

104TH CONGRESS
1ST SESSION

S. 1495

To control crime, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 21, 1995

Mr. KYL (for himself, Mr. HATCH, and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To control crime, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Crime Prevention Act of 1995”.

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

Sec. 1. Short title; table of contents.

TITLE I—PRISON LITIGATION REFORM

Sec. 101. Amendments to Civil Rights of Institutionalized Persons Act.

Sec. 102. Proceedings in forma pauperis.

Sec. 103. Judicial screening.

Sec. 104. Federal tort claims.

Sec. 105. Payment of damage award in satisfaction of pending restitution orders.

- Sec. 106. Notice to crime victims of pending damage award.
- Sec. 107. Earned release credit or good time credit revocation.

TITLE II—PRISONS

- Sec. 201. Special masters in actions with respect to prison conditions.

TITLE III—EQUAL PROTECTION FOR VICTIMS

- Sec. 301. Right of the victim to an impartial jury.
- Sec. 302. Rebuttal of attacks on the victim's character.
- Sec. 303. Victim's right of allocution in sentencing.
- Sec. 304. Right of the victim to fair treatment in legal proceedings.
- Sec. 305. Use of notice concerning release of offender.
- Sec. 306. Balance in the composition of rules committees.

TITLE IV—DOMESTIC VIOLENCE

- Sec. 401. Death penalty for fatal domestic violence offenses.
- Sec. 402. Evidence of defendant's disposition toward victim in domestic violence cases and other cases.
- Sec. 403. Battered women's syndrome evidence.
- Sec. 404. HIV testing of defendants in sexual assault cases.

TITLE V—FIREARMS

- Sec. 501. Mandatory minimum sentences for criminals using firearms.
- Sec. 502. Firearms possession by violent felons and serious drug offenders.
- Sec. 503. Use of firearms in connection with counterfeiting or forgery.
- Sec. 504. Possession of an explosive during the commission of a felony.
- Sec. 505. Second offense of using an explosive to commit a felony.

TITLE VI—EXCLUSIONARY RULE

- Sec. 601. Admissibility of certain evidence.

TITLE VII—FEDERAL DEATH PENALTY

- Sec. 701. Strengthening of Federal death penalty standards and procedures.
- Sec. 702. Murder of witness as aggravating factor.
- Sec. 703. Safeguards against delay in the execution of capital sentences in Federal cases.
- Sec. 704. Death penalty for murders committed with firearms.
- Sec. 705. Death penalty for murders committed in the District of Columbia.

TITLE VIII—HABEAS CORPUS

- Sec. 801. Stopping abuse of Federal collateral remedies.

TITLE IX—CRIMINAL ALIEN DEPORTATION IMPROVEMENTS

- Sec. 901. Additional expansion of definition of aggravated felony.
- Sec. 902. Deportation procedures for certain criminal aliens who are not permanent residents.
- Sec. 903. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
- Sec. 904. Limitation on collateral attacks on underlying deportation order.
- Sec. 905. Criminal alien identification system.
- Sec. 906. Wiretap authority for alien smuggling investigations.

- Sec. 907. Expansion of criteria for deportation for crimes of moral turpitude.
- Sec. 908. Study of Prisoner Transfer Treaty with Mexico.
- Sec. 909. Justice Department assistance in bringing to justice aliens who flee prosecution for crimes in the United States.
- Sec. 910. Prisoner transfer treaties.
- Sec. 911. Interior repatriation program.
- Sec. 912. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.

TITLE X—GANGS, JUVENILES, AND DRUGS

- Sec. 1001. Criminal street gangs offenses.
- Sec. 1002. Serious juvenile drug offenses as armed career criminal act predicates.
- Sec. 1003. Adult prosecution of serious juvenile offenders.
- Sec. 1004. Increased penalties for recidivists committing drug crimes involving minors.
- Sec. 1005. Amendments concerning records of crimes committed by juveniles.
- Sec. 1006. Drive-by shootings.
- Sec. 1007. Steroids offense.
- Sec. 1008. Drug testing of Federal offenders.

TITLE XI—PUBLIC CORRUPTION

- Sec. 1101. Strengthening of Federal anti-corruption statutes generally.
- Sec. 1102. Interstate commerce.
- Sec. 1103. Narcotics-related public corruption.

TITLE XII—ADMINISTRATIVE SUBPOENA

- Sec. 1201. Authorization for United States Secret Service to issue and serve administrative summonses.

TITLE XIII—COMPUTER CRIMES

- Sec. 1301. Protection of classified Government information.
- Sec. 1302. Protection of financial, Government, and other computer information.
- Sec. 1303. Protection for Government computer systems.
- Sec. 1304. Increased penalties for significant unauthorized use of a computer system.
- Sec. 1305. Protection from damage to computer systems.
- Sec. 1306. Protection from threats directed against computer systems.
- Sec. 1307. Increased penalties for recidivists and other sentencing changes.
- Sec. 1308. Civil actions.
- Sec. 1309. Mandatory reporting.
- Sec. 1310. Sentencing for fraud and related activity in connection with computers.
- Sec. 1311. Asset forfeiture for fraud and related activity in connection with computers.

TITLE XIV—COMPUTER SOFTWARE PIRACY

- Sec. 1401. Amendment of title 17.
- Sec. 1402. Amendment of title 18.

TITLE XV—INTERNET GAMBLING

Sec. 1501. Amendment of title 18 with respect to transmission of wagering information.

Sec. 1502. Sentencing guidelines.

Sec. 1503. Report.

1 **TITLE I—PRISON LITIGATION**
 2 **REFORM**

3 **SEC. 101. AMENDMENTS TO CIVIL RIGHTS OF INSTITU-**
 4 **TIONALIZED PERSONS ACT.**

5 (a) INITIATION OF CIVIL ACTIONS.—Section 3(c) of
 6 the Civil Rights of Institutionalized Persons Act (42
 7 U.S.C. 1997a(c)) (referred to in this section as the “Act”)
 8 is amended to read as follows:

9 “(c) The Attorney General shall personally sign any
 10 complaint filed pursuant to this section.”.

11 (b) CERTIFICATION REQUIREMENTS.—Section 4 of
 12 the Act (42 U.S.C. 1997b) is amended—

13 (1) in subsection (a)—

14 (A) by striking “he” each place it appears
 15 and inserting “the Attorney General”; and

16 (B) by striking “his” and inserting “the
 17 Attorney General’s”; and

18 (2) by amending subsection (b) to read as fol-
 19 lows:

20 “(b) The Attorney General shall personally sign any
 21 certification made pursuant to this section.”.

22 (c) INTERVENTION IN ACTIONS.—Section 5 of the
 23 Act (42 U.S.C. 1997c) is amended—

1 (1) in subsection (b)—

2 (A) in paragraph (1), by striking “he”
3 each place it appears and inserting “the Attor-
4 ney General”; and

5 (B) by amending paragraph (2) to read as
6 follows:

7 “(2) The Attorney General shall personally sign any
8 certification made pursuant to this section.”; and

9 (2) by amending subsection (c) to read as fol-
10 lows:

11 “(c) The Attorney General shall personally sign any
12 motion to intervene made pursuant to this section.”.

13 (d) SUITS BY PRISONERS.—Section 7 of the Act (42
14 U.S.C. 1997e) is amended to read as follows:

15 **“SEC. 7. SUITS BY PRISONERS.**

16 “(a) APPLICABILITY OF ADMINISTRATIVE REM-
17 EDIES.—No action shall be brought with respect to prison
18 conditions under section 1979 of the Revised Statutes of
19 the United States (42 U.S.C. 1983), or any other Federal
20 law, by a prisoner confined in any jail, prison, or other
21 correctional facility until such administrative remedies as
22 are available are exhausted.

23 “(b) FAILURE OF STATE TO ADOPT OR ADHERE TO
24 ADMINISTRATIVE GRIEVANCE PROCEDURE.—The failure
25 of a State to adopt or adhere to an administrative griev-

1 ance procedure shall not constitute the basis for an action
2 under section 3 or 5 of this Act.

3 “(c) DISMISSAL.—(1) The court shall on its own mo-
4 tion or on the motion of a party dismiss any action
5 brought with respect to prison conditions under section
6 1979 of the Revised Statutes of the United States (42
7 U.S.C. 1983), or any other Federal law, by a prisoner con-
8 fined in any jail, prison, or other correctional facility if
9 the court is satisfied that the action is frivolous, malicious,
10 fails to state a claim upon which relief can be granted,
11 or seeks monetary relief from a defendant who is immune
12 from such relief.

13 “(2) In the event that a claim is, on its face, frivolous,
14 malicious, fails to state a claim upon which relief can be
15 granted, or seeks monetary relief from a defendant who
16 is immune from such relief, the court may dismiss the un-
17 derlying claim without first requiring the exhaustion of ad-
18 ministrative remedies.

19 “(d) LIMITATION ON RECOVERY.—No Federal civil
20 action may be brought by a prisoner confined in a jail,
21 prison, or other correctional facility, for mental or emo-
22 tional injury suffered while in custody without a prior
23 showing of physical injury.

24 “(e) HEARINGS.—(1) To the extent practicable, in
25 any action brought with respect to prison conditions in

1 Federal court pursuant to section 1979 of the Revised
2 Statutes of the United States (42 U.S.C. 1983), or any
3 other Federal law, by a prisoner confined in any jail, pris-
4 on, or other correctional facility, pretrial proceedings in
5 which the prisoner's participation is required or permitted
6 shall be conducted by telephone, video conference, or other
7 telecommunications technology without removing the pris-
8 oner from the facility in which the prisoner is confined.

9 “(2) Subject to the agreement of the official of the
10 Federal, State, or local unit of government with custody
11 over the prisoner, hearings may be conducted at the facil-
12 ity in which the prisoner is confined. To the extent prac-
13 ticable, the court shall allow counsel to participate by tele-
14 phone, video conference, or other communications tech-
15 nology in any hearing held at the facility.

16 “(f) WAIVER OF REPLY.—(1) Any defendant may
17 waive the right to reply to any action brought by a pris-
18 oner confined in any jail, prison, or other correctional fa-
19 cility under section 1979 of the Revised Statutes of the
20 United States (42 U.S.C. 1983) or any other Federal law.
21 Notwithstanding any other law or rule of procedure, such
22 waiver shall not constitute an admission of the allegations
23 contained in the complaint. No relief shall be granted to
24 the plaintiff unless a reply has been filed.

1 “(2) The court may require any defendant to reply
2 to a complaint brought under this section if it finds that
3 the plaintiff has a reasonable opportunity to prevail on the
4 merits.

5 “(g) DEFINITION.—As used in this section, the term
6 ‘prisoner’ means any person incarcerated or detained in
7 any facility who is accused of, convicted of, sentenced for,
8 or adjudicated delinquent for, violations of criminal law
9 or the terms and conditions of parole, probation, pretrial
10 release, or diversionary program.”.

11 (e) REPORT TO CONGRESS.—Section 8 of the Act (42
12 U.S.C. 1997f) is amended by striking “his report” and
13 inserting “the report”.

14 (f) NOTICE TO FEDERAL DEPARTMENTS.—Section
15 10 of the Act (42 U.S.C. 1997h) is amended—

16 (1) by striking “his action” and inserting “the
17 action”; and

18 (2) by striking “he is satisfied” and inserting
19 “the Attorney General is satisfied”.

20 **SEC. 102. PROCEEDINGS IN FORMA PAUPERIS.**

21 (a) FILING FEES.—Section 1915 of title 28, United
22 States Code, is amended—

23 (1) in subsection (a)—

24 (A) by striking “(a) Any” and inserting

25 “(a)(1) Subject to subsection (b), any”;

1 (B) by striking “and costs”;

2 (C) by striking “makes affidavit” and in-
3 sserting “submits an affidavit that includes a
4 statement of all assets such prisoner possesses”;

5 (D) by striking “such costs” and inserting
6 “such fees”;

7 (E) by striking “he” each place it appears
8 and inserting “the person”;

9 (F) by adding immediately after paragraph
10 (1), the following new paragraph:

11 “(2) A prisoner seeking to bring a civil action or ap-
12 peal a judgment in a civil action or proceeding without
13 prepayment of fees or security therefor, in addition to fil-
14 ing the affidavit filed under paragraph (1), shall submit
15 a certified copy of the trust fund account statement (or
16 institutional equivalent) for the prisoner for the 6-month
17 period immediately preceding the filing of the complaint
18 or notice of appeal, obtained from the appropriate official
19 of each prison at which the prisoner is or was confined.”;
20 and

21 (G) by striking “An appeal” and inserting
22 “(3) An appeal”;

23 (2) by redesignating subsections (b), (c), (d),
24 and (e) as subsections (c), (d), (e), and (f), respec-
25 tively;

1 (3) by inserting after subsection (a) the follow-
2 ing new subsection:

3 “(b)(1) Notwithstanding subsection (a), if a prisoner
4 brings a civil action or files an appeal in forma pauperis,
5 the prisoner shall be required to pay the full amount of
6 a filing fee. The court shall assess and, when funds exist,
7 collect, as a partial payment of any court fees required
8 by law, an initial partial filing fee of 20 percent of the
9 greater of—

10 “(A) the average monthly deposits to the pris-
11 oner’s account; or

12 “(B) the average monthly balance in the pris-
13 oner’s account for the 6-month period immediately
14 preceding the filing of the complaint or notice of ap-
15 peal.

16 “(2) After payment of the initial partial filing fee,
17 the prisoner shall be required to make monthly payments
18 of 20 percent of the preceding month’s income credited
19 to the prisoner’s account. The agency having custody of
20 the prisoner shall forward payments from the prisoner’s
21 account to the clerk of the court each time the amount
22 in the account exceeds \$10 until the filing fees are paid.

23 “(3) In no event shall the filing fee collected exceed
24 the amount of fees permitted by statute for the commence-

1 ment of a civil action or an appeal of a civil action or
2 criminal judgment.

3 “(4) In no event shall a prisoner be prohibited from
4 bringing a civil action or appealing a civil or criminal judg-
5 ment for the reason that the prisoner has no assets and
6 no means by which to pay the initial partial filing fee.”;

7 (4) in subsection (c), as redesignated by para-
8 graph (2), by striking “subsection (a) of this sec-
9 tion” and inserting “subsections (a) and (b) and the
10 prepayment of any partial filing fee as may be re-
11 quired under subsection (b)”;

12 (5) by amending subsection (e), as redesignated
13 by paragraph (2), to read as follows:

14 “(e)(1) The court may request an attorney to rep-
15 resent any person unable to afford counsel.

16 “(2) Notwithstanding any filing fee, or any portion
17 thereof, that may have been paid, the court shall dismiss
18 the case at any time if the court determines that—

19 “(A) the allegation of poverty is untrue; or

20 “(B) the action or appeal—

21 “(i) is frivolous or malicious;

22 “(ii) fails to state a claim on which relief
23 may be granted; or

24 “(iii) seeks monetary relief against a de-
25 fendant who is immune from such relief.”.

1 (b) EXCEPTION TO DISCHARGE OF DEBT IN BANK-
2 RUPTCY PROCEEDING.—Section 523(a) of title 11, United
3 States Code, is amended—

4 (1) in paragraph (16), by striking the period at
5 the end and inserting “; or”; and

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

8 “(17) for a fee imposed by a court for the filing
9 of a case, motion, complaint, or appeal, or for other
10 costs and expenses assessed with respect to such fil-
11 ing, regardless of an assertion of poverty by the
12 debtor under section 1915 (b) or (f) of title 28, or
13 the debtor’s status as a prisoner, as defined in sec-
14 tion 1915(h) of title 28.”.

15 (c) COSTS.—Section 1915(f) of title 28, United
16 States Code (as redesignated by subsection (a)(2)), is
17 amended—

18 (1) by striking “(f) Judgment” and inserting
19 “(f)(1) Judgment”;

20 (2) by striking “cases” and inserting “proceed-
21 ings”; and

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

24 “(2)(A) If the judgment against a prisoner includes
25 the payment of costs under this subsection, the prisoner

1 shall be required to pay the full amount of the costs or-
2 dered.

3 “(B) The prisoner shall be required to make pay-
4 ments for costs under this subsection in the same manner
5 as is provided for filing fees under subsection (a)(2).

6 “(C) In no event shall the costs collected exceed the
7 amount of the costs ordered by the court.”.

8 (d) SUCCESSIVE CLAIMS.—Section 1915 of title 28,
9 United States Code, is amended by adding at the end the
10 following new subsection:

11 “(g) In no event shall a prisoner bring a civil action
12 or appeal a judgment in a civil action or proceeding under
13 this section if the prisoner has, on 3 or more prior occa-
14 sions, while incarcerated or detained in any facility,
15 brought an action or appeal in a court of the United
16 States that was dismissed on the grounds that it is frivo-
17 lous, malicious, or fails to state a claim upon which relief
18 may be granted, unless the prisoner is under imminent
19 danger of serious physical injury.”.

20 (e) DEFINITION.—Section 1915 of title 28, United
21 States Code, is amended by adding at the end the follow-
22 ing new subsection:

23 “(h) As used in this section, the term ‘prisoner’
24 means any person incarcerated or detained in any facility
25 who is accused of, convicted of, sentenced for, or adju-

1 dicated delinquent for, violations of criminal law or the
 2 terms and conditions of parole, probation, pretrial release,
 3 or diversionary program.”.

4 **SEC. 103. JUDICIAL SCREENING.**

5 (a) IN GENERAL.—Chapter 123 of title 28, United
 6 States Code, is amended by inserting after section 1915
 7 the following new section:

8 **“§ 1915A. Screening**

9 “(a) SCREENING.—The court shall review, before
 10 docketing, if feasible or, in any event, as soon as prac-
 11 ticable after docketing, a complaint in a civil action in
 12 which a prisoner seeks redress from a governmental entity
 13 or officer or employee of a governmental entity.

14 “(b) GROUNDS FOR DISMISSAL.—On review, the
 15 court shall identify cognizable claims or dismiss the com-
 16 plaint, or any portion of the complaint, if the complaint—

17 “(1) is frivolous, malicious, or fails to state a
 18 claim upon which relief may be granted; or

19 “(2) seeks monetary relief from a defendant
 20 who is immune from such relief.

21 “(c) DEFINITION.—As used in this section, the term
 22 ‘prisoner’ means any person incarcerated or detained in
 23 any facility who is accused of, convicted of, sentenced for,
 24 or adjudicated delinquent for, violations of criminal law

1 or the terms and conditions of parole, probation, pretrial
2 release, or diversionary program.”.

3 (b) TECHNICAL AMENDMENT.—The analysis for
4 chapter 123 of title 28, United States Code, is amended
5 by inserting after the item relating to section 1915 the
6 following new item:

“1915A. Screening.”.

7 **SEC. 104. FEDERAL TORT CLAIMS.**

8 Section 1346(b) of title 28, United States Code, is
9 amended—

10 (1) by striking “(b)” and inserting “(b)(1)”;

11 and

12 (2) by adding at the end the following:

13 “(2) No person convicted of a felony who is incarcer-
14 ated while awaiting sentencing or while serving a sentence
15 may bring a civil action against the United States or an
16 agency, officer, or employee of the Government, for mental
17 or emotional injury suffered while in custody without a
18 prior showing of physical injury.”.

19 **SEC. 105. PAYMENT OF DAMAGE AWARD IN SATISFACTION**
20 **OF PENDING RESTITUTION ORDERS.**

21 Any compensatory damages awarded to a prisoner in
22 connection with a civil action brought against any Federal,
23 State, or local jail, prison, or correctional facility or
24 against any official or agent of such jail, prison, or correc-
25 tional facility, shall be paid directly to satisfy any out-

1 standing restitution orders pending against the prisoner.
2 The remainder of any such award after full payment of
3 all pending restitution orders shall be forwarded to the
4 prisoner.

5 **SEC. 106. NOTICE TO CRIME VICTIMS OF PENDING DAMAGE**
6 **AWARD.**

7 Prior to payment of any compensatory damages
8 awarded to a prisoner in connection with a civil action
9 brought against any Federal, State, or local jail, prison,
10 or correctional facility or against any official or agent of
11 such jail, prison, or correctional facility, reasonable efforts
12 shall be made to notify the victims of the crime for which
13 the prisoner was convicted and incarcerated concerning
14 the pending payment of any such compensatory damages.

15 **SEC. 107. EARNED RELEASE CREDIT OR GOOD TIME CRED-**
16 **IT REVOCATION.**

17 (a) IN GENERAL.—Chapter 123 of title 28, United
18 States Code, is amended by adding at the end the follow-
19 ing new section:

20 **“§ 1932. Revocation of earned release credit**

21 “In any civil action brought by an adult convicted of
22 a crime and confined in a Federal correctional facility, the
23 court may order the revocation of such earned good time
24 credit under section 3624(b) of title 18, United States

1 Code, that has not yet vested, if, on its own motion or
2 the motion of any party, the court finds that—

3 “(1) the claim was filed for a malicious pur-
4 pose;

5 “(2) the claim was filed solely to harass the
6 party against which it was filed; or

7 “(3) the claimant testifies falsely or otherwise
8 knowingly presents false evidence or information to
9 the court.”.

10 (b) TECHNICAL AMENDMENT.—The analysis for
11 chapter 123 of title 28, United States Code, is amended
12 by inserting after the item relating to section 1931 the
13 following:

“1932. Revocation of earned release credit.”.

14 (c) AMENDMENT OF SECTION 3624 OF TITLE 18.—
15 Section 3624(b) of title 18, United States Code, is amend-
16 ed—

17 (1) in paragraph (1)—

18 (A) by striking the first sentence;

19 (B) in the second sentence—

20 (i) by striking “A prisoner” and in-
21 serting “Subject to paragraph (2), a pris-
22 oner”;

23 (ii) by striking “for a crime of vio-
24 lence,”; and

1 (iii) by striking “such”;

2 (C) in the third sentence, by striking “If
3 the Bureau” and inserting “Subject to para-
4 graph (2), if the Bureau”;

5 (D) by striking the fourth sentence and in-
6 serting the following: “In awarding credit under
7 this section, the Bureau shall consider whether
8 the prisoner, during the relevant period, has
9 earned, or is making satisfactory progress to-
10 ward earning, a high school diploma or an
11 equivalent degree.”; and

12 (E) in the sixth sentence, by striking
13 “Credit for the last” and inserting “Subject to
14 paragraph (2), credit for the last”; and

15 (2) by amending paragraph (2) to read as fol-
16 lows:

17 “(2) Notwithstanding any other law, credit
18 awarded under this subsection after the date of en-
19 actment of the Prison Litigation Reform Act shall
20 vest on the date the prisoner is released from cus-
21 tody.”.

TITLE II—PRISONS**SEC. 201. SPECIAL MASTERS IN ACTIONS WITH RESPECT TO
PRISON CONDITIONS.**

Section 3626 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(d) SPECIAL MASTERS.—

“(1) IN GENERAL.—(A) In any civil action in a Federal court with respect to prison conditions, the court may appoint a special master who shall be disinterested and objective and who will give due regard to the public safety, to conduct hearings on the record and prepare proposed findings of fact.

“(B) The court shall appoint a special master under this subsection during the remedial phase of the action only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

“(2) APPOINTMENT.—(A) If the court determines that the appointment of a special master is necessary, the court shall request that the defendant institution and the plaintiff each submit a list of not more than 5 persons to serve as a special master.

1 “(B) Each party shall have the opportunity to
2 remove up to 3 persons from the opposing party’s
3 list.

4 “(C) The court shall select the master from the
5 persons remaining on the list after the operation of
6 subparagraph (B).

7 “(3) INTERLOCUTORY APPEAL.—Any party
8 shall have the right to an interlocutory appeal of the
9 judge’s selection of the special master under this
10 subsection, on the ground of partiality.

11 “(4) COMPENSATION.—The compensation to be
12 allowed to a special master under this section shall
13 be based on an hourly rate not greater than the
14 hourly rate established under section 3006A for pay-
15 ment of court-appointed counsel, plus costs reason-
16 ably incurred by the special master. Such compensa-
17 tion and costs shall be paid with funds appropriated
18 to the Judiciary.

19 “(5) REGULAR REVIEW OF APPOINTMENT.—In
20 any civil action with respect to prison conditions in
21 which a special master is appointed under this sub-
22 section, the court shall review the appointment of
23 the special master every 6 months to determine
24 whether the services of the special master continue
25 to be required under paragraph (1). In no event

1 shall the appointment of a special master extend be-
2 yond the termination of the relief.

3 “(6) LIMITATIONS ON POWERS AND DUTIES.—

4 A special master appointed under this subsection—

5 “(A) may be authorized by a court to con-
6 duct hearings and prepare proposed findings of
7 fact, which shall be made on the record;

8 “(B) shall not make any findings or com-
9 munications ex parte;

10 “(C) may be authorized by a court to as-
11 sist in the development of remedial plans; and

12 “(D) may be removed at any time, but
13 shall be relieved of the appointment upon the
14 termination of relief.

15 “(e) DEFINITIONS.—As used in this section—

16 “(1) the term ‘civil action with respect to prison
17 conditions’ means any civil proceeding arising under
18 Federal law with respect to the conditions of con-
19 finement or the effects of actions by government of-
20 ficials on the lives of persons confined in prison, but
21 does not include habeas corpus proceedings challeng-
22 ing the fact or duration of confinement in prison;
23 and

24 “(2) the term ‘special master’ means any per-
25 son appointed by a Federal court pursuant to Rule

1 53 of the Federal Rules of Civil Procedure or pursu-
 2 ant to any inherent power of the court to exercise
 3 the powers of a master, regardless of the title or de-
 4 scription given by the court.”.

5 **TITLE III—EQUAL PROTECTION**
 6 **FOR VICTIMS**

7 **SEC. 301. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.**

8 Rule 24(b) of the Federal Rules of Criminal Proce-
 9 dure is amended by striking “the government is entitled
 10 to 6 peremptory challenges and the defendant or defend-
 11 ants jointly to 10 peremptory challenges” and inserting
 12 “each side is entitled to 6 peremptory challenges”.

13 **SEC. 302. REBUTTAL OF ATTACKS ON THE VICTIM’S CHAR-**
 14 **ACTER.**

15 Rule 404(a)(1) of the Federal Rules of Evidence is
 16 amended by inserting before the semicolon the following:
 17 “, or, if an accused offers evidence of a pertinent trait
 18 of character of the victim of the crime, evidence of a perti-
 19 nent trait of character of the accused offered by the pros-
 20 ecution”.

21 **SEC. 303. VICTIM’S RIGHT OF ALLOCUTION IN SENTENCING.**

22 Rule 32 of the Federal Rules of Criminal Procedure
 23 is amended—

“Rule 4. Duty To Expedite Litigation.

“Rule 5. Duty To Prevent Commission of Crime.

1 **“Rule 1. Scope**

2 “(a) These rules apply to the conduct of lawyers in
3 their representation of clients in relation to proceedings
4 and potential proceedings before Federal tribunals.

5 “(b) For purposes of these rules, ‘Federal tribunal’
6 and ‘tribunal’ mean a court of the United States or an
7 agency of the Federal Government that carries out adju-
8 dicatory or quasi-adjudicatory functions.

9 **“Rule 2. Abuse of Victims and Others Prohibited**

10 “(a) A lawyer shall not engage in any action or course
11 of conduct for the purpose of increasing the expense of
12 litigation for any person, other than a liability under an
13 order or judgment of a tribunal.

14 “(b) A lawyer shall not engage in any action or course
15 of conduct that has no substantial purpose other than to
16 distress, harass, embarrass, burden, or inconvenience an-
17 other person.

18 “(c) A lawyer shall not offer evidence that the lawyer
19 knows to be false or attempt to discredit evidence that the
20 lawyer knows to be true.

21 **“Rule 3. Duty of Enquiry in Relation to Client**

22 “A lawyer shall attempt to elicit from the client a
23 truthful account of the material facts concerning the mat-
24 ters in issue. In representing a client charged with a crime

1 or civil wrong, the duty of enquiry under this rule in-
2 cludes—

3 “(1) attempting to elicit from the client a mate-
4 rially complete account of the alleged criminal activ-
5 ity or civil wrong if the client acknowledges involve-
6 ment in the alleged criminal activity or civil wrong;
7 and

8 “(2) attempting to elicit from the client the ma-
9 terial facts relevant to a defense of alibi if the client
10 denies such involvement.

11 **“Rule 4. Duty To Expedite Litigation**

12 “(a) A lawyer shall seek to bring about the expedi-
13 tious conduct and conclusion of litigation.

14 “(b) A lawyer shall not seek a continuance or other-
15 wise attempt to delay or prolong proceedings in the hope
16 or expectation that—

17 “(1) evidence will become unavailable;

18 “(2) evidence will become more subject to im-
19 peachment or otherwise less useful to another party
20 because of the passage of time; or

21 “(3) an advantage will be obtained in relation
22 to another party because of the expense, frustration,
23 distress, or other hardship resulting from prolonged
24 or delayed proceedings.

1 **“Rule 5. Duty To Prevent Commission of Crime**

2 “(a) A lawyer may disclose information relating to
3 the representation of a client, including information ob-
4 tained from the client, to the extent necessary to prevent
5 the commission of a crime or other unlawful act.

6 “(b) A lawyer shall disclose information relating to
7 the representation of a client, including information ob-
8 tained from the client, when disclosure is required by law.

9 “(c) A lawyer shall disclose information relating to
10 the representation of a client, including information ob-
11 tained from the client, to the extent necessary to pre-
12 vent—

13 “(1) the commission of a crime involving the
14 use or threatened use of force against a person, or
15 a substantial risk of death or serious bodily injury
16 to a person; or

17 “(2) the commission of a crime of sexual as-
18 sault or child molestation.

19 “(d) For purposes of this rule, ‘crime’ means a crime
20 under the law of the United States or the law of a State,
21 and ‘unlawful act’ means an act in violation of the law
22 of the United States or the law of a State.”.

23 **SEC. 305. USE OF NOTICE CONCERNING RELEASE OF OF-**
24 **FENDER.**

25 Section 4042(b) of title 18, United States Code, is
26 amended by striking paragraph (4).

1 **SEC. 306. BALANCE IN THE COMPOSITION OF RULES COM-**
2 **MITTEES.**

3 Section 2073 of title 28, United States Code, is
4 amended—

5 (1) in subsection (a)(2), by adding at the end
6 the following: “On each such committee that makes
7 recommendations concerning rules that affect crimi-
8 nal cases, including the Federal Rules of Criminal
9 Procedure, the Federal Rules of Evidence, the Fed-
10 eral Rules of Appellate Procedure, the Rules Govern-
11 ing Section 2254 Cases, and the Rules Governing
12 Section 2255 Cases, the number of members who
13 represent or supervise the representation of defend-
14 ants in the trial, direct review, or collateral review
15 of criminal cases shall not exceed the number of
16 members who represent or supervise the representa-
17 tion of the Government or a State in the trial, direct
18 review, or collateral review of criminal cases.”; and

19 (2) in subsection (b), by adding at the end the
20 following: “The number of members of the standing
21 committee who represent or supervise the represen-
22 tation of defendants in the trial, direct review, or
23 collateral review of criminal cases shall not exceed
24 the number of members who represent or supervise
25 the representation of the Government or a State in

1 the trial, direct review, or collateral review of crimi-
2 nal cases.”.

3 **TITLE IV—DOMESTIC VIOLENCE**

4 **SEC. 401. DEATH PENALTY FOR FATAL DOMESTIC VIO-** 5 **LENCE OFFENSES.**

6 Sections 2261(b)(1) and 2262(b)(1) of title 18,
7 United States Code, are each amended by inserting “or
8 may be sentenced to death” after “years,”.

9 **SEC. 402. EVIDENCE OF DEFENDANT’S DISPOSITION TO-** 10 **WARD VICTIM IN DOMESTIC VIOLENCE CASES** 11 **AND OTHER CASES.**

12 Rule 404(b) of the Federal Rules of Evidence is
13 amended by striking “or absence of mistake or accident”
14 and inserting “absence of mistake or accident, or a dis-
15 position toward a particular individual”.

16 **SEC. 403. BATTERED WOMEN’S SYNDROME EVIDENCE.**

17 Rule 702 of the Federal Rules of Evidence is amend-
18 ed by adding at the end the following: “Testimony that
19 may be admitted pursuant to this rule includes testimony
20 concerning the behavior, and mental or emotional condi-
21 tions of victims to explain a victim’s failure to report or
22 delay in reporting an offense, recantation of an accusation,
23 or failure to cooperate in the investigation or prosecu-
24 tion.”.

1 **SEC. 404. HIV TESTING OF DEFENDANTS IN SEXUAL AS-**
2 **SAULT CASES.**

3 (a) IN GENERAL.—Chapter 109A of title 18, United
4 States Code, is amended by adding at the end the follow-
5 ing new section:

6 **“§2249. Testing for human immunodeficiency virus;**
7 **disclosure of test results to victim; effect**
8 **on penalty**

9 “(a) TESTING AT TIME OF PRETRIAL RELEASE DE-
10 TERMINATION.—In a case in which a person is charged
11 with an offense under this chapter, upon request of the
12 victim, a judicial officer issuing an order pursuant to sec-
13 tion 3142(a) shall include in the order a requirement that
14 a test for the human immunodeficiency virus be performed
15 upon the person, and that followup tests for the virus be
16 performed 6 months and 12 months following the date of
17 the initial test, unless the judicial officer determines that
18 the conduct of the person created no risk of transmission
19 of the virus to the victim, and so states in the order. The
20 order shall direct that the initial test be performed within
21 24 hours, or as soon thereafter as feasible. The person
22 shall not be released from custody until the test is per-
23 formed.

24 “(b) TESTING AT LATER TIME.—If a person charged
25 with an offense under this chapter was not tested for the
26 human immunodeficiency virus pursuant to subsection (a),

1 the court may at a later time direct that such a test be
2 performed upon the person, and that followup tests be per-
3 formed 6 months and 12 months following the date of the
4 initial test, if it appears to the court that the conduct of
5 the person may have risked transmission of the virus to
6 the victim. A testing requirement under this subsection
7 may be imposed at any time while the charge is pending,
8 or following conviction at any time prior to the person's
9 completion of service of the sentence.

10 “(c) TERMINATION OF TESTING REQUIREMENT.—A
11 requirement of followup testing imposed under this section
12 shall be canceled if any test is positive for the virus or
13 the person obtains an acquittal on, or dismissal of, all
14 charges under this chapter.

15 “(d) DISCLOSURE OF TEST RESULTS.—The results
16 of any test for the human immunodeficiency virus per-
17 formed pursuant to an order under this section shall be
18 provided to the judicial officer or court. The judicial offi-
19 cer or court shall ensure that the results are disclosed to
20 the victim (or to the victim's parent or legal guardian, as
21 appropriate), the attorney for the Government, and the
22 person tested. Test results disclosed pursuant to this sub-
23 section shall be subject to section 40503(b) (5) through
24 (7) of the Violent Crime Control Act of 1994 (42 U.S.C.
25 14011(b)). Any test result of the defendant given to the

1 victim or the defendant must be accompanied by appro-
 2 priate counseling, unless the recipient does not wish to re-
 3 ceive such counseling.

4 “(e) EFFECT ON PENALTY.—The United States Sen-
 5 tencing Commission shall amend existing guidelines for
 6 sentences for offenses under this chapter to enhance the
 7 sentence if the offender knew or had reason to know that
 8 the offender was infected with the human
 9 immunodeficiency virus, except where the offender did not
 10 engage or attempt to engage in conduct creating a risk
 11 of transmission of the virus to the victim.”.

12 (b) TECHNICAL AMENDMENT.—The analysis for
 13 chapter 109A of title 18, United States Code, is amended
 14 by inserting at the end the following new item:

“2249. Testing for human immunodeficiency virus; disclosure of test results
 to victim; effect on penalty.”.

15 (c) AMENDMENTS TO TESTING PROVISIONS.—Sec-
 16 tion 40503(b) of the Violent Crime Control and Law En-
 17 forcement Act of 1994 (42 U.S.C. 14011(b)) is amend-
 18 ed—

19 (1) by amending the heading to read as follows:

20 “(b) TESTING OF DEFENDANTS.—”;

21 (2) in paragraph (1)—

22 (A) by inserting “, or the Government in
 23 such a case,” after “subsection (a)”;

1 (B) by inserting “(or to the victim’s parent
2 or legal guardian, as appropriate)” after “com-
3 municated to the victim”; and

4 (C) by inserting “, unless the recipient
5 does not wish to receive such counseling” after
6 “counseling”; and

7 (3) in paragraph (2)—

8 (A) by striking “To obtain an order under
9 paragraph (1), the victim must demonstrate
10 that” and inserting “The victim or the Govern-
11 ment may obtain an order under paragraph (1)
12 by showing that”;

13 (B) in subparagraph (A)—

14 (i) by striking “the offense” and in-
15 sserting “a sexual assault involving alleged
16 conduct that poses a risk of transmission
17 of the etiologic agent for acquired immune
18 deficiency syndrome”; and

19 (ii) by inserting “and” after the semi-
20 colon;

21 (C) in subparagraph (B), by striking
22 “after appropriate counseling; and” and insert-
23 ing a period; and

24 (D) by striking subparagraph (C).

TITLE V—FIREARMS**SEC. 501. MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.**

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: “Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

“(A) be punished by imprisonment for not less than 10 years;

“(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

“(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person con-

1 victed of a violation of this subsection, nor shall the term
2 of imprisonment imposed under this subsection run con-
3 currently with any other term of imprisonment including
4 that imposed for the crime of violence or drug trafficking
5 crime in which the firearm was used or carried. No person
6 sentenced under this subsection shall be eligible for parole
7 during the term of imprisonment imposed under this sub-
8 section.”.

9 **SEC. 502. FIREARMS POSSESSION BY VIOLENT FELONS AND**
10 **SERIOUS DRUG OFFENDERS.**

11 Section 924 of title 18, United States Code, is
12 amended—

13 (1) in subsection (a)(1), by inserting before the
14 period the following: “, and if the violation is of sec-
15 tion 922(g)(1) by a person who has a previous con-
16 viction for a violent felony (as defined in subsection
17 (e)(2)(B)) or a serious drug offense (as defined in
18 subsection (e)(2)(A)), a sentence imposed under this
19 paragraph shall include a term of imprisonment of
20 not less than 5 years”; and

21 (2) by adding at the end the following new sub-
22 section:

23 “(o)(1) Notwithstanding subsection (a)(2), any per-
24 son who violates section 922(g) and has 2 previous convic-
25 tions by any court referred to in section 922(g)(1) for a

1 violent felony (as defined in subsection (e)(2)(B)) or a se-
2 rious drug offense (as defined in subsection (e)(2)(A))
3 committed on different occasions shall be fined as provided
4 in this title, imprisoned not less than 10 years and not
5 more than 20 years, or both.

6 “(2) Notwithstanding any other law, the court shall
7 not grant a probationary sentence to a person described
8 in paragraph (1) with respect to the conviction under sec-
9 tion 922(g).”.

10 **SEC. 503. USE OF FIREARMS IN CONNECTION WITH COUN-**
11 **TERFEITING OR FORGERY.**

12 Section 924(c)(1) of title 18, United States Code, is
13 amended by inserting “or during and in relation to any
14 felony punishable under chapter 25,” after “United
15 States,”.

16 **SEC. 504. POSSESSION OF AN EXPLOSIVE DURING THE**
17 **COMMISSION OF A FELONY.**

18 Section 844(h) of title 18, United States Code, is
19 amended—

20 (1) in paragraph (2), by striking “carries an ex-
21 plosive during” and inserting “uses, carries, or oth-
22 erwise possesses an explosive during”; and

23 (2) by striking “used or carried” and inserting
24 “used, carried, or possessed”.

1 **SEC. 505. SECOND OFFENSE OF USING AN EXPLOSIVE TO**
 2 **COMMIT A FELONY.**

3 Section 844(h) of title 18, United States Code, is
 4 amended by striking “ten” and inserting “20”.

5 **TITLE VI—EXCLUSIONARY RULE**

6 **SEC. 601. ADMISSIBILITY OF CERTAIN EVIDENCE.**

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

10 **“§ 3510. Admissibility of evidence obtained by search**
 11 **or seizure**

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

24 “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR
 25 RULE.—

1 “(1) **GENERALLY.**—Evidence shall not be ex-
2 cluded in a proceeding in a court of the United
3 States on the ground that it was obtained in viola-
4 tion of a statute, an administrative rule or regula-
5 tion, or a rule of procedure unless exclusion is ex-
6 pressly authorized by statute or by a rule prescribed
7 by the Supreme Court pursuant to statutory author-
8 ity.

9 “(2) **SPECIAL RULE RELATING TO OBJECTIVELY**
10 **REASONABLE SEARCHES AND SEIZURES.**—Evidence
11 that is otherwise excludable under paragraph (1)
12 shall not be excluded if the search or seizure was
13 carried out in circumstances justifying an objectively
14 reasonable belief that the search or seizure was in
15 conformity with the statute, administrative rule or
16 regulation, or rule of procedure, the violation of
17 which occasioned its being excludable.

18 “(c) **RULES OF CONSTRUCTION.**—This section shall
19 not be construed to require or authorize the exclusion of
20 evidence in any proceeding.”.

21 (b) **TECHNICAL AMENDMENT.**—The analysis for
22 chapter 223 of title 18, United States Code, is amended
23 by adding at the end the following:

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

1 **TITLE VII—FEDERAL DEATH**
2 **PENALTY**

3 **SEC. 701. STRENGTHENING OF FEDERAL DEATH PENALTY**
4 **STANDARDS AND PROCEDURES.**

5 (a) AMENDMENTS TO CHAPTER 228.—Chapter 228
6 of title 18, United States Code, is amended—

7 (1) by amending section 3592(c)(2) to read as
8 follows:

9 “(2) INVOLVEMENT OF A FIREARM OR PRE-
10 VIOUS CONVICTION OF VIOLENT FELONY INVOLVING
11 A FIREARM.—For any offense, other than an offense
12 for which a sentence of death is sought on the basis
13 of section 924(c), the defendant—

14 “(A) during and in relation to the commis-
15 sion of the offense or in escaping or attempting
16 to escape apprehension used or possessed a fire-
17 arm (as defined in section 921); or

18 “(B) has previously been convicted of a
19 Federal or State offense punishable by a term
20 of imprisonment of more than 1 year, involving
21 the use or attempted or threatened use of a
22 firearm (as defined in section 921) against an-
23 other person.”;

24 (2) in section 3593—

25 (A) in subsection (a)—

1 (i) by inserting “AND THE DEFEND-
2 ANT” after “GOVERNMENT” in the head-
3 ing;

4 (ii) by redesignating paragraphs (1)
5 and (2) as subparagraphs (A) and (B), re-
6 spectively;

7 (iii) by striking “If, in a case” and in-
8 serting “(1) If, in a case”;

9 (iv) by designating the matter imme-
10 diately following subparagraph (B), as re-
11 designated, as paragraph (3);

12 (v) by inserting after paragraph (1) as
13 so designated, the following new para-
14 graph:

15 “(2) The defendant shall, during a reasonable
16 period of time before a hearing under subsection (b),
17 sign and file with the court a notice setting forth the
18 mitigating factor or factors, if any, upon which the
19 defendant intends to present information at the
20 hearing.”; and

21 (vi) in paragraph (3), as so des-
22 ignated—

23 (I) by inserting “by the attorney
24 for the Government” after “this sub-
25 section”;

1 (II) by striking “and may in-
2 clude” and all that follows through
3 “relevant information”;

4 (III) by inserting “or the defend-
5 ant” after “permit the attorney for
6 the government”; and

7 (IV) by inserting “under this
8 subsection” after “to amend the no-
9 tice”.

10 (B) in subsection (c)—

11 (i) in the fourth sentence, by inserting
12 “for which notice has been provided under
13 subsection (a)” after “The defendant may
14 present any information relevant to a miti-
15 gating factor”; and

16 (ii) by inserting after the fifth sen-
17 tence the following: “The information pre-
18 sented by the government in support of
19 factors concerning the effect of the offense
20 on the victim and the victim’s family may
21 include oral testimony, a victim impact
22 statement that identifies the victim of the
23 offense and the nature and extent of harm
24 and loss suffered by the victim and the vic-

1 tim’s family, and any other relevant infor-
2 mation.”; and

3 (C) in subsection (e), by striking “shall
4 consider” and all that follows through “lesser
5 sentence.”, and inserting the following: “shall
6 then consider whether the aggravating factor or
7 factors found to exist outweigh any mitigating
8 factors. The jury, or if there is no jury, the
9 court shall recommend a sentence of death if it
10 unanimously finds at least one aggravating fac-
11 tor and no mitigating factor or if it finds one
12 or more aggravating factors that outweigh any
13 mitigating factors. In any other case, it shall
14 not recommend a sentence of death. The jury
15 shall be instructed that it must avoid any influ-
16 ence of sympathy, sentiment, passion, prejudice,
17 or other arbitrary factors in its decision, and
18 shall make such a recommendation as the infor-
19 mation warrants. The jury shall be instructed
20 that its recommendation concerning a sentence
21 of death is to be based on the aggravating fac-
22 tor or factors and any mitigating factors, but
23 that the final decision concerning the balance of
24 aggravating and mitigating factors is a matter
25 for the jury’s judgment.”;

1 (3) in section 3595(c)(2), by striking the final
2 sentence;

3 (4) in section 3596(a), by striking the second
4 and third sentences and inserting the following: “A
5 sentence of death for any offense against the United
6 States shall be carried out in the manner prescribed
7 by the Attorney General by regulations.”; and

8 (5) in section 3597—

9 (A) by amending the heading to read as
10 follows:

11 **“§ 3597. Excuse of an employee on moral or religious**
12 **grounds”;**

13 (B) striking subsection (a); and

14 (C) in subsection (b)—

15 (i) by striking “(b) EXCUSE OF AN
16 EMPLOYEE ON MORAL OR RELIGIOUS
17 GROUNDS.—”;

18 (ii) in the first sentence, by striking
19 “this section” and inserting “this chap-
20 ter”;

21 (iii) in the second sentence, by strik-
22 ing “this subsection” and inserting “this
23 section”.

24 (b) UNIFORMITY OF PROCEDURES.—Section 408 of
25 the Controlled Substances Act (21 U.S.C. 848) is amend-

1 ed by striking subsections (g) through (p), (q) (1) through
2 (3), and (r).

3 **SEC. 702. MURDER OF WITNESS AS AGGRAVATING FACTOR.**

4 Section 3592(c)(1) of title 18, United States Code,
5 is amended by inserting “section 1512 (witness tamper-
6 ing), section 1513 (retaliation against witness),” after
7 “(hostage taking),”.

8 **SEC. 703. SAFEGUARDS AGAINST DELAY IN THE EXECUTION**
9 **OF CAPITAL SENTENCES IN FEDERAL CASES.**

10 (a) IN GENERAL.—Chapter 228 of title 18, United
11 States Code, is amended by adding at the end the follow-
12 ing:

13 **“§ 3599. Collateral attack on judgment imposing sen-**
14 **tence of death**

15 “(a) TIME FOR MAKING SECTION 2255 MOTION.—
16 In a case in which a sentence of death has been imposed,
17 a motion under section 2255 of title 28, shall be filed not
18 later than 90 days after the time the judgment becomes
19 final by the conclusion of direct review or the expiration
20 of the time for seeking direct review. The court in which
21 the motion is filed, for good cause shown, may extend the
22 time for filing for a period not exceeding 60 days. A mo-
23 tion described in this section shall have priority over all
24 noncapital matters in the district court, and in the court
25 of appeals on review of the district court’s decision.

1 “(b) STAY OF EXECUTION.—The execution of a sen-
2 tence of death shall be stayed in the course of direct review
3 of the judgment and during the litigation of an initial mo-
4 tion under section 2255 of title 28. The stay shall run
5 continuously following imposition of the sentence, and
6 shall expire if—

7 “(1) the defendant fails to file a motion under
8 section 2255 of title 28 within the time specified in
9 subsection (a), or fails to make a timely application
10 for court of appeals review following the denial of
11 such a motion by a district court;

12 “(2) upon completion of district court and court
13 of appeals review under section 2255 of title 28 the
14 motion under that section is denied and—

15 “(A) the time for filing a petition for cer-
16 tiorari has expired and no petition has been
17 filed;

18 “(B) a timely petition for certiorari was
19 filed and the Supreme Court denied the peti-
20 tion; or

21 “(C) a timely petition for certiorari was
22 filed and upon consideration of the case, the
23 Supreme Court disposed of it in a manner that
24 left the capital sentence undisturbed; or

1 “(3) before a district court, in the presence of
2 counsel and after having been advised of the con-
3 sequences of the decision to do so, the defendant
4 waives the right to file a motion under section 2255
5 of title 28.

6 “(c) FINALITY OF DECISION ON REVIEW.—If one of
7 the conditions specified in subsection (b) has occurred, no
8 court thereafter shall have the authority to enter a stay
9 of execution or grant relief in the case unless—

10 “(1) the basis for the stay and request for relief
11 is a claim not presented in earlier proceedings;

12 “(2) the failure to raise the claim was—

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

16 “(B) the result of the Supreme Court rec-
17 ognition of a new Federal right made retro-
18 actively applicable to cases on collateral review
19 by the Supreme Court; or

20 “(C) based on a factual predicate that
21 could not have been discovered through the ex-
22 ercise of reasonable diligence in time to present
23 the claim in earlier proceedings; and

24 “(3) the facts underlying the claim, if proven
25 and viewed in light of the evidence as a whole, would

1 be sufficient to establish by clear and convincing evi-
 2 dence that, but for constitutional error, no reason-
 3 able factfinder would have found the movant guilty
 4 of the underlying offense.”.

5 (b) TECHNICAL AMENDMENT.—The analysis for
 6 chapter 228 of title 18, United States Code, is amended
 7 by adding at the end the following:

“3599. Collateral attack on judgment imposing sentence of death.”.

8 **SEC. 704. DEATH PENALTY FOR MURDERS COMMITTED**
 9 **WITH FIREARMS.**

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

13 **“§ 1122. Murder involving the use of a firearm**

14 “(a) OFFENSE.—A person who has been found guilty
 15 of causing, through the use of a firearm (as defined in
 16 section 921 of this title), the death of another person, in-
 17 tentiously, knowingly, or through recklessness manifest-
 18 ing extreme indifference to human life, or through the in-
 19 tentional infliction of serious bodily injury, shall be pun-
 20 ished by death or imprisoned for any term of years or for
 21 life.

22 “(b) JURISDICTION.—There is Federal jurisdiction
 23 over an offense under this section if—

24 “(1) the conduct of the offender occurred in the
 25 course of an offense against the United States; or

1 “(2) a firearm involved in the offense has
2 moved at any time in interstate or foreign com-
3 merce.

4 “(c) CONGRESSIONAL INTENT.—It is the intent of
5 Congress that—

6 “(1) this section shall be used to supplement
7 and not supplant the efforts of State and local pros-
8 ecutors in prosecuting murders involving firearms
9 that have moved in interstate or foreign commerce
10 that could be prosecuted under State law; and

11 “(2) the Attorney General shall give due def-
12 erence to the interest that a State or local prosecu-
13 tor has in prosecuting a person under State law.

14 This subsection does not create any rights, substantive or
15 procedural, enforceable at law by any party in any man-
16 ner, civil or criminal, nor does it place any limitations on
17 otherwise lawful prerogatives of the Attorney General.”.

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

“1122. Murder involving the use of a firearm.”.

21 **SEC. 705. DEATH PENALTY FOR MURDERS COMMITTED IN**
22 **THE DISTRICT OF COLUMBIA.**

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

1 **“§ 1123. Capital punishment for murders in the Dis-**
2 **trict of Columbia**

3 “(a) OFFENSE.—It shall be unlawful to cause the
4 death of a person intentionally, knowingly, or through
5 recklessness manifesting extreme indifference to human
6 life, or to cause the death of a person through the inten-
7 tional infliction of serious bodily injury.

8 “(b) FEDERAL JURISDICTION.—There is Federal ju-
9 risdiction over an offense described in this section if the
10 conduct resulting in death occurs in the District of Colum-
11 bia.

12 “(c) PENALTY.—An offense described in this section
13 is a Class A felony. A sentence of death may be imposed
14 for an offense described in this section as provided in this
15 section. Sections 3591 and 3592 of this title shall not
16 apply in relation to capital sentencing for an offense de-
17 scribed in this section, but all other sections of chapter
18 228 shall apply in relation to the imposition, review, and
19 execution of capital sentences for offenses described in this
20 section.

21 “(d) MITIGATING FACTORS.—In determining wheth-
22 er to recommend a sentence of death, the jury shall con-
23 sider whether any aspect of the defendant’s character,
24 background, or record or any circumstance of the offense
25 that the defendant may proffer as a mitigating factor ex-
26 ists, including the following factors:

1 “(1) MENTAL CAPACITY.—The defendant’s
2 mental capacity to appreciate the wrongfulness of
3 his or her conduct or to conform his or her conduct
4 to the requirements of law was significantly im-
5 paired.

6 “(2) DURESS.—The defendant was under un-
7 usual and substantial duress.

8 “(3) PARTICIPATION IN OFFENSE MINOR.—The
9 defendant is punishable as a principal (pursuant to
10 section 2 of this title) in the offense, which was com-
11 mitted by another, but the defendant’s participation
12 was relatively minor.

13 “(e) AGGRAVATING FACTORS.—In determining
14 whether to recommend a sentence of death, the jury shall
15 consider any aggravating factor for which notice has been
16 provided, including the following factors:

17 “(1) KILLING IN FURTHERANCE OF DRUG
18 TRAFFICKING.—The defendant engaged in the con-
19 duct resulting in death in the course of or in fur-
20 therance of drug trafficking activity.

21 “(2) KILLING IN THE COURSE OF OTHER SERI-
22 OUS VIOLENT CRIMES.—The defendant engaged in
23 the conduct resulting in death in the course of com-
24 mitting or attempting to commit an offense involving
25 robbery, burglary, sexual abuse, kidnaping, or arson.

1 “(3) MULTIPLE KILLINGS OR ENDANGERMENT
2 OF OTHERS.—The defendant committed more than
3 one offense under this section, or in committing the
4 offense knowingly created a grave risk of death to
5 one or more persons in addition to the victim of the
6 offense.

7 “(4) INVOLVEMENT OF FIREARM.—During and
8 in relation to the commission of the offense, the de-
9 fendant used or possessed a firearm (as defined in
10 section 921).

11 “(5) PREVIOUS CONVICTION OF VIOLENT FEL-
12 ONY.—The defendant has previously been convicted
13 of an offense punishable by a term of imprisonment
14 of more than 1 year that involved the use or at-
15 tempted or threatened use of force against a person
16 or that involved sexual abuse.

17 “(6) KILLING WHILE INCARCERATED OR
18 UNDER SUPERVISION.—The defendant at the time of
19 the offense was confined in or had escaped from a
20 jail, prison, or other correctional or detention facil-
21 ity, was on pretrial release, or was on probation, pa-
22 role, supervised release, or other post-conviction con-
23 ditional release.

24 “(7) HEINOUS, CRUEL, OR DEPRAVED MANNER
25 OF COMMISSION.—The defendant committed the of-

1 fense in an especially heinous, cruel, or depraved
2 manner in that it involved torture or serious physical
3 abuse to the victim.

4 “(8) PROCUREMENT OF THE OFFENSE BY PAY-
5 MENT.—The defendant procured the commission of
6 the offense by payment, or promise of payment, of
7 anything of pecuniary value.

8 “(9) COMMISSION OF THE OFFENSE FOR PECU-
9 NIARY GAIN.—The defendant committed the offense
10 as consideration for receiving, or in the expectation
11 of receiving or obtaining, anything of pecuniary
12 value.

13 “(10) SUBSTANTIAL PLANNING AND
14 PREMEDITATION.—The defendant committed the of-
15 fense after substantial planning and premeditation.

16 “(11) VULNERABILITY OF VICTIM.—The victim
17 was particularly vulnerable due to old age, youth, or
18 infirmity.

19 “(12) KILLING OF PUBLIC SERVANT.—The de-
20 fendant committed the offense against a public serv-
21 ant—

22 “(A) while such public servant was en-
23 gaged in the performance of his or her official
24 duties;

1 “(B) because of the performance of such
2 public servant’s official duties; or

3 “(C) because of such public servant’s sta-
4 tus as a public servant.

5 “(13) KILLING TO INTERFERE WITH OR RE-
6 TALIATE AGAINST WITNESS.—The defendant com-
7 mitted the offense in order to prevent or inhibit any
8 person from testifying or providing information con-
9 cerning an offense, or to retaliate against any person
10 for testifying or providing such information.

11 “(f) DEFINITIONS.—For purposes of this section—

12 “(1) the term ‘State’ has the meaning stated in
13 section 513;

14 “(2) the term ‘offense’, as used in paragraphs
15 (2), (5), and (13) of subsection (e), and in para-
16 graph (5) of this subsection, means an offense under
17 the law of a State or the United States;

18 “(3) the term ‘drug trafficking activity’ means
19 a drug trafficking crime (as defined in section
20 929(a)(2)), or a pattern or series of acts involving
21 one or more drug trafficking crimes;

22 “(4) the term ‘robbery’ means obtaining the
23 property of another by force or threat of force;

24 “(5) the term ‘burglary’ means entering or re-
25 maining in a building or structure in violation of the

1 law of a State or the United States, with the intent
2 to commit an offense in the building or structure;

3 “(6) the term ‘sexual abuse’ means any conduct
4 proscribed by chapter 109A, whether or not the con-
5 duct occurs in the special maritime and territorial
6 jurisdiction of the United States;

7 “(7) the term ‘arson’ means damaging or de-
8 stroying a building or structure through the use of
9 fire or explosives;

10 “(8) the term ‘kidnaping’ means seizing, confin-
11 ing, or abducting a person, or transporting a person
12 without his or her consent;

13 “(9) the terms ‘pretrial release’, ‘probation’,
14 ‘parole’, ‘supervised release’, and ‘other
15 postconviction conditional release’, as used in sub-
16 section (e)(6), mean any such release, imposed in re-
17 lation to a charge or conviction for an offense under
18 the law of the District of Columbia, another State,
19 or the United States; and

20 “(10) the term ‘public servant’ means an em-
21 ployee, agent, officer, or official of a State or the
22 United States, or an employee, agent, officer, or offi-
23 cial of a foreign government who is within the scope
24 of section 1116.

1 **TITLE IX—CRIMINAL ALIEN**
2 **DEPORTATION IMPROVEMENTS**

3 **SEC. 901. ADDITIONAL EXPANSION OF DEFINITION OF AG-**
4 **GRAVATED FELONY.**

5 (a) IN GENERAL.—Section 101(a)(43) of the Immi-
6 gration and Nationality Act (8 U.S.C. 1101(a)(43)), as
7 amended by section 222 of the Immigration and National-
8 ity Technical Corrections Act of 1994 (Public Law 103-
9 416), is amended—

10 (1) in subparagraph (J), by inserting “, or an
11 offense described in section 1084 (if it is a second
12 or subsequent offense) or 1955 of that title (relating
13 to gambling offenses),” after “corrupt organiza-
14 tions)”;

15 (2) in subparagraph (K)—

16 (A) by striking “or” at the end of clause

17 (i),

18 (B) by redesignating clause (ii) as clause

19 (iii), and

20 (C) by inserting after clause (i) the follow-
21 ing new clause:

22 “(ii) is described in section 2421,

23 2422, or 2423 of title 18, United States

24 Code (relating to transportation for the

1 purpose of prostitution) for commercial ad-
2 vantage; or”;

3 (3) by amending subparagraph (N) to read as
4 follows:

5 “(N) an offense described in paragraph
6 (1)(A) or (2) of section 274(a) (relating to alien
7 smuggling) for which the term of imprisonment
8 imposed (regardless of any suspension of im-
9 prisonment) is at least 5 years;”;

10 (4) by amending subparagraph (O) to read as
11 follows:

12 “(O) an offense (i) which either is falsely
13 making, forging, counterfeiting, mutilating, or
14 altering a passport or instrument in violation of
15 section 1543 of title 18, United States Code, or
16 is described in section 1546(a) of such title (re-
17 lating to document fraud) and (ii) for which the
18 term of imprisonment imposed (regardless of
19 any suspension of such imprisonment) is at
20 least 18 months;”

21 (5) in subparagraph (P), by striking “15 years”
22 and inserting “5 years”, and by striking “and” at
23 the end;

1 (6) by redesignating subparagraphs (O), (P),
2 and (Q) as subparagraphs (P), (Q), and (U), respec-
3 tively;

4 (7) by inserting after subparagraph (N) the fol-
5 lowing new subparagraph:

6 “(O) an offense described in section 275(a)
7 or 276 committed by an alien who was pre-
8 viously deported on the basis of a conviction for
9 an offense described in another subparagraph
10 of this paragraph;” and

11 (8) by inserting after subparagraph (Q), as so
12 redesignated, the following new subparagraphs:

13 “(R) an offense relating to commercial
14 bribery, counterfeiting, forgery, or trafficking in
15 vehicles the identification numbers of which
16 have been altered for which a sentence of 5
17 years’ imprisonment or more may be imposed;

18 “(S) an offense relating to obstruction of
19 justice, perjury or subornation of perjury, or
20 bribery of a witness, for which a sentence of 5
21 years’ imprisonment or more may be imposed;

22 “(T) an offense relating to a failure to ap-
23 pear before a court pursuant to a court order
24 to answer to or dispose of a charge of a felony

1 for which a sentence of 2 years' imprisonment
2 or more may be imposed; and”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall apply to convictions entered on or
5 after the date of the enactment of this Act, except that
6 the amendment made by subsection (a)(3) shall take effect
7 as if included in the enactment of section 222 of the Immi-
8 gration and Nationality Technical Corrections Act of
9 1994.

10 **SEC. 902. DEPORTATION PROCEDURES FOR CERTAIN**
11 **CRIMINAL ALIENS WHO ARE NOT PERMA-**
12 **NENT RESIDENTS.**

13 (a) **ADMINISTRATIVE HEARINGS.**—Section 242A(b)
14 of the Immigration and Nationality Act (8 U.S.C.
15 1252a(b)), as added by section 130004(a) of the Violent
16 Crime Control and Law Enforcement Act of 1994 (Public
17 Law 103–322), is amended—

18 (1) in paragraph (2)—

19 (A) by striking “and” at the end of sub-
20 paragraph (A) and inserting “or”, and

21 (B) by amending subparagraph (B) to read
22 as follows:

23 “(B) had permanent resident status on a
24 conditional basis (as described in section 216)

1 at the time that proceedings under this section
2 commenced.”;

3 (2) in paragraph (3), by striking “30 calendar
4 days” and inserting “14 calendar days”;

5 (3) in paragraph (4)(B), by striking “proceed-
6 ings” and inserting “proceedings”;

7 (4) in paragraph (4)—

8 (A) by redesignating subparagraphs (D)
9 and (E) as subparagraphs (F) and (G), respec-
10 tively; and

11 (B) by adding after subparagraph (C) the
12 following new subparagraphs:

13 “(D) such proceedings are conducted in, or
14 translated for the alien into, a language the
15 alien understands;

16 “(E) a determination is made for the
17 record at such proceedings that the individual
18 who appears to respond in such a proceeding is
19 an alien subject to such an expedited proceed-
20 ing under this section and is, in fact, the alien
21 named in the notice for such proceeding;”.

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

24 “(5) No alien described in this section shall be
25 eligible for any relief from deportation that the At-

1 torney General may grant in the Attorney General’s
2 discretion.”.

3 (b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of
4 section 106 of the Immigration and Nationality Act (8
5 U.S.C. 1105a), as added by section 130004(b) of the Vio-
6 lent Crime Control and Law Enforcement Act of 1994
7 (Public Law 103–322), is amended to read as follows:

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

13 (c) PRESUMPTION OF DEPORTABILITY.—Section
14 242A of the Immigration and Nationality Act (8 U.S.C.
15 1252a) is amended by inserting after subsection (b) the
16 following new subsection:

17 “(c) PRESUMPTION OF DEPORTABILITY.—An alien
18 convicted of an aggravated felony shall be conclusively pre-
19 sumed to be deportable from the United States.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to all aliens against whom deporta-
22 tion proceedings are initiated after the date of the enact-
23 ment of this Act.

1 **SEC. 903. RESTRICTING THE DEFENSE TO EXCLUSION**
2 **BASED ON 7 YEARS PERMANENT RESIDENCE**
3 **FOR CERTAIN CRIMINAL ALIENS.**

4 The last sentence of section 212(c) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1182(c)) is amended
6 by striking “has served for such felony or felonies” and
7 all that follows through the period and inserting “has been
8 sentenced for such felony or felonies to a term of imprison-
9 ment of at least 5 years, if the time for appealing such
10 conviction or sentence has expired and the sentence has
11 become final.”.

12 **SEC. 904. LIMITATION ON COLLATERAL ATTACKS ON UN-**
13 **DERLYING DEPORTATION ORDER.**

14 (a) IN GENERAL.—Section 276 of the Immigration
15 and Nationality Act (8 U.S.C. 1326) is amended by add-
16 ing at the end the following new subsection:

17 “(c) In a criminal proceeding under this section, an
18 alien may not challenge the validity of the deportation
19 order described in subsection (a)(1) or subsection (b) un-
20 less the alien demonstrates that—

21 “(1) the alien exhausted any administrative
22 remedies that may have been available to seek relief
23 against the order;

24 “(2) the deportation proceedings at which the
25 order was issued improperly deprived the alien of the
26 opportunity for judicial review; and

1 **SEC. 908. STUDY OF PRISONER TRANSFER TREATY WITH**
2 **MEXICO.**

3 (a) REPORT TO CONGRESS.—Not later than 180 days
4 after the date of the enactment of this Act, the Secretary
5 of State and the Attorney General shall submit to the Con-
6 gress a report that describes the use and effectiveness of
7 the Prisoner Transfer Treaty with Mexico (in this section
8 referred to as the “Treaty”) to remove from the United
9 States aliens who have been convicted of crimes in the
10 United States.

11 (b) USE OF TREATY.—The report under subsection
12 (a) shall include the following information:

13 (1) The number of aliens convicted of a crimi-
14 nal offense in the United States since November 30,
15 1977, who would have been or are eligible for trans-
16 fer pursuant to the Treaty.

17 (2) The number of aliens described in para-
18 graph (1) who have been transferred pursuant to the
19 Treaty.

20 (3) The number of aliens described in para-
21 graph (2) who have been incarcerated in full compli-
22 ance with the Treaty.

23 (4) The number of aliens who are incarcerated
24 in a penal institution in the United States who are
25 eligible for transfer pursuant to the Treaty.

1 (5) The number of aliens described in para-
2 graph (4) who are incarcerated in State and local
3 penal institutions.

4 (c) EFFECTIVENESS OF TREATY.—The report under
5 subsection (a) shall include the recommendations of the
6 Secretary of State and the Attorney General to increase
7 the effectiveness and use of, and full compliance with, the
8 Treaty. In considering the recommendations under this
9 subsection, the Secretary and the Attorney General shall
10 consult with such State and local officials in areas dis-
11 proportionately impacted by aliens convicted of criminal
12 offenses as the Secretary and the Attorney General con-
13 sider appropriate. Such recommendations shall address
14 the following areas:

15 (1) Changes in Federal laws, regulations, and
16 policies affecting the identification, prosecution, and
17 deportation of aliens who have committed a criminal
18 offense in the United States.

19 (2) Changes in State and local laws, regula-
20 tions, and policies affecting the identification, pros-
21 ecution, and deportation of aliens who have commit-
22 ted a criminal offense in the United States.

23 (3) Changes in the Treaty that may be nec-
24 essary to increase the number of aliens convicted of

1 crimes who may be transferred pursuant to the
2 Treaty.

3 (4) Methods for preventing the unlawful re-
4 entry into the United States of aliens who have been
5 convicted of criminal offenses in the United States
6 and transferred pursuant to the Treaty.

7 (5) Any recommendations of appropriate offi-
8 cials of the Mexican Government on programs to
9 achieve the goals of, and ensure full compliance
10 with, the Treaty.

11 (6) An assessment of whether the recommenda-
12 tions under this subsection require the renegotiation
13 of the Treaty.

14 (7) The additional funds required to implement
15 each recommendation under this subsection.

16 **SEC. 909. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING**
17 **TO JUSTICE ALIENS WHO FLEE PROSECU-**
18 **TION FOR CRIMES IN THE UNITED STATES.**

19 (a) ASSISTANCE TO STATES.—The Attorney General,
20 in cooperation with the Commissioner of Immigration and
21 Naturalization and the Secretary of State, shall designate
22 an office within the Department of Justice to provide tech-
23 nical and prosecutorial assistance to States and political
24 subdivisions of States in efforts to bring to justice aliens
25 who flee prosecution for crimes in the United States.

1 (b) REPORT TO CONGRESS.—Not later than one year
2 after the date of the enactment of this Act, the Attorney
3 General shall compile and submit to the Congress a report
4 which assesses the nature and extent of the problem of
5 bringing to justice aliens who flee prosecution for crimes
6 in the United States.

7 **SEC. 910. PRISONER TRANSFER TREATIES.**

8 (a) NEGOTIATION.—Congress advises the President
9 to begin to negotiate and renegotiate, not later than 90
10 days after the date of the enactment of this Act, bilateral
11 prisoner transfer treaties. The focus of such negotiations
12 shall be to expedite the transfer of aliens unlawfully in
13 the United States who are incarcerated in United States
14 prisons, to ensure that a transferred prisoner serves the
15 balance of the sentence imposed by the United States
16 courts, and to eliminate any requirement of prisoner con-
17 sent to such a transfer.

18 (b) CERTIFICATION.—The President shall submit to
19 the Congress, annually, a certification as to whether each
20 prisoner transfer treaty in force is effective in returning
21 aliens unlawfully in the United States who have committed
22 offenses for which they are incarcerated in the United
23 States to their country of nationality for further incarcer-
24 ation.

1 **SEC. 911. INTERIOR REPATRIATION PROGRAM.**

2 Not later than 180 days after the date of enactment
3 of this Act, the Attorney General and the Commissioner
4 of Immigration and Naturalization shall develop and im-
5 plement a program in which aliens who previously have
6 illegally entered the United States not less than 3 times
7 and are deported or returned to a country contiguous to
8 the United States will be returned to locations not less
9 than 500 kilometers from that country's border with the
10 United States.

11 **SEC. 912. DEPORTATION OF NONVIOLENT OFFENDERS**
12 **PRIOR TO COMPLETION OF SENTENCE OF IM-**
13 **PRISONMENT.**

14 (a) IN GENERAL.—Section 242(h) of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1252(h)) is amended
16 to read as follows:

17 “(h)(1) Except as provided in paragraph (2), an alien
18 sentenced to imprisonment may not be deported until such
19 imprisonment has been terminated by the release of the
20 alien from confinement. Parole, supervised release, proba-
21 tion, or possibility of rearrest or further confinement in
22 respect of the same offense shall not be a ground for defer-
23 ral of deportation.

24 “(2) The Attorney General is authorized to deport an
25 alien in accordance with applicable procedures under this

1 Act prior to the completion of a sentence of imprison-
2 ment—

3 “(A) in the case of an alien in the custody of
4 the Attorney General, if the Attorney General deter-
5 mines that (i) the alien is confined pursuant to a
6 final conviction for a nonviolent offense (other than
7 alien smuggling), and (ii) such deportation of the
8 alien is appropriate and in the best interest of the
9 United States; or

10 “(B) in the case of an alien in the custody of
11 a State (or a political subdivision of a State), if the
12 chief State official exercising authority with respect
13 to the incarceration of the alien determines that (i)
14 the alien is confined pursuant to a final conviction
15 for a nonviolent offense (other than alien smug-
16 gling), (ii) such deportation is appropriate and in
17 the best interest of the State, and (iii) submits a
18 written request to the Attorney General that such
19 alien be so deported.

20 “(3) Any alien deported pursuant to this subsection
21 shall be notified of the penalties under the laws of the
22 United States relating to the reentry of deported aliens,
23 particularly the expanded penalties for aliens deported
24 under paragraph (2).”.

1 (b) REENTRY OF ALIEN DEPORTED PRIOR TO COM-
 2 PLETION OF TERM OF IMPRISONMENT.—Section 276 of
 3 the Immigration and Nationality Act (8 U.S.C. 1326) is
 4 amended by adding at the end the following new sub-
 5 section:

6 “(c) Any alien deported pursuant to section
 7 242(h)(2) who enters, attempts to enter, or is at any time
 8 found in, the United States (unless the Attorney General
 9 has expressly consented to such alien’s reentry) shall be
 10 incarcerated for the remainder of the sentence of impris-
 11 onment which was pending at the time of deportation
 12 without any reduction for parole or supervised release.
 13 Such alien shall be subject to such other penalties relating
 14 to the reentry of deported aliens as may be available under
 15 this section or any other provision of law.”.

16 **TITLE X—GANGS, JUVENILES,**
 17 **AND DRUGS**

18 **SEC. 1001. CRIMINAL STREET GANGS OFFENSES.**

19 (a) OFFENSE.—Title 18, United States Code, is
 20 amended by inserting after chapter 93 the following:

21 **“CHAPTER 94—PROHIBITED PARTICIPA-**
 22 **TION IN CRIMINAL STREET GANGS**
 23 **AND GANG CRIME**

“Sec.

“1930. Crimes in furtherance of gangs.

“1931. Prohibited activity.

“1932. Penalties.

“1933. Investigative authority.

1 **“§ 1930. Crimes in furtherance of gangs**

2 “(a) FINDINGS.—The Congress makes the following
3 findings:

4 “(1) Criminal street gangs have become in-
5 creasingly prevalent and entrenched in our society in
6 the last several decades. In many areas of the coun-
7 try, these gangs exert considerable control over other
8 members of their community, particularly through
9 the use of violence and drugs. Criminal street gangs
10 have also become more national in scope, extending
11 their influence beyond the urban areas in which they
12 originated.

13 “(2) The major activities of criminal street
14 gangs are crimes of violence and the distribution and
15 use of illegal drugs. It is through these activities
16 that criminal street gangs directly affect interstate
17 and foreign commerce, even when their particular
18 activities, viewed in isolation, appear to be purely
19 intrastate in character.

20 “(b) BASIS FOR CHAPTER.—On the basis of the find-
21 ings stated in subsection (a), the Congress determines that
22 the provisions of this chapter are necessary and proper
23 for the purpose of carrying into execution the powers of
24 Congress to regulate commerce and to establish criminal
25 law.

1 **“§ 1931. Prohibited activity**

2 “(a) DEFINITIONS.—As used in this chapter—

3 “(1) the term ‘predicate gang crime’ means—

4 “(A) any act or threat, or attempted act or
5 threat, that is chargeable under Federal or
6 State law and punishable by imprisonment for
7 more than 1 year, involving murder, assault,
8 kidnapping, robbery, extortion, burglary, arson,
9 property damage or destruction, obstruction of
10 justice, tampering with or retaliating against a
11 witness, victim, or informant, or manufacturing,
12 importing, receiving, concealing, purchasing,
13 selling, possessing, or otherwise dealing in a
14 controlled substance or controlled substance
15 analogue (as those terms are defined in section
16 102 of the Controlled Substances Act (21
17 U.S.C. 802));

18 “(B) any act, punishable by imprisonment
19 for more than 1 year, that is indictable under
20 sections 922 and 924 (a)(2), (b), (c), (g), or (h)
21 (relating to receipt, possession, and transfer of
22 firearms), section 1503 (relating to obstruction
23 of justice), 1510 (relating to obstruction of
24 criminal investigations), 1512 (relating to tam-
25 pering with a witness, victim, or informant), or

1 1513 (relating to retaliating against a witness,
2 victim, or informant); or

3 “(C) any act indictable under subsection
4 (b)(5) of this section;

5 “(2) the term ‘criminal street gang’ means any
6 organization, or group, of 5 or more individuals,
7 whether formal or informal, who act in concert, or
8 agree to act in concert, for a period in excess of 30
9 days, with a purpose that any of those individuals
10 alone, or in any combination, commit or will commit,
11 2 or more predicate gang crimes, at least 1 of which
12 occurs after the date of enactment of this chapter
13 and the last of which occurs within 10 years (exclud-
14 ing any period of imprisonment) after the commis-
15 sion of the first such predicate gang crime;

16 “(3) the term ‘participate in a criminal street
17 gang’ means to act in concert with a criminal street
18 gang with intent to commit, or that any other indi-
19 vidual associated with the criminal street gang will
20 commit, one or more predicate gang crimes; and

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

25 “(b) PROHIBITED CONDUCT.—It shall be unlawful—

1 “(1) to commit, or to attempt to commit, a
2 predicate gang crime with intent to promote or fur-
3 ther the activities of a criminal street gang or for
4 the purpose of gaining entrance to or maintaining or
5 increasing position in a criminal street gang;

6 “(2) to participate, or attempt to participate, in
7 a criminal street gang, or conspire to do so;

8 “(3) to command, counsel, persuade, induce,
9 entice, or coerce any individual to participate in a
10 criminal street gang;

11 “(4) to employ, use, command, counsel, per-
12 suade, induce, entice, or coerce any individual to
13 commit, cause to commit, or facilitate the commis-
14 sion of, a predicate gang crime, with intent to pro-
15 mote the activities of a criminal street gang or for
16 the purpose of gaining entrance to or maintaining or
17 increasing position in such a gang; or

18 “(5) to use any communication facility (as de-
19 fined in section 403(b) of the Controlled Substances
20 Act (21 U.S.C. 843(b))), in causing or facilitating
21 the commission, or attempted commission, of a pred-
22 icate gang crime with intent to promote or further
23 the activities of a criminal street gang or for the
24 purpose of gaining entrance to or maintaining or in-
25 creasing position in such a gang. Each separate use

1 of a communication facility shall be a separate of-
2 fense under this subsection.

3 **“§ 1932. Penalties**

4 “(a) PENALTIES OF UP TO 20 YEARS OR LIFE IM-
5 PRISONMENT.—A person who violates section 1931(b) (1)
6 or (2) shall be punished by imprisonment for not more
7 than 20 years, or by imprisonment for any term of years
8 or for life if the violation is based on a predicate gang
9 crime for which the maximum penalty includes life impris-
10 onment, and if any person commits such a violation after
11 one or more prior convictions for such a predicate gang
12 crime, that is not part of the instant violation, such person
13 shall be sentenced to a term of imprisonment, which shall
14 not be less than 10 years and which may be for any term
15 of years exceeding 10 years or for life.

16 “(b) PENALTIES BETWEEN 5 AND 10 YEARS.—Any
17 person who violates section 1931(b) (3) or (4) shall be
18 sentenced to imprisonment for not less than 5 and not
19 more than 10 years, and if the individual who was the
20 subject of the act was less than 18 years of age, such per-
21 son shall be imprisoned for 10 years. A term of imprison-
22 ment under this subsection shall run consecutively to any
23 other term of imprisonment, including that imposed for
24 any other violation of this chapter.

1 “(c) PENALTIES OF UP TO 5 YEARS.—Any person
2 who violates section 1931(b)(5) shall be punished by im-
3 prisonment for not more than 5 years.

4 “(d) ADDITIONAL PENALTIES.—In addition to the
5 other penalties set forth in this section—

6 “(1) any person who violates section 1931(b)
7 (1) or (2), one of whose predicate gang crimes in-
8 volves murder or conspiracy to commit murder
9 which results in the taking of a life, and who com-
10 mits, counsels, commands, induces, procures, or
11 causes that murder, shall be punished by death or
12 by imprisonment for life;

13 “(2) any person who violates section 1931(b)
14 (1) or (2), one of whose predicate gang crimes in-
15 volves attempted murder or conspiracy to commit
16 murder, shall be sentenced to a term of imprison-
17 ment which shall not be less than 20 years and
18 which may be for any term of years exceeding 20
19 years or for life; and

20 “(3) any person who violates section 1931(b)
21 (1) or (2), and who at the time of the offense occu-
22 pied a position of organizer or supervisor, or other
23 position of management in the criminal street gang,
24 shall be sentenced to a term of imprisonment which

1 shall not be less than 15 years and which may be
2 for any term of years exceeding 15 years or for life.
3 For purposes of paragraph (3), if it is shown that the de-
4 fendant counseled, commanded, induced, or procured 5 or
5 more individuals to participate in a street gang, there shall
6 be a rebuttable presumption that the defendant occupied
7 a position of organizer or supervisor, or other position of
8 management in the gang.

9 “(e) FORFEITURE.—A person who violates section
10 1931(b) (1) or (2) shall, in addition to any other penalty
11 (notwithstanding any provision of State law), forfeit to the
12 United States—

13 “(1) any property constituting, or derived from,
14 any proceeds the person obtained, directly or indi-
15 rectly, as a result of the violation; and

16 “(2) any property used, or intended to be used,
17 in any manner or part, to commit, or to facilitate
18 the commission of, the violation.

19 The provisions of section 413 (b), (c), and (e) through
20 (p) of the Controlled Substances Act (21 U.S.C. 853 (b),
21 (c), and (e) through (p)) shall apply to a forfeiture under
22 this section.

23 **“§ 1933. Investigative authority**

24 “The Attorney General and the Secretary of the
25 Treasury shall have the authority to investigate offenses

1 under this chapter. The authority shall be exercised in ac-
 2 cordance with an agreement entered into by the Attorney
 3 General and the Secretary of the Treasury.”.

4 (b) TECHNICAL AMENDMENT.—The analysis for part
 5 I of title 18, United States Code, is amended by inserting
 6 after the item for chapter 93 the following:

**“94. Prohibited participation in criminal street gangs
 and gang crimes 1930”.**

7 (c) SENTENCING GUIDELINES INCREASE FOR GANG
 8 CRIMES.—The United States Sentencing Commission
 9 shall at the earliest opportunity amend the sentencing
 10 guidelines to increase by at least 4 levels the base offense
 11 level for any felony committed for the purpose of gaining
 12 entrance into, or maintaining or increasing position in, a
 13 criminal street gang. For purposes of this subsection,
 14 “criminal street gang” means any organization, or group,
 15 of 5 or more individuals, whether formal or informal, who
 16 act in concert, or agree to act in concert, for a period in
 17 excess of 30 days, with the intent that any of those indi-
 18 viduals alone, or in any combination, commit or will com-
 19 mit, two or more acts punishable under Federal or State
 20 law by imprisonment for more than 1 year.

21 **SEC. 1002. SERIOUS JUVENILE DRUG OFFENSES AS ARMED**
 22 **CAREER CRIMINAL ACT PREDICATES.**

23 Section 924(e)(2)(A) of title 18, United States Code,
 24 is amended—

- 1 (1) by striking “or” at the end of clause (i);
2 (2) by striking “and” at the end of clause (ii)
3 and inserting “or”; and
4 (3) by adding at the end the following new
5 clause:
6 “(iii) any act of juvenile delinquency
7 that if committed by an adult would be a
8 serious drug offense described in this para-
9 graph;”.

10 **SEC. 1003. ADULT PROSECUTION OF SERIOUS JUVENILE**
11 **OFFENDERS.**

12 Section 5032 of title 18, United States Code, is
13 amended—

14 (1) in the first and fourth undesignated para-
15 graphs—

16 (A) by striking “an offense described in
17 section 401 of the Controlled Substances Act
18 (21 U.S.C. 841),” and inserting “an offense (or
19 a conspiracy or an attempt to commit an of-
20 fense) described in section 401 of the Con-
21 trolled Substances Act (21 U.S.C. 841 or
22 846),”; and

23 (B) by striking “924 (b), (g), or (h)” and
24 inserting “924 (b), (g), (h), (j), (k) or (l)”;

1 (2) in the first undesignated paragraph by
2 striking “or (x)” and inserting “or section 922(x)”;

3 (3) in the fourth undesignated paragraph, by
4 striking the second and third sentences and by in-
5 serting “and with respect to a juvenile 13 years and
6 older alleged to have committed an act after such ju-
7 venile’s thirteenth birthday which if committed by an
8 adult would be a serious violent felony (as defined
9 in section 3559(c)(2)(F)),” before “criminal pros-
10 ecution on”; and

11 (4) in the fifth undesignated paragraph, by in-
12 serting at the end the following: “There shall be a
13 rebuttable presumption that transfer is in the inter-
14 est of justice for a juvenile who is alleged to have
15 committed an act after such juvenile’s fifteenth
16 birthday which if committed by an adult would be a
17 serious violent felony (as defined in section
18 3559(c)(2)(F)).”.

19 **SEC. 1004. INCREASED PENALTIES FOR RECIDIVISTS COM-**
20 **MITTING DRUG CRIMES INVOLVING MINORS.**

21 (a) DRUG DISTRIBUTION TO MINOR BY RECIDIVIST.—Section 418(b) of the Controlled Substances Act
22 (21 U.S.C. 859(b)) is amended by striking “one year” and
23 inserting “3 years”.
24

1 (b) USE OF MINOR IN TRAFFICKING BY RECIDIVIST.—Section 420(c) of the Controlled Substances Act
2 VIST.—Section 420(c) of the Controlled Substances Act
3 (21 U.S.C. 861(b)) is amended by striking “one year” and
4 inserting “3 years”.

5 **SEC. 1005. AMENDMENTS CONCERNING RECORDS OF**
6 **CRIMES COMMITTED BY JUVENILES.**

7 (a) USE OF JUVENILE RECORDS.—Section 5038 of
8 title 18, United States Code, is amended—

9 (1) by striking subsections (d) and (f);

10 (2) by redesignating subsection (e) as sub-
11 section (d); and

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

14 “(e) When a juvenile has been found guilty of com-
15 mitting an act which if committed by an adult would be
16 an offense described in clause (3) of the first paragraph
17 of section 5032, the juvenile shall be fingerprinted and
18 photographed, and the fingerprints and photograph shall
19 be sent to the Federal Bureau of Investigation. The court
20 shall also transmit to the Federal Bureau of Investigation
21 the information concerning the adjudication, including
22 name, date of adjudication, court, offenses, and sentence,
23 and the notation that the matter was a juvenile adjudica-
24 tion. The fingerprints, photograph, and other records and
25 information relating to a juvenile described in this sub-

1 section, or to a juvenile who is prosecuted as an adult,
2 shall be made available in the manner applicable to adult
3 defendants.

4 “(f) In addition to any other authorization under this
5 section for the reporting, retention, disclosure, or avail-
6 ability of records or information, if the law of the State
7 in which a Federal juvenile delinquency proceeding takes
8 place permits or requires the reporting, retention, disclo-
9 sure, or availability of records or information relating to
10 a juvenile or to a juvenile delinquency proceeding or adju-
11 dication in certain circumstances, then such reporting, re-
12 tention, disclosure, or availability is permitted under this
13 section in the same circumstances.”.

14 (b) REPEAL OF SPECIAL PROBATION AND
15 EXPUNGEMENT PROCEDURES FOR DRUG OFFENDERS.—

16 (1) IN GENERAL.—Section 3607 of title 18,
17 United States Code, is repealed.

18 (2) TECHNICAL AMENDMENT.—The analysis for
19 chapter 229 of title 18, United States Code, is
20 amended by striking the item relating to section
21 3607.

22 (c) PENALTY FOR DISTRIBUTION OF SMALL AMOUNT
23 OF MARIHUANA.—Section 401(b)(4) of the Controlled
24 Substances Act (21 U.S.C. 841(b)(4)) is amended by
25 striking “and section 3607 of title 18”.

1 **SEC. 1006. DRIVE-BY SHOOTINGS.**

2 (a) OFFENSE.—Chapter 44 of title 18, United States
3 Code, is amended by adding at the end the following new
4 section:

5 **“§ 931. Drive-by shootings**

6 “(a) OFFENSE.—A person who knowingly discharges
7 a firearm at a person—

8 “(1) in the course of or in furtherance of drug
9 trafficking activity; or

10 “(2) from a motor vehicle,

11 shall be punished by imprisonment for not more than 25
12 years, and if death results shall be punished by death or
13 by imprisonment for any term of years or for life.

14 “(b) DEFINITION.—As used in this section, the term
15 ‘drug trafficking activity’ means a drug trafficking crime
16 (as defined in section 929(a)(2)), or a pattern or series
17 of acts involving one or more drug trafficking crimes.”.

18 (b) TECHNICAL AMENDMENT.—The analysis for
19 chapter 44 of title 18, United States Code, is amended
20 by adding at the end the following new item:

“931. Drive-by shootings.”.

21 **SEC. 1007. STEROIDS OFFENSE.**

22 Section 404 of the Controlled Substance Act (21
23 U.S.C. 844) is amended by inserting after subsection (a)
24 the following:

1 “(b)(1) Whoever, being a physical trainer or adviser
2 to an individual, endeavors to persuade or induce that in-
3 dividual to possess or use anabolic steroids in violation of
4 subsection (a), shall be fined under this title, imprisoned
5 not more than 2 years, or both. If such individual has not
6 attained the age of 18 years, the maximum term of impris-
7 onment shall be 5 years.

8 “(2) As used in this subsection, the term ‘physical
9 trainer or adviser’ means a professional or amateur coach,
10 manager, trainer, instructor, or other such person, who
11 provides any athletic or physical instruction, training, ad-
12 vice, assistance, or other such service to any individual.”.

13 **SEC. 1008. DRUG TESTING OF FEDERAL OFFENDERS.**

14 (a) CONDITIONS OF PROBATION.—Section 3563(a) of
15 title 18, United States Code, is amended—

16 (1) by redesignating paragraph (4), as added by
17 section 20414(b)(3) of the Violent Crime Control
18 and Law Enforcement Act of 1994, as paragraph
19 (5);

20 (2) in the undesignated matter following para-
21 graph (5), as so redesignated, by striking “(4)” each
22 place it appears and inserting “(5)”; and

23 (3) by inserting “, hair, or blood” after
24 “urine”.

1 (b) CONDITIONS OF SUPERVISED RELEASE.—Section
 2 3583(d) of title 18, United States Code, is amended by
 3 inserting “, hair, or blood” after “urine”.

4 (c) RESIDENTIAL SUBSTANCE ABUSE TREATMENT
 5 FOR PRISONERS.—Section 1902(b) of the Omnibus Crime
 6 Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–
 7 1) is amended by striking “urinalysis or other proven reli-
 8 able forms of testing of individuals” and inserting “speci-
 9 men testing for drugs, including but not limited to urine,
 10 hair, and blood testing of individuals”.

11 **TITLE XI—PUBLIC CORRUPTION**

12 **SEC. 1101. STRENGTHENING OF FEDERAL ANTI-CORRUP-** 13 **TION STATUTES GENERALLY.**

14 (a) OFFENSES.—Chapter 11 of title 18, United
 15 States Code, is amended by adding at the end the follow-
 16 ing new section:

17 **“§ 226. Public corruption**

18 “(a) STATE AND LOCAL GOVERNMENT.—

19 “(1) HONEST SERVICES.—Whoever, in a cir-
 20 cumstance described in paragraph (3), deprives or
 21 defrauds, or endeavors to deprive or to defraud, by
 22 any scheme or artifice, the inhabitants of a State or
 23 political subdivision of a State of the honest services
 24 of an official or employee of the State or political

1 subdivision shall be fined under this title, imprisoned
2 not more than 10 years, or both.

3 “(2) FAIR AND IMPARTIAL ELECTIONS.—Who-
4 ever, in a circumstance described in paragraph (3),
5 deprives or defrauds, or endeavors to deprive or to
6 defraud, by any scheme or artifice, the inhabitants
7 of a State or political subdivision of a State of a fair
8 and impartially conducted election process in any
9 primary, runoff, special, or general election through
10 one or more of the following means, or otherwise—

11 “(A) through the procurement, casting, or
12 tabulation of ballots that are materially false,
13 fictitious, or fraudulent or that are invalid,
14 under the laws of the State in which the elec-
15 tion is held;

16 “(B) through paying or offering to pay any
17 person for voting;

18 “(C) through the procurement or submis-
19 sion of voter registrations that contain false
20 material information, or omit material informa-
21 tion; or

22 “(D) through the filing of any report re-
23 quired to be filed under State law regarding an
24 election campaign that contains false material
25 information or omits material information, shall

1 be fined under this title, imprisoned not more
2 than 10 years, or both.

3 “(3) CIRCUMSTANCES IN WHICH OFFENSE OC-
4 CURS.—The circumstances referred to in paragraphs
5 (1) and (2) are that—

6 “(A) for the purpose of executing or con-
7 cealing a scheme or artifice described in para-
8 graph (1) or (2) or attempting to do so, a per-
9 son—

10 “(i) places in any post office or au-
11 thorized depository for mail matter any
12 matter or thing to be sent or delivered by
13 the Postal Service or deposits or causes to
14 be deposited any matter or thing whatever
15 to be sent or delivered by any private or
16 commercial interstate carrier, or takes or
17 receives therefrom any such matter or
18 thing, or knowingly causes to be delivered
19 by mail or such carrier according to the di-
20 rection thereon, or at the place at which it
21 is directed to be delivered by the person to
22 whom it is addressed, any such matter or
23 thing;

24 “(ii) transmits or causes to be trans-
25 mitted by means of wire, radio, or tele-

1 vision communication in interstate or for-
2 eign commerce any writings, signs, signals,
3 pictures, or sounds;

4 “(iii) transports or causes to be trans-
5 ported any person or thing, or induces any
6 person to travel in or to be transported in,
7 interstate or foreign commerce; or

8 “(iv) uses or causes the use of any fa-
9 cility in interstate or foreign commerce;

10 “(B) the scheme or artifice affects or con-
11 stitutes an attempt to affect in any manner or
12 degree, or would if executed or concealed affect,
13 interstate or foreign commerce; or

14 “(C) in the case of an offense described in
15 paragraph (2), an objective of the scheme or ar-
16 tifice is to secure the election of an official who,
17 if elected, would have any authority over the
18 administration of funds derived from an Act of
19 Congress totaling \$10,000 or more during the
20 12-month period immediately preceding or fol-
21 lowing the election or date of the offense.

22 “(b) FEDERAL GOVERNMENT.—Whoever deprives or
23 defrauds, or endeavors to deprive or to defraud, by any
24 scheme or artifice, the inhabitants of the United States
25 of the honest services of a public official or a person who

1 has been selected to be a public official shall be fined
2 under this title, imprisoned not more than 10 years, or
3 both.

4 “(c) OFFENSE BY AN OFFICIAL AGAINST AN EM-
5 PLOYEE OR OFFICIAL.—

6 “(1) CRIMINAL OFFENSE.—Whoever, being an
7 official, public official, or person who has been se-
8 lected to be a public official, directly or indirectly
9 discharges, demotes, suspends, threatens, harasses,
10 or in any manner discriminates against an employee
11 or official of the United States or of a State or polit-
12 ical subdivision of a State, or endeavors to do so, in
13 order to carry out or to conceal a scheme or artifice
14 described in subsection (a) or (b), shall be fined
15 under this title, imprisoned not more than 5 years,
16 or both.

17 “(2) CIVIL ACTION.—(A) Any employee or offi-
18 cial of the United States or of a State or political
19 subdivision of a State who is discharged, demoted,
20 suspended, threatened, harassed, or in any manner
21 discriminated against because of lawful acts done by
22 the employee or official as a result of a violation of
23 this section or because of actions by the employee on
24 behalf of himself or herself or others in furtherance
25 of a prosecution under this section (including inves-

1 tigation for, initiation of, testimony for, or assist-
2 ance in such a prosecution) may bring a civil action
3 and obtain all relief necessary to make the employee
4 or official whole, including—

5 “(i) reinstatement with the same seniority
6 status that the employee or official would have
7 had but for the violation;

8 “(ii) 3 times the amount of backpay;

9 “(iii) interest on the backpay; and

10 “(iv) compensation for any special dam-
11 ages sustained as a result of the violation, in-
12 cluding reasonable litigation costs and reason-
13 able attorney’s fees.

14 “(B) An employee or official shall not be af-
15 forded relief under subparagraph (A) if the employee
16 or official participated in the violation of this section
17 with respect to which relief is sought.

18 “(C)(i) A civil action or proceeding authorized
19 by this paragraph shall be stayed by a court upon
20 certification of an attorney for the Government that
21 prosecution of the action or proceeding may ad-
22 versely affect the interests of the Government in a
23 pending criminal investigation or proceeding.

1 “(ii) The attorney for the Government shall
2 promptly notify the court when a stay may be lifted
3 without such adverse effects.

4 “(d) DEFINITIONS.—As used in this section—

5 “(1) the term ‘official’ includes—

6 “(A) any person employed by, exercising
7 any authority derived from, or holding any posi-
8 tion in the government of a State or any sub-
9 division of the executive, legislative, judicial, or
10 other branch of government thereof, including a
11 department, independent establishment, com-
12 mission, administration, authority, board, and
13 bureau, and a corporation or other legal entity
14 established and subject to control by a govern-
15 ment or governments for the execution of a gov-
16 ernmental or intergovernmental program;

17 “(B) any person acting or pretending to
18 act under color of official authority; and

19 “(C) any person who has been nominated,
20 appointed, or selected to be an official or who
21 has been officially informed that he or she will
22 be so nominated, appointed, or selected;

23 “(2) the term ‘person acting or pretending to
24 act under color of official authority’ includes a per-
25 son who represents that he or she controls, is an

1 agent of, or otherwise acts on behalf of an official,
2 public official, or person who has been selected to be
3 a public official;

4 “(3) the terms ‘public official’ and ‘person who
5 has been selected to be a public official’ include any
6 person acting or pretending to act under color of of-
7 ficial authority; and

8 “(4) the term ‘State’ means a State of the
9 United States, the District of Columbia, Puerto
10 Rico, and any other commonwealth, territory, or
11 possession of the United States.”.

12 (b) TECHNICAL AMENDMENTS.—(1) The analysis for
13 chapter 11 of title 18, United States Code, is amended
14 by adding at the end the following new item:

“226. Public corruption.”.

15 (2) Section 1961(1) of title 18, United States Code,
16 is amended by inserting “section 226 (relating to public
17 corruption),” after “section 224 (relating to sports brib-
18 ery),”.

19 (3) Section 2516(1)(c) of title 18, United States
20 Code, is amended by inserting “section 226 (relating to
21 public corruption),” after “section 224 (bribery in sport-
22 ing contests),”.

23 **SEC. 1102. INTERSTATE COMMERCE.**

24 (a) IN GENERAL.—Section 1343 of title 18, United
25 States Code, is amended—

1 (1) by striking “transmits or causes to be
2 transmitted by means of wire, radio, or television
3 communication in interstate or foreign commerce,
4 any writings, signs, signals, pictures, or sounds” and
5 inserting “uses or causes to be used any facility in
6 interstate or foreign commerce”; and

7 (2) by inserting “or attempting to do so” after
8 “for the purpose of executing such scheme or arti-
9 fice”.

10 (b) TECHNICAL AMENDMENTS.—(1) The heading of
11 section 1343 of title 18, United States Code, is amended
12 to read as follows:

13 **“§1343. Fraud by use of facility in interstate com-
14 merce”.**

15 (2) The chapter analysis for chapter 63 of title 18,
16 United States Code, is amended by amending the item re-
17 lating to section 1343 to read as follows:

“1343. Fraud by use of facility in interstate commerce.”.

18 **SEC. 1103. NARCOTICS-RELATED PUBLIC CORRUPTION.**

19 (a) OFFENSES.—Chapter 11 of title 18, United
20 States Code, is amended by inserting after section 219 the
21 following new section:

22 **“§220. Narcotics and public corruption**

23 “(a) OFFENSE BY PUBLIC OFFICIAL.—A public offi-
24 cial who, in a circumstance described in subsection (c),
25 directly or indirectly, corruptly demands, seeks, receives,

1 accepts, or agrees to receive or accept anything of value
2 personally or for any other person in return for—

3 “(1) being influenced in the performance or
4 nonperformance of any official act; or

5 “(2) being influenced to commit or to aid in
6 committing, or to collude in or to allow or make op-
7 portunity for the commission of, any offense against
8 the United States or any State,

9 shall be guilty of a class B felony.

10 “(b) OFFENSE BY PERSON OTHER THAN A PUBLIC
11 OFFICIAL.—A person who, in a circumstance described in
12 subsection (c), directly or indirectly, corruptly gives, of-
13 fers, or promises anything of value to any public official,
14 or offers or promises any public official to give anything
15 of value to any other person, with intent—

16 “(1) to influence any official act;

17 “(2) to influence the public official to commit
18 or aid in committing, or to collude in, or to allow or
19 make opportunity for the commission of, any offense
20 against the United States or any State; or

21 “(3) to influence the public official to do or to
22 omit to do any act in violation of the official’s lawful
23 duty,

24 shall be guilty of a class B felony.

1 “(c) CIRCUMSTANCES IN WHICH OFFENSE OC-
2 CURS.—The circumstances referred to in subsections (a)
3 and (b) are that the offense involves, is part of, or is in-
4 tended to further or to conceal the illegal possession, im-
5 portation, manufacture, transportation, or distribution of
6 any controlled substance or controlled substance analogue.

7 “(d) DEFINITIONS.—As used in this section—

8 “(1) the terms ‘controlled substance’ and ‘con-
9 trolled substance analogue’ have the meanings stated
10 in section 102 of the Controlled Substances Act (21
11 U.S.C. 802);

12 “(2) the term ‘official act’ means any decision,
13 action, or conduct regarding any question, matter,
14 proceeding, cause, suit, investigation, or prosecution
15 that may at any time be pending, or that may be
16 brought before any public official, in such official’s
17 official capacity, or in such official’s place of trust
18 or profit;

19 “(3) the term ‘public official’ means—

20 “(A) an officer or employee or person act-
21 ing for or on behalf of the United States, or
22 any department, agency, or branch of Govern-
23 ment thereof in any official function, under or
24 by authority of any such department, agency, or
25 branch of Government;

1 “(B) a juror;

2 “(C) an officer or employee or person act-
3 ing for or on behalf of the government of any
4 State, or any political subdivision thereof, in
5 any official function, under or by the authority
6 of any such State or political subdivision; and

7 “(D) any person who has been nominated
8 or appointed to a position described in subpara-
9 graph (A), (B), or (C), or has been officially in-
10 formed that he or she will be so nominated or
11 appointed; and

12 “(4) the term ‘State’ means a State of the
13 United States, the District of Columbia, and any
14 commonwealth, territory, or possession of the United
15 States.”.

16 (b) TECHNICAL AMENDMENTS.—(1) Section 1961(1)
17 of title 18, United States Code, is amended by inserting
18 “section 220 (relating to narcotics and public corrup-
19 tion),” after “section 201 (relating to bribery),”.

20 (2) Section 2516(1)(c) of title 18, United States
21 Code, is amended by inserting “section 220 (relating to
22 narcotics and public corruption),” after “section 201
23 (bribery of public officials and witnesses),”.

1 (3) The chapter analysis for chapter 11 of title 18,
 2 United States Code, is amended by inserting after the
 3 item for section 219 the following new item:

“220. Narcotics and public corruption.”.

4 **TITLE XII—ADMINISTRATIVE**
 5 **SUBPOENA**

6 **SEC. 1201. AUTHORIZATION FOR UNITED STATES SECRET**
 7 **SERVICE TO ISSUE AND SERVE ADMINISTRA-**
 8 **TIVE SUMMONSES.**

9 (a) IN GENERAL.—Chapter 203 of title 18, United
 10 States Code, is amended by inserting immediately after
 11 3056 the following new section:

12 **“§ 3056A. Administrative summons authority of**
 13 **United States Secret Service**

14 “(a) AUTHORITY.—Pursuant to regulations promul-
 15 gated by the Secretary of the Treasury in consultation
 16 with the Director of the United States Secret Service, the
 17 Director and supervisory-level Special Agents of the
 18 United States Secret Service designated by the Director
 19 may issue in writing and cause to be served a summons
 20 requiring the production of books, records, papers, docu-
 21 ments, or other tangible things or objects.

22 “(b) GROUNDS FOR ISSUANCE.—The issuance of a
 23 summons under this section shall be based on a deter-
 24 mination by the Director or other designated supervisory-
 25 level Special Agent, that the person or entity served may

1 possess, or have care, custody, or control of, any books,
2 records, papers, documents, or other tangible things or ob-
3 jects, in any form, relevant to a protective intelligence in-
4 vestigation being conducted by the United States Secret
5 Service under section 871, 879, or 3056 of this title that
6 involves endangerment to the life or physical safety of any
7 person.

8 “(c) FORM.—A summons issued under this section
9 shall—

10 “(1) describe the material to be produced with
11 reasonable clarity to enable the material to be identi-
12 fied; and

13 “(2) designate a place and time for the produc-
14 tion of such material, including a return date that
15 provides a reasonable period of time within which
16 the material can be assembled and made available.

17 “(d) SERVICE.—A summons issued under this section
18 may be served by any agent designated in the summons
19 to make such service. The affidavit of the person serving
20 the summons shall be proof of service. A summons issued
21 under this section may be served upon a natural person
22 by personal delivery of the summons. Service may be made
23 upon a domestic or foreign corporation or upon a partner-
24 ship or other unincorporated association by delivering the
25 summons personally or by certified or registered mail to

1 an officer, to a managing or general agent or to any other
2 agent authorized by appointment, or by the law of any
3 State or jurisdiction to receive service of process.

4 “(e) PLACE OF SERVICE.—A summons issued under
5 this section may be served at any place within the United
6 States or at any place subject to the laws or the jurisdic-
7 tion of the United States.

8 “(f) PROHIBITION OF DISCLOSURE.—(1) Notwith-
9 standing any other provision of Federal, State, or local
10 law, a United States District Court judge for the district
11 in which an investigation is pending may, upon application
12 of the United States without notice to a summons recipi-
13 ent, issue an ex parte order prohibiting any person served
14 with a summons issued under this section, or the rep-
15 resentative of such person, from disclosing to any other
16 person the existence of such summons, for a prescribed
17 period of not more than 180 days. Such order may be is-
18 sued upon a showing that the materials being sought may
19 be relevant to a legitimate law enforcement or protective
20 intelligence inquiry and that there is reason to believe that
21 such disclosure may result in endangerment to the life or
22 physical safety of any person. The period of nondisclosure
23 may be renewed for additional periods of up to 180 days.

24 “(2) Whoever knowingly and willfully discloses or at-
25 tempts to disclose the existence of a summons in violation

1 of this subsection shall be subject to imprisonment up to
2 5 years or fined as provided under section 3571 of this
3 title, or both.

4 “(3) Nothing in this subsection shall prohibit any
5 person from disclosing the service of a summons issued
6 pursuant to this section to any attorney for purposes of
7 filing a petition under subsection (g)(2).

8 “(4) Any third-party recordkeeper, agent, or em-
9 ployee thereof, who, in good faith reliance on an order of
10 nondisclosure, produces any materials and does not dis-
11 close such production to the subject of the records shall
12 not be liable to any customer or other person for such
13 nondisclosure.

14 “(g) ENFORCEMENT.—(1) In the case of contumacy,
15 neglect, or refusal to obey a summons issued and served
16 under this section, the Attorney General or a designee of
17 the Attorney General, on behalf of the Director of the
18 United States Secret Service or a designee of the Director,
19 may invoke the aid of any court of the United States with-
20 in which the investigation is pending, the summons was
21 served, or the summoned person carries on business or
22 may be found, to compel compliance with the summons.
23 Process in any such case may be served in any judicial
24 district in which such person may be found.

1 “(2) Not later than 10 days after the service of a
2 summons upon a person, or at any time before the return
3 date specified in the summons, whichever period is earlier,
4 a person served may file, in the District Court of the
5 United States for the judicial district in which the inves-
6 tigation is pending, a petition for an order modifying or
7 setting aside a summons issued pursuant to subsection (a)
8 or a prohibition of disclosure order obtained under sub-
9 section (f). An order of nondisclosure obtained under sub-
10 section (f) shall not be grounds for a petition to modify
11 or set aside the summons. The time allowed for initiation
12 of formal criminal proceedings under any applicable stat-
13 ute of limitations shall be tolled while the petition is pend-
14 ing in court or on appeal.

15 “(3) The District Courts of the United States have
16 jurisdiction to hear and determine the matters arising
17 under this section, and to enter such orders as are nec-
18 essary to effectuate this section. Failure to obey an order
19 entered by the district court may be punished as a con-
20 tempt thereof. Any petition filed or order entered relating
21 to a summons issued and served with an order of
22 nondisclosure shall be made under seal.”.

23 (b) TECHNICAL AMENDMENT.—The table of sections
24 for chapter 203 of title 18, United States Code, is amend-

1 ed by inserting after the item relating to section 3056 the
2 following:

“3056A. Administrative summons authority of United States Secret Service.”.

3 **TITLE XIII—COMPUTER CRIMES**

4 **SEC. 1301. PROTECTION OF CLASSIFIED GOVERNMENT IN-** 5 **FORMATION.**

6 Section 1030(a)(1) of title 18, United States Code,
7 is amended—

8 (1) by striking “knowingly accesses” and insert-
9 ing “having knowingly accessed”;

10 (2) by striking “exceeds” and inserting “ex-
11 ceeding”;

12 (3) by striking “obtains information” and in-
13 serting “having obtained information”;

14 (4) by striking “the intent or”;

15 (5) by striking “is to be used” and inserting
16 “could be used”; and

17 (6) by inserting before the semicolon at the end
18 the following: “willfully communicates, delivers,
19 transmits, or causes to be communicated, delivered,
20 or transmitted, or attempts to communicate, deliver,
21 transmit or cause to be communicated, delivered, or
22 transmitted the same to any person not entitled to
23 receive it, or willfully retains the same and fails to
24 deliver it to the officer or employee of the United
25 States entitled to receive it”.

1 **SEC. 1302. PROTECTION OF FINANCIAL, GOVERNMENT, AND**
2 **OTHER COMPUTER INFORMATION.**

3 Section 1030(a)(2) of title 18, United States Code,
4 is amended—

5 (1) by striking “obtains information” and in-
6 serting “obtains—

7 “(A) information”; and

8 (2) by adding at the end the following:

9 “(B) information from any department or
10 agency of the United States; or

11 “(C) information from any protected com-
12 puter if the conduct involved an interstate or
13 foreign communication;”.

14 **SEC. 1303. PROTECTION FOR GOVERNMENT COMPUTER**
15 **SYSTEMS.**

16 Section 1030(a)(3) of title 18, United States Code,
17 is amended—

18 (1) by striking “the use of the Government’s
19 operation of such computer” and inserting “that use
20 by or for the Government of the United States”; and

21 (2) by striking “adversely”.

22 **SEC. 1304. INCREASED PENALTIES FOR SIGNIFICANT UNAU-**
23 **THORIZED USE OF A COMPUTER SYSTEM.**

24 Section 1030(a)(4) of title 18, United States Code,
25 is amended—

1 (1) by striking “Federal interest” and inserting
2 “protected”; and

3 (2) by inserting before the semicolon the follow-
4 ing: “and the value of such use is not more than
5 \$5,000 in any 1-year period”.

6 **SEC. 1305. PROTECTION FROM DAMAGE TO COMPUTER SYS-**
7 **TEMS.**

8 Section 1030(a)(5) of title 18, United States Code,
9 is amended to read as follows:

10 “(5)(A) knowingly causes the transmission of a
11 program, information, code, or command, and as a
12 result of such conduct, intentionally causes damage
13 without authorization, to a protected computer;

14 “(B) intentionally accesses a protected com-
15 puter without authorization, and as a result of such
16 conduct, recklessly causes damage; or

17 “(C) intentionally accesses a protected com-
18 puter without authorization, and as a result of such
19 conduct, causes damage;”.

20 **SEC. 1306. PROTECTION FROM THREATS DIRECTED**
21 **AGAINST COMPUTER SYSTEMS.**

22 Section 1030(a) of title 18, United States Code, is
23 amended by inserting after paragraph (6) the following
24 new paragraph:

1 “(7) with intent to extort from any person,
2 firm, association, educational institution, financial
3 institution, government entity, or other legal entity,
4 any money or other thing of value, transmits in
5 interstate or foreign commerce any communication
6 containing any threat to cause damage to a pro-
7 tected computer;”.

8 **SEC. 1307. INCREASED PENALTIES FOR RECIDIVISTS AND**
9 **OTHER SENTENCING CHANGES.**

10 Section 1030 of title 18, United States Code, is
11 amended—

12 (1) in subsection (c)—

13 (A) in paragraph (1), by striking “such
14 subsection” each place it appears and inserting
15 “this section”;

16 (B) in paragraph (2)—

17 (i) in subparagraph (A)—

18 (I) by inserting “, (a)(5)(C),”
19 after “(a)(3)”; and

20 (II) by striking “such sub-
21 section” and inserting “this section”;

22 (ii) by redesignating subparagraph
23 (B) as subparagraph (C);

24 (iii) by inserting immediately after
25 subparagraph (A) the following:

1 “(B) a fine under this title, imprisonment
2 for not more than 5 years, or both, in the case
3 of an offense under subsection (a)(2), if—

4 “(i) the offense was committed for
5 purposes of commercial advantage or pri-
6 vate financial gain;

7 “(ii) the offense was committed in
8 furtherance of any criminal or tortious act
9 in violation of the Constitution or laws of
10 the United States or of any State; or

11 “(iii) the value of the information ob-
12 tained exceeds \$5,000;” and

13 (iv) in subparagraph (C) (as redesignig-
14 nated), by striking “such subsection” and
15 inserting “this section”;

16 (C) in paragraph (3)—

17 (i) in subparagraph (A)—

18 (I) by striking “(a)(4) or
19 (a)(5)(A)” and inserting “(a)(4),
20 (a)(5)(A), (a)(5)(B), or (a)(7)” and

21 (II) by striking “such sub-
22 section” and inserting “this section”;
23 and

24 (ii) in subparagraph (B)—

1 (I) by striking “(a)(4) or (a)(5)”
2 and inserting “(a)(4), (a)(5)(A),
3 (a)(5)(B), (a)(5)(C), or (a)(7)”; and

4 (II) by striking “such sub-
5 section” and inserting “this section”;
6 and

7 (D) by striking paragraph (4);

8 (2) in subsection (d), by inserting “subsections
9 (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and
10 (a)(6) of” before “this section.”; and

11 (3) in subsection (e)—

12 (A) in paragraph (2)—

13 (i) by striking “Federal interest” and
14 inserting “protected”;

15 (ii) in subparagraph (A), by striking
16 “the use of the financial institution’s oper-
17 ation or the Government’s operation of
18 such computer” and inserting “that use by
19 or for the financial institution or the Gov-
20 ernment”; and

21 (iii) by amending subparagraph (B) to
22 read as follows:

23 “(B) which is used in interstate or foreign
24 commerce or communication;”;

1 (B) in paragraph (6), by striking “and”
2 the last place it appears;

3 (C) by striking the period at the end of
4 paragraph (7) and inserting “; and”; and

5 (D) by adding at the end the following new
6 paragraphs:

7 “(8) the term ‘damage’ means any impairment
8 to the integrity or availability of data, a program, a
9 system, or information, that—

10 “(A) causes loss aggregating at least
11 \$5,000 in value during any 1-year period to one
12 or more individuals;

13 “(B) modifies or impairs, or potentially
14 modifies or impairs, the medical examination,
15 diagnosis, treatment, or care of one or more in-
16 dividuals;

17 “(C) causes physical injury to any person;
18 or

19 “(D) threatens public health or safety; and

20 “(9) the term ‘government entity’ includes the
21 Government of the United States, any State or polit-
22 ical subdivision of the United States, any foreign
23 country, and any state, province, municipality, or
24 other political subdivision of a foreign country.”.

1 **SEC. 1308. CIVIL ACTIONS.**

2 Section 1030(g) of title 18, United States Code, is
3 amended—

4 (1) by striking “, other than a violation of sub-
5 section (a)(5)(B),”; and

6 (2) by striking “of any subsection other than
7 subsection (a)(5)(A)(ii)(II)(bb) or
8 (a)(5)(B)(ii)(II)(bb)” and inserting “involving dam-
9 age (as defined in subsection (e)(8)(A))”.

10 **SEC. 1309. MANDATORY REPORTING.**

11 Section 1030 of title 18, United States Code, is
12 amended by striking subsection (h).

13 **SEC. 1310. SENTENCING FOR FRAUD AND RELATED ACTIV-**
14 **ITY IN CONNECTION WITH COMPUTERS.**

15 (a) STUDY.—Not later than 60 days after the date
16 of enactment of this Act, the United States Sentencing
17 Commission shall review existing sentencing guideline lev-
18 els applicable to paragraphs (2), (3), (4), (5), and (6) of
19 section 1030(a) of title 18, United States Code, to deter-
20 mine the deterrent effect of such sentencing policies.

21 (b) AMENDMENTS.—Pursuant to its authority under
22 section 994(p) of title 28, United States Code, the United
23 States Sentencing Commission shall amend the Federal
24 Sentencing Guidelines to ensure that individuals convicted
25 under paragraphs (2), (3), (4), (5), and (6) of section

1 1030(a) of title 18, United States Code, are incarcerated
 2 for not less than 1 year.

3 **SEC. 1311. ASSET FORFEITURE FOR FRAUD AND RELATED**
 4 **ACTIVITY IN CONNECTION WITH COMPUT-**
 5 **ERS.**

6 Paragraphs (2), (3), and (4) of section 1030(c) of
 7 title 18, United States Code, are amended by inserting
 8 before the semicolon in each the following: “, and the for-
 9 feiture of any property, real or personal, used or intended
 10 to be used to commit or promote the commission of such
 11 offense”.

12 **TITLE XIV—COMPUTER**
 13 **SOFTWARE PIRACY**

14 **SEC. 1401. AMENDMENT OF TITLE 17.**

15 Section 506(a) of title 17, United States Code, is
 16 amended to read as follows:

17 “(a) CRIMINAL INFRINGEMENT.—Any person who
 18 willfully infringes a copyright—

19 “(1) for purposes of commercial advantage or
 20 private financial gain; or

21 “(2) by the malicious reproduction, distribution,
 22 or transmission, or assisting others in such repro-
 23 duction, distribution, or transmission, of one or
 24 more copies of one or more copyrighted works with
 25 a total market value of \$5,000 or more,

1 shall be punished as provided in section 2319 of title 18.”.

2 **SEC. 1402. AMENDMENT OF TITLE 18.**

3 Section 2319 of title 18, United States Code, is
4 amended—

5 (1) in subsection (b)(1), by striking “, during
6 any 180-day period, of at least 10 copies or
7 phonorecords, or 1 or more copyrighted works, with
8 a retail value of more than \$2,500” and inserting “,
9 of at least 10 copies or phonorecords are made, or
10 1 or more copyrighted works, with a retail value of
11 not less than \$5,000”;

12 (2) by redesignating subsection (c) as sub-
13 section (d); and

14 (3) by inserting after subsection (b) the follow-
15 ing new subsection:

16 “(c) The court, in imposing a sentence on a person
17 convicted of an offense described in subsection (b), shall
18 order that the person forfeit to the United States any
19 property used or intended to be used to commit or promote
20 the commission of such offense.”.

21 **TITLE XV—INTERNET GAMBLING**

22 **SEC. 1501. AMENDMENT OF TITLE 18 WITH RESPECT TO**
23 **TRANSMISSION OF WAGERING INFORMATION.**

24 Section 1084 of title 18, United States Code, is
25 amended—

1 (1) in subsection (a)—

2 (A) by striking “(a) Whoever” and insert-
3 ing “(a)(1) Whoever”;

4 (B) by striking “wire communication” each
5 place it appears and inserting “wire or elec-
6 tronic communication”;

7 (C) by striking “on any sporting event or
8 contest”; and

9 (D) by adding at the end the following new
10 paragraph:

11 “(2) Whoever being engaged in betting or wagering
12 knowingly uses a wire or electronic communication facility
13 for the transmission in interstate or foreign commerce of
14 bets or wagers or information assisting in the placing of
15 bets or wagers, or for the transmission of a wire or elec-
16 tronic communication which entitles the recipient to re-
17 ceive money or credit as a result of bets or wagers, or
18 for information assisting in the placing of bets or wagers,
19 shall be fined not more than \$5,000 or imprisoned not
20 more than 1 year, or both.”;

21 (2) by redesignating subsection (e) as sub-
22 section (f); and

23 (3) by inserting after subsection (d) the follow-
24 ing new subsection:

1 “(e)(1) Notwithstanding any provision of Federal or
2 State law, in imposing sentence on a defendant for a con-
3 viction of a violation of this section, the court shall order
4 that the defendant forfeit to the United States any prop-
5 erty, real or personal (including hardware and software),
6 involved in the offense, and any property traceable to
7 gross profits or other proceeds obtained from the offense.

8 “(2) Proceeds from property forfeited under para-
9 graph (1) shall be deposited in an account of the Depart-
10 ment of Justice.”.

11 **SEC. 1502. SENTENCING GUIDELINES.**

12 Not later than 120 days after the date of enactment
13 of this Act, the United States Sentencing Commission
14 shall—

15 (1) review the deterrent effect of existing guide-
16 lines applicable to section 1084 of title 18, United
17 States Code, and report to Congress on the results
18 of the review; and

19 (2) promulgate new guidelines or amend exist-
20 ing guidelines to ensure that individuals convicted
21 under such section are imprisoned for not less than
22 1 year.

1 **SEC. 1503. REPORT.**

2 Not later than 120 days after the date of enactment
 3 of this Act, the Attorney General shall submit a report
 4 to Congress that includes—

5 (1) an analysis of the problems associated with
 6 enforcing section 1084 of title 18, United States
 7 Code;

8 (2) recommendations for the best use of the re-
 9 sources of the Department of Justice to enforce such
 10 section;

11 (3) recommendations for the best use of the re-
 12 sources of the Federal Communications Commission
 13 to enforce such section; and

14 (4) an estimate of the amount of activity and
 15 money being used to gamble on the Internet.

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