

6 (b) STATE AND LOCAL ENFORCEMENT.—In the mak-  
7 ing of appropriations under any provision of this Act or  
8 amendment made by this Act that authorizes the making  
9 of an appropriation for a State and local law enforcement  
10 program for a certain fiscal year in a certain amount out  
11 of the Violent Crime Reduction Trust Fund, not to exceed  
12 10 percent of that amount is authorized to be appro-  
13 priated for that fiscal year for any other State and local  
14 law enforcement program for which appropriations are au-  
15 thorized by any other State and local law enforcement pro-  
16 vision of this Act or amendment made by this Act. The  
17 aggregate reduction in the authorization for any particular  
18 State and local law enforcement program may not exceed  
19 10 percent of the total amount authorized to be appro-  
20 priated from the Violent Crime Reduction Trust Fund for  
21 that program in this Act or amendment made by this Act.

1 **TITLE XII—MANDATORY LIFE IMPRISON-**  
2 **MENT FOR PERSONS CONVICTED OF**  
3 **CERTAIN FELONIES**

4 **SEC. 1201. MANDATORY LIFE IMPRISONMENT FOR PER-**  
5 **SONS CONVICTED OF CERTAIN FELONIES.**

6 Section 3559 of title 18, United States Code, is  
7 amended—

8 (1) in subsection (b), by striking “An” and in-  
9 serting “Except as provided in subsection (c), an” in  
10 lieu thereof; and

11 (2) by adding the following new subsection at  
12 the end:

13 “(c) IMPRISONMENT OF CERTAIN VIOLENT FEL-  
14 ONS.—

15 “(1) MANDATORY LIFE IMPRISONMENT.—Not-  
16 withstanding any other provision of law, a person  
17 who is convicted in a court of the United States of  
18 a serious violent felony shall be sentenced to life im-  
19 prisonment if—

20 “(A) the person has been convicted (and  
21 those convictions have become final) on sepa-  
22 rate prior occasions in a court of the United  
23 States or of a State of—

24 “(i) two or more serious violent felo-  
25 nies; or

1           “(ii) one or more serious violent felo-  
2           nies and one or more serious drug offenses;  
3           and

4           “(B) each serious violent felony or serious  
5           drug offense used as a basis for sentencing  
6           under this subsection, other than the first, was  
7           committed after the defendant’s conviction of  
8           the preceding serious violent felony or serious  
9           drug offense.

10          “(2) DEFINITIONS.—For purposes of this sub-  
11          section—

12                 “(A) the term ‘assault with intent to com-  
13                 mit rape’ means an offense that has as its ele-  
14                 ments engaging in physical contact by which a  
15                 person intentionally places another person in  
16                 fear of aggravated sexual abuse or sexual abuse  
17                 (as described in sections 2241 and 2242);

18                 “(B) the term ‘arson’ means an offense  
19                 that has as its elements maliciously damaging  
20                 or destroying any building, inhabited structure,  
21                 vehicle, vessel, or real property by means of fire  
22                 or an explosive;

23                 “(C) the term ‘extortion’ means an offense  
24                 that has as its elements the extraction of any-  
25                 thing of value from another person by threaten-

1           ing or placing that person in fear of injury to  
2           any person or kidnapping of any person;

3           “(D) the term ‘firearms use’ means an of-  
4           fense that has as its elements those described  
5           in section 924(c) or 929(a), if the firearm was  
6           brandished, discharged, or otherwise used as a  
7           weapon and the crime of violence or drug traf-  
8           ficking crime during and relation to which the  
9           firearm was used was subject to prosecution in  
10          a court of the United States or a court of a  
11          State, or both;

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

16          “(F) the term ‘serious violent felony’  
17          means—

18                 “(i) a Federal or State offense, by  
19                 whatever designation and wherever com-  
20                 mitted, consisting of murder (as described  
21                 in section 1111); manslaughter other than  
22                 involuntary manslaughter (as described in  
23                 section 1112); assault with intent to com-  
24                 mit murder (as described in section  
25                 113(a)); assault with intent to commit

1 rape; aggravated sexual abuse and sexual  
2 abuse (as described in sections 2241 and  
3 2242); abusive sexual contact (as described  
4 in sections 2244 (a)(1) and (a)(2)); kid-  
5 napping; aircraft piracy (as described in  
6 section 46502 of title 49); robbery (as de-  
7 scribed in section 2111, 2113, or 2118);  
8 carjacking (as described in section 2119);  
9 extortion; arson; firearms use; or attempt,  
10 conspiracy, or solicitation to commit any of  
11 the above offenses; and

12 “(ii) any other offense punishable by  
13 a maximum term of imprisonment of 10  
14 years or more that has as an element the  
15 use, attempted use, or threatened use of  
16 physical force against the person of an-  
17 other or that, by its nature, involves a sub-  
18 stantial risk that physical force against the  
19 person of another may be used in the  
20 course of committing the offense;

21 “(G) the term ‘State’ means a State of the  
22 United States, the District of Columbia, and a  
23 commonwealth, territory, or possession of the  
24 United States; and

1           “(H) the term ‘serious drug offense’  
2 means—

3           “(i) an offense that is punishable  
4 under section 401(b)(1)(A) or 408 of the  
5 Controlled Substances Act (21 U.S.C.  
6 841(b)(1)(A), 848) or section  
7 1010(b)(1)(A) of the Controlled Sub-  
8 stances Import and Export Act (21 U.S.C.  
9 960(b)(1)(A)); or

10           “(ii) an offense under State law that,  
11 had the offense been prosecuted in a court  
12 of the United States would have been pun-  
13 ished under section 401(b)(1)(A) or 408 of  
14 the Controlled Substances Act (21 U.S.C.  
15 841(b)(1)(A), 848) or section  
16 1010(b)(1)(A) of the Controlled Sub-  
17 stances Import and Export Act (21 U.S.C.  
18 960(b)(1)(A)).

19           “(3) NONQUALIFYING FELONIES.—

20           “(A) ROBBERY IN CERTAIN CASES.—Rob-  
21 bery, an attempt, conspiracy, or solicitation to  
22 commit robbery; or an offense described in  
23 paragraph (2)(F)(ii) shall not serve as a basis  
24 for sentencing under this subsection if the de-

1           defendant establishes by clear and convincing evi-  
2           dence that—

3                   “(i) no firearm or other dangerous  
4                   weapon was used in the offense and no  
5                   threat of use of a firearm or other dan-  
6                   gerous weapon was involved in the offense;  
7                   and

8                   “(ii) the offense did not result in  
9                   death or serious bodily injury (as defined  
10                  in section 1365) to any person.

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

15                       “(i) the offense posed no threat to  
16                       human life; and

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

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

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

4           “(6) SPECIAL PROVISION FOR INDIAN COUN-  
5 TRY.—No person subject to criminal jurisdiction of  
6 an Indian tribal government shall be subject to this  
7 subsection for any offense for which Federal juris-  
8 diction is solely predicated on Indian country (as de-  
9 fined in section 1151) and which occurs within the  
10 boundaries of such Indian country unless the gov-  
11 erning body of the tribe has elected that this sub-  
12 section have effect over land and persons subject to  
13 the criminal jurisdiction of the tribe.

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

1 **SEC. 1202. LIMITED GRANT OF AUTHORITY TO BUREAU OF**  
2 **PRISONS.**

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

5 (1) so that the margin of the matter starting  
6 with “extraordinary” and ending with “reduction”  
7 the first place it appears is indented an additional  
8 two ems;

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

11 (3) by inserting a semicolon after “reduction”  
12 the first place it appears;

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

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

17 “(ii) the defendant is at least 70 years  
18 of age, has served at least 30 years in pris-  
19 on, pursuant to a sentence imposed under  
20 section 3559(c), for the offense or offenses  
21 for which the defendant is currently im-  
22 prisoned, and a determination has been  
23 made by the Director of Prisons that the  
24 defendant is not a danger to the safety of

1                   any other person or the community; as  
2                   provided under section 3142(g);”.

○

HR 920 IH—2

HR 920 IH—3

HR 920 IH—4

HR 920 IH—5

HR 920 IH—6