

104TH CONGRESS
2D SESSION

S. 1991

Entitled the “Anti-Gang and Youth Violence Control Act of 1996”.

IN THE SENATE OF THE UNITED STATES

JULY 25, 1996

Mr. BIDEN (by request) introduced the following bill; which was read twice
and referred to the Committee on the Judiciary

A BILL

Entitled the “Anti-Gang and Youth Violence Control Act
of 1996”.

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 “Anti-Gang and Youth Violence Control Act of 1996”.

6 (b) **TABLE OF CONTENTS**

**TITLE I—ENHANCED PROSECUTION OF DANGEROUS JUVENILE
OFFENDERS**

Sec. 101. Short title.

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Sec. 103. Custody prior to appearance before judicial officer.

Sec. 104. Technical and conforming amendments to section 5034.

Sec. 105. Detention prior to disposition or sentencing.

Sec. 106. Speedy trial.

Sec. 107. Disposition; availability of increased detention, fines and supervised
release for juvenile offenders.

- Sec. 108. Records of crimes committed by juvenile delinquents.
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- Sec. 110. Technical amendments of sections 5031 and 5034.
- Sec. 111. Serious juvenile delinquency drug trafficking adjudications as armed career criminals act predicates.

TITLE II—THE STATE AND LOCAL COURT ASSISTANCE PROGRAM
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- Sec. 201. Short title.
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SUBTITLE A—JUVENILE GUN COURTS

- Sec. 211. Grant authorization.
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- Sec. 213. Applications.
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SUBTITLE B—JUVENILE DRUG COURTS

- Sec. 221. Juvenile drug courts.

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- Sec. 231. Flexible prison grants for post-incarceration monitoring.

TITLE III—THE GUN-FREE CHILDREN AMENDMENTS ACT

- Sec. 301. Short title.

SUBTITLE A—GUN-FREE SCHOOL ZONES AMENDMENT ACT

- Sec. 311. Interstate nexus.

SUBTITLE B—ENHANCED PROSECUTION AND PUNISHMENT OF ARMED
DANGEROUS FELONS

- Sec. 321. Enhanced penalties for discharging or possessing a firearm during a crime of violence or drug trafficking crime.

TITLE IV—THE KEEPING KIDS DRUG-FREE ACT

SUBTITLE A—PENALTY ENHANCEMENTS

- Sec. 411. Increased penalties for using minors to distribute drugs.
- Sec. 412. Increased penalties for distributing drugs to minors.
- Sec. 413. Increased penalty for drug trafficking in or near a school or other protected location.
- Sec. 414. Temporary authority to reschedule controlled substances to prevent imminent danger to public safety.
- Sec. 415. Increased penalties for using Federal property to grow or manufacture controlled substances.

- Sec. 416. Clarification of length of supervised release terms in controlled substance cases.
- Sec. 417. Technical correction to ensure compliance of sentencing guidelines with provisions of all Federal statutes.

SUBTITLE B—METHAMPHETAMINE CONTROL ACT OF 1996

- Sec. 421. Short title.
- Sec. 422. Methamphetamine penalty increases.
- Sec. 423. Penalty increases for trafficking in regulated chemicals.
- Sec. 424. Penalties for manufacture of listed chemicals outside the United States with intent to import them into the United States.
- Sec. 425. Penalties for dangerous handling of listed chemicals.
- Sec. 426. Injunctions.
- Sec. 427. Suspension of suspicious transactions involving listed chemicals.
- Sec. 428. Diversion of certain combination drug products.
- Sec. 429. Seizure and forfeiture of regulated chemicals.
- Sec. 430. Penalties for additional unlawful act.

1 **TITLE I—ENHANCED PROSECUTION OF**
 2 **DANGEROUS JUVENILE OFFENDERS ACT**
 3 **SEC. 101. SHORT TITLE.**

4 This Act may be cited as the “Enhanced Prosecution
 5 of Dangerous Juvenile Offenders Act of 1995”.

6 **SEC. 102. DELINQUENCY PROCEEDINGS OR CRIMINAL**
 7 **PROSECUTIONS IN DISTRICT COURTS.**

8 Section 5032 of title 18, United States Code, is
 9 amended to read as follows:

10 **“§ 5032. Delinquency proceedings or criminal pros-**
 11 **ecutions in district courts**

12 “(a)(1) A juvenile alleged to have committed an act
 13 of juvenile delinquency shall not be proceeded against in
 14 a court of the United States unless the Attorney General,
 15 after investigation, certifies to the appropriate district
 16 court of the United States that (A) the juvenile court or
 17 other appropriate court of a State does not have jurisdic-

1 tion or decline to assume jurisdiction over the juvenile with
2 respect to such act of alleged juvenile delinquency, or (B)
3 the offense charged is described in subsection (b)(2) (i)–
4 (vi), and (C) there is a substantial Federal interest in the
5 case or the offense to warrant the exercise of Federal ju-
6 risdiction. The requirements of this paragraph do not
7 apply to prosecutions pursuant to subsections (b) or (c)
8 or for offenses committed within the special maritime and
9 territorial jurisdiction of the United States for which the
10 maximum authorized term of imprisonment does not ex-
11 ceed six months.

12 “(2) If the Attorney General does not so certify, such
13 juvenile shall be surrendered to the appropriate legal au-
14 thorities of such State. For purposes of this section, the
15 term ‘State’ includes a State of the United States, the Dis-
16 trict of Columbia, any commonwealth, territory, or posses-
17 sion of the United States and, with regard to an act of
18 juvenile delinquency that would have been a misdemeanor
19 if committed by an adult, a federally recognized tribe.

20 “(3) If a juvenile alleged to have committed an act
21 of juvenile delinquency is not surrendered to the authori-
22 ties of a State pursuant to this section, any proceedings
23 against the juvenile shall be in an appropriate district
24 court of the United States. For such purposes, the court
25 may be convened at any time and place within the district,

1 in chambers or otherwise. The Attorney General shall pro-
2 ceed by information or as authorized by section 3401(g)
3 of this title, and no criminal prosecution shall be instituted
4 except as provided below.

5 “(b) A juvenile may be prosecuted as an adult under
6 the Federal Rules of Criminal Procedure—

7 “(1) if the juvenile has requested in writing
8 upon advice of counsel to be proceeded against as an
9 adult; or

10 “(2) if the juvenile is alleged to have committed
11 an act on or after the juvenile’s fifteenth birthday
12 which if committed by an adult would be—

13 “(i) a crime of violence (as defined in sec-
14 tion 3156(a)(4)) that is a felony;

15 “(ii) an offense described in section
16 844(d), (k), or (l), 922(x), 924 (b), (g), (j), (k),
17 or (l) of this title;

18 “(iii) a violation of section 922(o) that is
19 an offense under section 924(a)(2) of this title;

20 “(iv) a violation of section 5861 of the In-
21 ternal Revenue Code of 1986 that is an offense
22 under section 5871 of such Code (26 U.S.C.
23 5871);

24 “(v) a conspiracy to violate an offense de-
25 scribed in subsections (i), (ii), (iii), or (iv); or

1 “(vi) an offense described in section 401 or
2 408 of the Controlled Substances Act (21
3 U.S.C. 841, 848) or a conspiracy or attempt to
4 commit that offense which is punishable under
5 section 406 of the Controlled Substances Act
6 (21 U.S.C. 846), or an offense punishable
7 under section 409 or 419 of the Controlled Sub-
8 stances Act (21 U.S.C. 849, 860), or an offense
9 described in section 1002, 1003, 1005, or 1009
10 of the Controlled Substances Import and Ex-
11 port Act (21 U.S.C. 952, 953, 955, or 959), or
12 a conspiracy or attempt to commit that offense
13 which is punishable under section 1013 of the
14 Controlled Substances Import and Export Act
15 (21 U.S.C. 963).

16 “(c) A juvenile may also be prosecuted as an adult
17 under the Federal Rules of Criminal Procedure if the Ju-
18 venile is alleged to have committed an act on or after the
19 juvenile’s thirteenth birthday and before the juvenile’s fif-
20 teenth birthday which if committed by an adult would be
21 an offense described in subsection (b)(2) (i)–(vi), upon ap-
22 proval of the Attorney General or the Attorney General’s
23 designee. Any such designee shall be at a level not lower
24 than a Deputy Assistant Attorney General. Such approval
25 shall not be granted if, with respect to such a juvenile who

1 is subject to the criminal jurisdiction of an Indian Tribal
2 government and who is alleged to have committed an act
3 over which, if committed by an adult, there would be fed-
4 eral jurisdiction based solely on its commission in Indian
5 country (as defined in section 1151), the governing body
6 of the tribe having jurisdiction over the place in which the
7 alleged act was committed has prior to such act not noti-
8 fied the Attorney General in writing of its election that
9 the provisions of this subsection shall apply.

10 “(d) A determination to approve or not to approve,
11 or to institute or not to institute, a prosecution under sub-
12 section (b) or (c) shall not be reviewable in any court.

13 “(e) In a prosecution under subsection (b) or (c), the
14 juvenile may be prosecuted and convicted as an adult for
15 any other offense which is properly joined under the Fed-
16 eral Rules of Criminal Procedure, and may also be con-
17 victed of a lesser included offense.”.

18 **SEC. 103. CUSTODY PRIOR TO APPEARANCE BEFORE JUDI-**

19 **CIAL OFFICER.**

20 Section 5033 of title 18, United States Code, is
21 amended to read as follows:

22 **“§ 5033. Custody prior to appearance before judicial**
23 **officer**

24 “Whenever a juvenile is taken into custody, the ar-
25 resting officer shall immediately advise such juvenile of the

1 juvenile’s rights, in language comprehensible to a juvenile.
2 The arresting officer shall promptly take reasonable steps
3 to notify the juvenile’s parents, guardian, or custodian of
4 such custody, of the rights of the juvenile, and of the na-
5 ture of the alleged offense.

6 “The juvenile shall be taken before a judicial officer
7 without unreasonable delay.”.

8 **SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS TO**
9 **SECTION 5034.**

10 Section 5034 of title 18, United States Code, is
11 amended—

12 (1) by designating the existing paragraphs as
13 paragraphs (1), (2), and (3), respectively; and

14 (2) by inserting at the beginning of such section
15 “In a proceeding under section 5032(a)—”.

16 **SEC. 105. DETENTION PRIOR TO DISPOSITION OR SENTENC-**
17 **ING.**

18 Section 5035 of title 18, United States Code, is
19 amended to read as follows:

20 **“§ 5035. Detention prior to disposition**

21 “(a)(1) A juvenile 15 years of age or older proceeded
22 against under section 5032 (b) or (c), if detained at any
23 time prior to sentencing, shall be detained in such suitable
24 place as the Attorney General may designate. Preference
25 shall be given to a place located within, or within a reason-

1 able distance of, the district in which the juvenile is being
2 prosecuted.

3 “(2) A juvenile less than 15 years of age proceeded
4 against under section 5032 (b) or (c), if detained at any
5 time prior to sentencing, shall be detained in a suitable
6 juvenile facility located within, or within a reasonable dis-
7 tance of, the district in which the juvenile is being pros-
8 ecuted. If such a facility is not available, such a juvenile
9 may be detained in any other suitable facility located with-
10 in, or within a reasonable distance of, such district. If no
11 such facility is available, such a juvenile may be detained
12 in any other suitable place as the Attorney General may
13 designate.

14 “(3) To the maximum extent feasible, a juvenile less
15 than 15 years of age proceeded against under section 5032
16 (b) or (c) shall not be detained prior to sentencing in any
17 facility in which the juvenile has regular contact with adult
18 persons convicted of a crime or awaiting trial on criminal
19 charges.

20 “(b) A juvenile proceeded against under section
21 5032(a) shall not be detained prior to disposition in any
22 facility in which the person has regular contact with adult
23 persons convicted of a crime or awaiting trial on criminal
24 charges.

1 “(c) Every juvenile who is detained prior to dispo-
2 sition or sentencing shall be provided with reasonable safety
3 and security and with adequate food, heat, light, sanitary
4 facilities, bedding, clothing, recreation, education, and
5 medical care, including necessary psychiatric, psycho-
6 logical, or other care and treatment.”.

7 **SEC. 106. SPEEDY TRAIL.**

8 Section 5036 of title 18, United States Code, is
9 amended by—

10 (1) striking “If an alleged delinquent” and in-
11 serting “If a juvenile proceeded against under sec-
12 tion 5032(a)”;

13 (2) striking “thirty” and inserting “forty-five”;
14 and

15 (3) striking “the court,” and everything that fol-
16 lows and inserting “the court. The periods of exclu-
17 sion under section 3161(h) of this title shall apply
18 to this section.”.

19 **SEC. 107. DISPOSITION; AVAILABILITY OF INCREASED DE-**
20 **TENTION, FINES AND SUPERVISED RELEASE**
21 **FOR JUVENILE OFFENDERS.**

22 Section 5037 of title 18, United States Code, is
23 amended to read as follows:

1 § 5037. Disposition

2 “(a) In a proceeding under 5032(a), if the court finds
3 a juvenile to be a juvenile delinquent, the court shall hold
4 a hearing concerning the appropriate disposition of the ju-
5 venile no later than forty court days after the finding of
6 juvenile delinquency unless the court has ordered further
7 study pursuant to subsection (e). A predisposition report
8 shall be prepared by the probation officer who shall
9 promptly provide a copy to the juvenile, the juvenile’s
10 counsel, and the attorney for the government. Victim im-
11 pact information shall be included in the report, and vic-
12 tims, or in appropriate cases their official representatives,
13 shall be provided the opportunity to make a statement to
14 the court in person or present any information in relation
15 to the disposition. After the dispositional hearing, and
16 after considering any pertinent policy statements promul-
17 gated by the Sentencing Commission pursuant to 28
18 U.S.C. 994, the court shall enter an order to restitution
19 pursuant to section 3556, and may suspend the findings
20 of juvenile delinquency, place the juvenile on probation,
21 commit the juvenile to official detention (including the
22 possibility of a term of supervised release), and impose any
23 fine that would be authorized if the juvenile had been tried
24 and convicted as an adult. With respect to release or de-
25 tention pending an appeal or a petition for a writ of certio-

1 rari after disposition, the court shall proceed pursuant to
2 the provisions of chapter 207.

3 “(b) The term for which probation may be ordered
4 for a juvenile found to be a juvenile delinquent may not
5 extend beyond the maximum term that would be author-
6 ized by section 3561(c) if the juvenile had been tried and
7 convicted as an adult. Sections 3563, 3564, and 3565 are
8 applicable to an order placing a juvenile on probation.

9 “(c) The term for which official detention may be or-
10 dered for a juvenile found to be a juvenile delinquent may
11 not extend beyond the lesser of—

12 “(1) the maximum term of imprisonment that
13 would be authorized if the juvenile had been tried
14 and convicted as an adult;

15 “(2) ten years; or

16 “(3) the date when the juvenile becomes twen-
17 ty-six years old.

18 Section 3624 is applicable to an order placing a juvenile
19 in detention.

20 “(d) The term for which supervised release may be
21 ordered for a juvenile found to be a juvenile delinquent
22 may not extend beyond five years. Sections 3583 (c)–(i)
23 are applicable to an order placing a juvenile on supervised
24 release.

1 “(e) If the court desires more detailed information
2 concerning a juvenile alleged to have committed an act of
3 juvenile delinquency or a juvenile adjudicated delinquent,
4 it may commit the juvenile, after notice and hearing at
5 which the juvenile is represented by counsel, to the custody
6 of the Attorney General for observation and study by an
7 appropriate agency or entity. Such observation and study
8 shall be conducted on an outpatient basis, unless the court
9 determines that inpatient observation and study are nec-
10 essary to obtain the desired information. In the case of
11 an alleged juvenile delinquent, inpatient study may be or-
12 dered only with the consent of the juvenile and the juve-
13 nile’s attorney. The agency or entity shall make a complete
14 study of the alleged or adjudicated delinquent to ascertain
15 the juvenile’s personal traits, capabilities, background,
16 previous delinquency or criminal experience, mental or
17 physical defect, and any other relevant factors. The Attor-
18 ney General shall submit to the court and the attorneys
19 for the juvenile and the government the results of the
20 study within thirty days after the commitment of the juve-
21 nile, unless the court grants additional time. Time spent
22 in custody under this subsection shall be excluded for pur-
23 poses of section 5036.

24 “(f) With respect to any juvenile prosecuted and con-
25 victed as an adult under section 5032(c), the court may,

1 pursuant to guidelines promulgated by the United States
2 Sentencing Commission under section 994 of title 28, de-
3 termine to treat the conviction as an adjudication of delin-
4 quency and impose any disposition authorized under this
5 section. The United States Sentencing Commission shall
6 promulgate such guidelines as soon as practicable and not
7 later than one year from the date of enactment of this
8 Act.”.

9 **SEC. 108. RECORDS OF CRIMES COMMITTED BY JUVENILE**
10 **DELINQUENTS.**

11 (a) Section 5038 of title 18, United States Code, is
12 amended—

13 (1) in subsection (a), by amending the introduc-
14 tory language before the colon to read as follows:
15 “Throughout and upon completion of the juvenile
16 delinquency proceeding pursuant to section 5032(a),
17 the court records of the original proceeding shall be
18 safeguarded from disclosure to unauthorized per-
19 sons. The records shall be released to the extent nec-
20 essary to meet the following circumstances”;

21 (2) in subsection (a), by adding in paragraph
22 (3) before the semicolon “or analysis requested by
23 the Attorney General”;

24 (3) in subsection (a), by amending paragraph
25 (6) to read as follows:

1 “(6) communications with any victim of such
2 juvenile delinquency, or in appropriate cases with
3 the official representative of the victim, in order to
4 apprise such victim or representative of the status or
5 disposition of the proceeding or in order to effec-
6 tuate any other provision of law or to assist in a vic-
7 tim’s, or the victim’s official representative’s, allocu-
8 tion at disposition.”; and

9 (4) by striking subsections (d) and (f), by re-
10 designating subsection (e) as subsection (d), by in-
11 sserting “pursuant to section 5032 (b) or (e)” after
12 “adult” in subsection (d) as so redesignated, and by
13 adding at the end new subsections (e) and (f) as fol-
14 lows:

15 “(e) Whenever a juvenile has been adjudicated delin-
16 quent for an act that if committed by an adult would be
17 a felony or for a violation of section 922(x), the juvenile
18 shall be fingerprinted and photographed, and the finger-
19 prints and photograph shall be sent to the Federal Bureau
20 of Investigation. The court shall also transmit to the Fed-
21 eral Bureau of Investigation the information concerning
22 the adjudication, including name, date of adjudication,
23 court, offenses, and sentence, along with the notation that
24 the matter was a juvenile adjudication. The fingerprints,
25 photograph, and other records and information relating to

1 a juvenile described in this subsection, or to a juvenile who
2 is prosecuted as an adult pursuant to section 5032 (b)
3 or (c), shall be made available in the manner applicable
4 to adult defendants.

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

15 **SEC. 109. RESTRICTION ON COMMITMENT.**

16 Section 5039 of title 18, United States Code, is
17 amended to read as follows:

18 **“§ 5039. Commitment**

19 “(a) The Attorney General shall not cause any
20 juvenile less than 21 years of age adjudicated delin-
21 quent under section 5032(a) to be placed or retained
22 in an adult jail or correctional facility in which the
23 juvenile has regular contact with adults incarcerated
24 because they have been convicted of a crime or are

1 awaiting trial on criminal charges, except for place-
 2 ment in a community-based facility.

3 “(b) Every juvenile adjudicated delinquent who
 4 has been committed shall be provided with reason-
 5 able safety and security and with adequate food,
 6 heat, light, sanitary facilities, bedding, clothing,
 7 recreation, counseling, education, training, and med-
 8 ical care including necessary psychiatric, psycho-
 9 logical, or other care and treatment.”.

10 **SEC. 110. TECHNICAL AMENDMENTS OF SECTION 5031 AND**
 11 **5034.**

12 (a) Sections 5031 and 5034 of title 18, United States
 13 Code, are each amended by striking “his” each place it
 14 appears and inserting “the juvenile’s”.

15 (b) Section 5034 of title 18, United States Code, is
 16 amended by striking “magistrate” each place it appears
 17 and inserting “judicial officer”.

18 **SEC. 111. SERIOUS JUVENILE DELINQUENCY DRUG TRAF-**
 19 **FICKING ADJUDICATIONS AS ARMED CAREER**
 20 **CRIMINAL ACT PREDICATES.**

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

- 23 (1) by striking “or” at the end of clause (i);
 24 (2) by inserting “or” at the end of clause (ii);
 25 and (3) by adding at the end the following:

1 “(iii) any act of juvenile delinquency
2 that if committed by an adult would be a
3 serious drug offense described in this para-
4 graph;”.

5 **TITLE II—THE STATE AND LOCAL COURT**
6 **ASSISTANCE PROGRAM ACT**

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

8 This title may be cited as the “State and Local Courts
9 Assistance Program Act of 1996”.

10 **SEC. 202. DEFINITIONS.**

11 Unless otherwise provided, for purposes of this title—

12 (1) the term “juvenile” has the meaning given
13 such term under State law; and

14 (2) the term “State” means any State of the
15 United States, the District of Columbia, the Com-
16 monwealth of Puerto Rico, the Virgin Islands, Amer-
17 ican Samoa, Guam, and the Northern Mariana Is-
18 lands.

19 **Subtitle A—Juvenile Gun Courts**

20 **SEC. 211. GRANT AUTHORIZATION.**

21 (a) The Attorney General may provide grants to States,
22 State courts, local courts, units of local government, and
23 Indian tribes, and Alaskan Native Villages for court-based
24 juvenile justice programs that target young firearm of-
25 fenders through the establishment of juvenile gun courts.

1 (b) CONTINUED AVAILABILITY OF GRANT FUNDS.—
2 Amounts made available under this part shall remain
3 available until expended.

4 **SEC. 212. USES OF FUNDS.**

5 Grants made by the Attorney General under this section
6 shall be used to fund programs that—

7 (1) establish juvenile gun courts for adjudication
8 and prosecution of juvenile firearm offenders;

9 (2) grant prosecutorial discretion to try, in a gun
10 court, cases involving the illegal possession, use,
11 transfer, or threatened use of a firearm by a juve-
12 nile;

13 (3) require prosecutors to transfer such cases to
14 the gun court calendar no later than 30 days after
15 arraignment;

16 (4) require that gun court trials commence not
17 later than 60 days after transfer to the gun court;

18 (5) allow prosecution of appropriately aged offend-
19 ers as adults or juveniles in accordance with State
20 law;

21 (6) facilitate innovative and individualized sen-
22 tencing (such as incarceration, house arrest, victim
23 impact classes, electronic monitoring, restitution,
24 and gang prevention programs);

1 (7) provide services in furtherance of paragraph
2 (6);

3 (8) limit grounds for continuances and grant con-
4 tinuances only for the shortest practicable time; and

5 (9) allow transfer of a case or an offender out of
6 the gun court by agreement of the parties, subject
7 to court approval.

8 **SEC. 213. APPLICATIONS.**

9 (a) **ELIGIBILITY.**—In order to be eligible to receive a
10 grant under this subtitle, the chief executive or chief jus-
11 tice of a State or the chief executive or chief judge of a
12 unit of local government or Indian tribe shall submit an
13 application to the Attorney General in such form and con-
14 taining such information as the Attorney General may rea-
15 sonably require.

16 (b) **REQUIREMENTS.**—Each application shall in-
17 clude—

18 (1) a request for funds for the purposes described
19 in section 212;

20 (2) a description of the communities to be served
21 by the grant, including the nature of juvenile crime,
22 juvenile violence, and juvenile firearm use and pos-
23 session in such communities;

24 (3) assurances that Federal funds received under
25 this subtitle shall be used to supplement, not sup-

1 plant, non-Federal funds that would otherwise be
2 available for activities funded under this section;

3 (4) statistical information in such form and con-
4 taining such information as the Attorney General
5 may require; and

6 (5) any additional information the Attorney Gen-
7 eral may reasonably require.

8 (c) IMPLEMENTATION PLAN.—Each applicant shall in-
9 clude a comprehensive implementation plan that con-
10 tains—

11 (1) a description of the applicant jurisdiction’s
12 juvenile crime and juvenile violence problem, includ-
13 ing gang crime, and juvenile firearm use and posses-
14 sion;

15 (2) and action plan outlining how the applicant
16 will achieve the purpose described in section 212;

17 (3) a description of any resources available in
18 the community to implement the plan; and

19 (4) a description of the applicant’s plan for
20 evaluating the performance of the gun court.

21 **SEC. 214. GRANT AWARDS.**

22 (a) GRANT-MAKING CONSIDERATIONS.—The Attor-
23 ney General shall consider the following in awarding
24 grants under this subtitle:

1 (1) Demonstrated need and evidence of the abil-
2 ity to provide the services described in the plan re-
3 quired under section 213.

4 (2) To the extent practicable, achievement of an
5 equitable geographic distribution of grant awards.

6 (3) An allotment of .5 percent of the total
7 amount appropriated each fiscal year for each State
8 that meets the requirements under this subtitle.

9 **SEC. 215. LIMITATIONS ON GRANTS; RENEWAL OF GRANTS.**

10 (a) ADMINISTRATIVE COST LIMITATION.—The Attor-
11 ney General and any grant recipient may each use not
12 more than 5 percent of the funds available under this sub-
13 title for administrative purposes, technical assistance, re-
14 search and evaluation.

15 (b) RENEWAL OF GRANTS.—A grant under this sub-
16 title may be renewed for not more than 2 additional years
17 after the first fiscal year during which the recipient re-
18 ceives its initial grant under this subtitle, subject to the
19 availability of funds, if—

20 (1) the Attorney General determines that the
21 funds made available to the recipient during the pre-
22 vious years were used in a manner required under
23 an approved application; and

1 (2) the Attorney General determines that an
2 additional grant is necessary to implement the com-
3 prehensive plan required by section 213.

4 **SEC. 216. FEDERAL SHARE.**

5 (a) IN GENERAL.—The Federal share of a grant
6 made under this subtitle may not exceed 90 percent of
7 the total costs of the program described in the application
8 submitted under section 213 for the fiscal year for which
9 the program receives assistance under this subtitle.

10 (b) WAIVER.—The Attorney General may waive, in
11 whole or in part, the requirement of a matching contribu-
12 tion under subsection (a).

13 (c) IN-KIND CONTRIBUTIONS.—In-kind contributions
14 may constitute any portion of the non-Federal share of
15 a grant under this subtitle.

16 **SEC. 217. REPORT AND EVALUATION.**

17 (a) REPORT TO THE ATTORNEY GENERAL.—States,
18 State courts, local courts, Indian tribes, or units of local
19 government that receive funds under this subtitle during
20 a fiscal year shall submit to the Attorney General not later
21 than March 1 of each year beginning in 1998, a report
22 that describes progress achieved in carrying out the plan
23 described under section 213.

24 (b) EVALUATION AND REPORT TO CONGRESS.—The
25 Attorney General shall submit to the Congress an evalua-

1 tion and report by October 1 of each year beginning in
2 1998, that contains a detailed statement regarding grant
3 awards, activities of grant recipients, a compilation of sta-
4 tistical information submitted by applicants, and an eval-
5 uation of programs established under this subtitle.

6 (c) DOCUMENTS AND INFORMATION.—Grant recipi-
7 ents shall provide the Attorney General with all relevant
8 documents and information that the Attorney General
9 deems necessary to conduct an evaluation of the effective-
10 ness of programs funded under this subtitle.

11 (d) CRITERIA.—In assessing the effectiveness of the
12 programs established and operated pursuant to this sub-
13 title, the Attorney General shall consider, at a minimum—

14 (1) the number of youths tried in gun court ses-
15 sions;

16 (2) recidivism rates of offenders tried in gun
17 court sessions;

18 (3) changes in the amount of gun and gang re-
19 lated crime in the jurisdiction of the grantee;

20 (4) the quantity of firearms and ammunition
21 recovered in gun court cases, and

22 (5) the costs of the program to the criminal jus-
23 tice system.

1 **SEC. 218. DEFINITION.**

2 For purposes of this subtitle, the term “firearm of-
3 fender” means any individual charged with an offense in-
4 volving the illegal possession, use, transfer, or threatened
5 use of a firearm.

6 **SEC. 219. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated, from the Vio-
8 lent Crime Reduction Trust Fund, such sums as may be
9 necessary to carry out this subtitle.

10 **Subtitle B—Juvenile Drug Courts**

11 **SEC. 221. JUVENILE DRUG COURTS.**

12 Title I of the Omnibus Crime Control and Safe Streets
13 Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

14 (1) by redesignating part Y as part Z;

15 (2) by redesignating section 2501 as 2601; and

16 (3) by inserting after part X the following new
17 part;

18 **“PARTY Y—JUVENILE DRUG COURTS**

19 **“SEC. 2501. GRANT AUTHORITY.**

20 “(a) APPROPRIATE DRUG COURT PROGRAMS.—The At-
21 torney General may make grants to States, State courts,
22 local courts, units of local government, and Indian tribes
23 to establish programs that—

24 “(1) involve continuous early judicial supervision
25 over juvenile offenders, other than violent offenders
26 as defined in section 227 of the Youth Development

1 and Juvenile Crime Prevention Act of 1996, with
2 substance abuse, or substance abuse-related, prob-
3 lems; and

4 “(2) integrate administration of other sanctions
5 and services, which include—

6 “(A) mandatory periodic testing for the use
7 of controlled substances or other addictive sub-
8 stances during any period of supervised release
9 or probation for each participant;

10 “(B) substance abuse treatment for each par-
11 ticipant;

12 “(C) diversion, probation, or other supervised
13 release involving the possibility of prosecution,
14 confinement, or incarceration based on non-
15 compliance with program requirements or fail-
16 ure to show satisfactory progress;

17 “(D) programmatic, offender management,
18 and aftercare services such as relapse preven-
19 tion, health care, education, vocational training,
20 job placement, housing placement, and child
21 care or other family support service for each
22 participant who requires such services;

23 “(E) payment by the offender of treatment
24 costs, to the extent practicable, such as costs
25 for urinalysis or counseling; and

1 “(2) the death of or serious bodily injury of an-
2 other person occurred as a direct result of the com-
3 mission of such offense; or

4 “(3) the individual used force against the person
5 of another.

6 **“SEC. 2504. ADMINISTRATION.**

7 “(a) REGULATORY AUTHORITY.—The Attorney General
8 shall issue any regulations and guidelines necessary to
9 carry out this part.

10 “(b) APPLICATIONS.—In addition to any other require-
11 ments that may be specified by the Attorney General, an
12 application for a grant under this part shall—

13 “(1) include a long-term strategy and detailed
14 implementation plan;

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

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

21 “(4) identify related governmental or commu-
22 nity initiatives which complement or will be coordi-
23 nated with the proposal;

24 “(5) certify that there has been appropriate
25 consultation with all affected agencies and that there

1 will be appropriate coordination with all affected
2 agencies in the implementation of the program;

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

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

9 “(8) describe the methodology that will be used in
10 evaluating the program.

11 **“SEC. 2505. APPLICATIONS.**

12 “To request funds under this part, the chief executive
13 or the chief justice of a State, or the chief executive or
14 chief judge of a unit of local government or Indian tribe
15 shall submit an application to the Attorney General in
16 such form and containing such information as the Attor-
17 ney General may reasonably require.

18 **“SEC. 2506. FEDERAL SHARE.**

19 “(a) IN GENERAL.—The Federal share of a grant
20 made under this part may not exceed 90 percent of the
21 total costs of the program described in the application sub-
22 mitted under section 2505 for the fiscal year for which
23 the program receives assistance under this part.

1 “(b) WAIVER.—The Attorney General may waive, in
2 whole or in part, the requirement of a matching contribu-
3 tion under subsection (a).

4 “(c) IN-KIND CONTRIBUTIONS.—In-kind contribu-
5 tions may constitute a portion of the non-Federal share
6 of a grant under this part.

7 **“SEC. 2507. GEOGRAPHIC DISTRIBUTION.**

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

11 **“SEC. 2508. REPORT.**

12 “A State, Indian tribe, or unit of local government
13 that receives funds under this part during a fiscal year
14 shall submit to the Attorney General, in March of the year
15 following receipt of a grant under this part, a report re-
16 garding the effectiveness of programs established pursu-
17 ant to this part.

18 **“SEC. 2509. TECHNICAL ASSISTANCE, TRAINING, AND EVAL-
19 UATION.**

20 “(a) TECHNICAL ASSISTANCE, TRAINING—The At-
21 torney General may provide technical assistance and train-
22 ing in furtherance of the purposes of this part.

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

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

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

9 **“SEC. 2510. UNAWARDED FUNDS.**

10 “The Attorney General may reallocate any grant
11 funds that are not awarded for juvenile drug courts under
12 this part for use for other juvenile delinquency and crime
13 prevention initiatives.

14 **“SEC. 2511. AUTHORIZATION OF APPROPRIATIONS.**

15 “There are authorized to be appropriated, from the
16 Violent Crime Reduction Trust Fund, such sums as may
17 be necessary to carry out this part.”.

18 **Subtitle C—Flexibility in Prison Grants**

19 **SEC. 231. FLEXIBLE PRISON GRANTS FOR POST-INCARCER-**
20 **ATION MONITORING**

21 Subtitle A of title II of the Violent Crime Control
22 and Law Enforcement Act of 1994 is amended as follows:

23 (1) in section 20102(a)—

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

1 (B) by striking the period in paragraph (3)
2 and inserting “; and”; and

3 (C) by adding at the end a new paragraph
4 as follows:

5 “(4) to provide and support post-release transi-
6 tion supervision, and monitoring, including drug
7 testing.”;

8 (2) in section 20108(b)(3)(B), by striking “and
9 sentencing reforms” and inserting “, sentencing re-
10 forms, and other reforms”; and

11 (3) in section 20109, by amending subsection
12 (b) to read as follows:

13 “(b) GRANTS TO INDIAN TRIBES.—From the
14 amounts reserved under subsection (a), the Attorney Gen-
15 eral may make grants to Indian tribes for the purposes
16 of—

17 (1) constructing jails on tribal lands for the in-
18 carceration of offenders subject to tribal jurisdiction;
19 and

20 “(2) providing and supporting post-release tran-
21 sition, supervision, and monitoring, including drug
22 testing.”.

1 **TITLE III—THE GUN-FREE CHILDREN**
 2 **AMENDMENTS ACT OF 1996**

3 **SEC. 301. SHORT TITLE.**

4 This Act may be cited as the “Gun-Free Children
 5 Amendments Act of 1996”.

6 **Subtitle A—Gun-Free School Zones**
 7 **Amendment**

8 **SEC. 311. INTERSTATE NEXUS.**

9 Section 922(q)(2)(A) of title 18, United States Code,
 10 is amended by inserting after the word “firearm” the fol-
 11 lowing: “that has moved in or that otherwise affects inter-
 12 state or foreign commerce”.

13 **Subtitle B—Enhanced Prosecution and**
 14 **Punishment of Armed Dangerous Felons**

15 **SEC. 321. ENHANCED PENALTIES FOR DISCHARGING OR**
 16 **POSSESSING A FIREARM DURING A CRIME OF**
 17 **VIOLENCE OR DRUG TRAFFICKING CRIME.**

18 (a) Sections 924(c)(1) and 929(a)(1) of title 18,
 19 United States Code, are each amended by striking “uses
 20 or carries a firearm” and inserting “possesses a firearm”.

21 (b) Section 924(c)(1) of title 18, United States Code,
 22 is further amended by inserting “of if the firearm is dis-
 23 charged or is used to cause serious bodily injury (as de-
 24 fined in section 1365 of this title),” before “to imprison-
 25 ment for ten years”.

1 **TITLE IV—THE KEEPING KIDS DRUG-FREE**
2 **ACT**

3 **Subtitle A—Penalty Enhancements**

4 **SEC. 411. INCREASED PENALTIES FOR USING MINORS TO**
5 **DISTRIBUTE DRUGS.**

6 Section 420 of the Controlled Substances Act (21
7 U.S.C. 861) is amended—

8 (1) in subsection (b) by striking “one year” and
9 inserting “three years”;

10 (2) in subsection (c) by striking “one year” and
11 inserting “five years”; and

12 (3) by amending subsection (e) to read as fol-
13 lows:

14 “(e) PROBATION PROHIBITED.—In the case of any
15 sentence imposed under this section, probation shall not
16 be granted.”.

17 **SEC 412. INCREASED PENALTIES FOR DISTRIBUTING**
18 **DRUGS TO MINORS.**

19 Section 418 of the Controlled Substances Act (21
20 U.S.C. 859) is amended—

21 (1) in subsection (a) by striking “one year” and
22 inserting “three years”; and

23 (2) in subsection (b) by striking “one year” and
24 inserting “five years”.

1 **SEC 413. INCREASED PENALTY FOR DRUG TRAFFICKING IN**
2 **OR NEAR A SCHOOL OR OTHER PROTECTED**
3 **LOCATION.**

4 Section 419 of the Controlled Substances Act (21
5 U.S.C. 860) is amended—

6 (1) in subsection (a) by striking “one year” and
7 inserting “three years”; and

8 (2) in subsection (b) by striking “three years”
9 each time it appears and inserting “five years”.

10 **SEC 414. SCHEDULING OF CERTAIN CONTROLLED SUB-**
11 **STANCES PRESENTING IMMINENT DANGER**
12 **TO PUBLIC SAFETY.**

13 (a) **RESCHEDULING OF ROHYPNOL.**—Notwithstand-
14 ing sections 201 and 202 of the Controlled Substances Act
15 (21 U.S.C. 811 and 812) respecting the scheduling of con-
16 trolled substances, the Attorney General is authorized to,
17 by order, transfer flunitrazepam from schedule IV of such
18 Act to schedule II of such Act.

19 (b) **TEMPORARY AUTHORITY TO SCHEDULE OR RE-**
20 **SCHEDULE SUBSTANCES.**—Section 201(h) of the Con-
21 trolled Substances Act (21 U.S.C. 811(h)) is amended—

22 (1) in paragraph (1) by striking “if the sub-
23 stance is not listed in any other schedule in section
24 812 of this title or”, by inserting “or II” after
25 “schedule I” each time it appears and by inserting

1 “or the rescheduling of a previously scheduled sub-
2 stance” after “ the scheduling of a substance”;

3 (2) in paragraph (2) by inserting “or reschedul-
4 ing” after “scheduling” each time it appears.

5 **SEC. 415. INCREASED PENALTIES FOR USING FEDERAL**
6 **PROPERTY TO GROW OR MANUFACTURE**
7 **CONTROLLED SUBSTANCES.**

8 (a) Section 401(b)(5) of the Controlled Substances
9 Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

10 “(5) Any person who violates subsection (a) of
11 this section by cultivating or manufacturing a con-
12 trolled substance on any property in whole or in part
13 owned by or leased to the United States or any de-
14 partment or agency thereof shall be subject to twice
15 the maximum punishment otherwise authorized for
16 the offense.”.

17 (b) The United States Sentencing Commission shall
18 amend the sentencing guidelines pursuant to 28 U.S.C.
19 994 to ensure that violations of section 401(b)(5) of the
20 Controlled Substances Act are punished substantially
21 more severely than if the violation had not occurred on
22 Federal property.

1 **SEC. 416. CLARIFICATION OF LENGTH OF SUPERVISED RE-**
2 **LEASE TERMS IN CONTROLLED SUBSTANCE**
3 **CASES.**

4 Sections 401(b)(1) (A), (B), (C), and (D) of the Con-
5 trolled Substances Act (21 U.S.C. 841(b)(1) (A), (B), (C),
6 and (D)) are each amended by striking “Any sentence”
7 and inserting “Notwithstanding section 3583 of title 18,
8 any sentence”.

9 **SEC. 417. TECHNICAL CORRECTION TO ENSURE COMPLI-**
10 **ANCE OF SENTENCING GUIDELINES WITH**
11 **PROVISIONS OF ALL FEDERAL STATUTES.**

12 Section 994(a) of title 18, United States Code, is
13 amended by striking “consistent with all pertinent provi-
14 sions of this title and title 18, United States Code,” and
15 inserting “consistent with all pertinent provisions of any
16 Federal statute”.

17 **Subtitle B—Methamphetamine Control Act of**
18 **1996**

19 **SEC. 421. SHORT TITLE.**

20 This Act may be cited as the “Methamphetamine
21 Control Act of 1996”.

22 **SEC. 422. METHAMPHETAMINE PENALTY INCREASES.**

23 (a) Section 401(b)(1)(A)(viii) of the Controlled Sub-
24 stances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by
25 striking “100 grams or more of methamphetamine,” and
26 inserting “50 grams or more of methamphetamine,” and

1 by striking “1 kilogram or more of a substance containing
2 a detectable amount of methamphetamine” and inserting
3 “500 grams or more of a mixture or substance containing
4 a detectable amount of methamphetamine”.

5 (b) Section 401(b)(1)(B)(viii) of the Controlled Sub-
6 stances Act (21 U.S.C. 841(b)(1)(B)(viii)) is amended by
7 striking “10 grams or more of methamphetamine,” and
8 inserting “5 grams or more of methamphetamine,” and
9 by striking “100 grams or more of a substance containing
10 a detectable amount of methamphetamine” and inserting
11 “50 grams or more of a mixture or substance containing
12 a detectable amount of methamphetamine”.

13 (c) Section 1010(b)(1)(H) of the Controlled Sub-
14 stances Import and Export Act (21 U.S.C. 960(b)(1)(H))
15 is amended by striking “100 grams or more of meth-
16 amphetamine,” and inserting “50 grams or more of meth-
17 amphetamine,” and by striking “1 kilogram or more of
18 a mixture or substance containing a detectable amount of
19 methamphetamine” and inserting “500 grams or more of
20 a mixture or substance containing a detectable amount of
21 methamphetamine”.

22 (d) Section 1010(b)(2)(H) of the Controlled Sub-
23 stances Import and Export Act (21 U.S.C. 960(b)(2)(H))
24 is amended by striking “10 grams or more of meth-
25 amphetamine,” and inserting “5 grams or more of meth-

1 amphetamine,” and by striking “100 grams or more of
2 a mixture or substance containing a detectable amount of
3 methamphetamine” and inserting “50 grams or more of
4 a mixture or substance containing a detectable amount of
5 methamphetamine”.

6 **SEC. 423. PENALTY INCREASES FOR TRAFFICKING IN REG-**
7 **ULATED CHEMICALS.**

8 (a) Section 401(d) of the Controlled Substances Act
9 (21 U.S.C. 841(d)) is amended by striking the period and
10 inserting the following: “or, with respect to a violation of
11 paragraph (1) or (2) of this subsection involving a list I
12 chemical, where the Government proves the quantity of
13 controlled substance that could reasonably have been man-
14 ufactured in a clandestine setting using the quantity of
15 list I chemicals possessed or distributed, the penalty cor-
16 responding to the quantity of controlled substance that
17 could have been produced under section 401(b) of the Con-
18 trolled Substances Act (21 U.S.C. 841(b)).”.

19 (b) Section 1010(d) of the Controlled Substance Im-
20 port and Export Act (21 U.S.C. 960(d)) is amended by
21 striking the period and inserting the following: “, or, with
22 respect to an importation violation of paragraph (1) or
23 (3) of this subsection involving a list I chemical, where
24 the Government proves the quantity of controlled sub-
25 stance that could reasonably have been manufactured in

1 a clandestine setting using the quantity of list I chemicals
2 imported, the penalty corresponding to the quantity of
3 controlled substance that could have been produced under
4 subchapter I of this chapter.”.

5 **SEC. 424. PENALTIES FOR MANUFACTURE OF LISTED**
6 **CHEMICALS OUTSIDE THE UNITED STATES**
7 **WITH INTENT TO IMPORT THEM INTO THE**
8 **UNITED STATES.**

9 (a) Section 1009(a) of the Controlled Substances Im-
10 port and Export Act (21 U.S.C. 959(a)) is amended—

11 (1) by inserting “or listed chemical” after
12 “schedule I or II”; and

13 (2) by inserting “or chemical” after “sub-
14 stance” in subparagraphs (1) and (2).

15 (b) Section 1010(d) of the Controlled Substances Im-
16 port and Export Act (21 U.S.C. 960(d)) is amended—

17 (1) by deleting “or” at the end of paragraph
18 (5);

19 (2) by inserting “or” at the end of paragraph
20 (6); and

21 (3) by adding a new paragraph (7) as follows:

22 “(7) manufactures, possesses with intent to dis-
23 tribute, or distributes a listed chemical in violation
24 of section 959 of this title;”.

1 **SEC. 425. PENALTIES FOR DANGEROUS HANDLING OF LIST-**
2 **ED CHEMICALS.**

3 (a) The Controlled Substances Act is amended by
4 adding at the end of part D the following new section:

5 **“§ 864. Dangerous handling of listed chemicals**

6 “(a) OFFENSE.—It is unlawful for a person to gen-
7 erate, transport, treat, store, dispose of, use, possess, dis-
8 tribute, import or export a listed chemical, or the waste
9 from the use of such chemical, in the manufacture or at-
10 tempted manufacture of a controlled substance, or with
11 the knowledge or intent that such listed chemical will be
12 used in the illegal manufacture of a controlled substance,
13 including but not limited to the clandestine laboratory set-
14 ting—

15 “(1) in violation of—

16 “(A) section 3008 (d) or (e) of the Solid
17 Waste Disposal Act (42 U.S.C. 6928 (d) or (e)
18 (relating to handling hazardous waste in a man-
19 ner inconsistent with Federal or applicable
20 State law);

21 “(B) section 103(b) of the Comprehensive
22 Environmental Response, Compensation and Li-
23 ability Act (42 U.S.C. 9603(b)) (relating to fail-
24 ure to notify as to the release of a reportable
25 quantity of a hazardous substance);

1 “(C) Sections 301(a), 307(d), 309(c) (2)
2 or (3), or 311(b)(3) of the Federal Water Pollu-
3 tion Act (33 U.S.C. 1311(a), 1317(d), 1319(c)
4 (2) or (3), or 1321(b)(3) (relating to the unlaw-
5 ful discharge of pollutants or hazardous sub-
6 stances; operation of a source in violation of a
7 pretreatment standard); or

8 “(D) 49 U.S.C. 5124 (violations of laws
9 and regulations enforced by the Department of
10 Transportation with respect to the transpor-
11 tation of hazardous material); or

12 “(2) in any manner posing an imminent danger
13 to the health and safety of another person, including
14 any Federal, State, or local law enforcement official
15 lawfully present at the site.

16 “(b) PENALTIES.—(1) A person who violates this sec-
17 tion shall be fined under title 18, United States Code, and
18 shall be sentenced to the greater of:

19 “(A) imprisonment for not less than two nor
20 more than four years;

21 “(B) imprisonment for not less than five nor
22 more than fifteen years, and up to twice the fine
23 that could be imposed under subparagraph (A), if
24 the offense involves a violation of section 3008(e) of
25 the Solid Waste Disposal Act (42 U.S.C. 6928(e) or

1 section 309(c)(2) of the Federal Water Pollution Act
2 (33 U.S.C. 1319 (c)(3));

3 “(C) imprisonment for not less than ten nor
4 more than fifteen years, and up to twice the fine
5 that could be imposed under subparagraph (A), if
6 serious bodily injury or death results from the of-
7 fense; or

8 “(D) twice the penalty otherwise applicable
9 under subparagraph (A), (B), or (C), if the defend-
10 ant committed the offense after a prior conviction
11 for an offense under this section or for a felony drug
12 offense.

13 “(2) Notwithstanding any other provision of law, a
14 term of imprisonment imposed under this section shall not
15 run concurrently with any other term of imprisonment, in-
16 cluding that imposed for the manufacture or attempted
17 manufacture of controlled substances for which listed
18 chemicals were used in violation of this section.

19 “(3) This section is not intended to preclude prosecu-
20 tion under the provisions of law cited herein, or under any
21 other law.”.

22 (b) The table of sections for Part D of the Controlled
23 Substances Act is amended by adding at the end the fol-
24 lowing:

“864. Dangerous handling of listed chemicals.

“(a) Offense.

“(b) Penalties.”.

1 **SEC. 426. INJUNCTIONS.**

2 Section 403 of the Controlled Substances Act (21
3 U.S.C. § 843) is amended by adding at the end a new sub-
4 section (f), as follows:

5 “(f) INJUNCTIONS.—

6 “(1) In addition to any penalty provided in this
7 section, the Attorney General is authorized to com-
8 mence a civil action for appropriate relief, including
9 a permanent or temporary injunction, where there is
10 a reasonable basis to believe that a violation of this
11 section or section 842 of this subtitle is occurring or
12 will occur. Any action under this subsection may be
13 brought in the district court of the United States for
14 the district in which the defendant is located or re-
15 sides or is doing business, and such court shall have
16 jurisdiction to restrain such violation.

17 “(2) The court shall proceed as soon as prac-
18 ticable to the hearing and determination of such an
19 action. An action under this subsection is governed
20 by the Federal Rules of Civil Procedure except that,
21 if an indictment has been returned against the re-
22 spondent, discovery is governed by the Federal Rules
23 of Criminal Procedure.”.

1 person (including the legal and factual basis for the
2 order), the regulated person shall not carry out the
3 transaction.

4 “(3) Upon written request to the Attorney Gen-
5 eral, a regulated person to whom an order applies
6 under paragraph (2) is entitled to an agency hear-
7 ing, on the record, in accordance with subchapter II
8 of chapter 5 of title 5, United States Code. The
9 hearing shall be held on an expedited basis and not
10 later than 45 days after the request is made, except
11 that the hearing may be held at a later time, if so
12 requested by the regulated person.”.

13 **SEC. 428. DIVERSION OF CERTAIN COMBINATION DRUG**
14 **PRODUCTS.**

15 (a) Section 102(39)(A) of the Controlled Substances
16 Act (21 U.S.C. 802(39)(A)) is amended in subclause
17 (iv)(I)(aa) by—

18 (1) striking from “as” through the semicolon at
19 the end; and

20 (2) inserting “, pseudoephedrine or its salts, op-
21 tical isomers, or salts of optical isomers, or phenyl-
22 propanolamine or its salts, optical isomers, or salts
23 of optical isomers unless otherwise provided by regu-
24 lation of the Attorney General issued pursuant to
25 section 204(e) of this title;”.

1 (b) Section 204 of the Controlled Substances Act (21
2 U.S.C. § 814) is amended by adding at the end the follow-
3 ing new subsection:

4 “(e) The Attorney General may by regulation rein-
5 state the exemption with respect to a particular ephedrine,
6 pseudoephedrine or phenylpropanolamine drug product if
7 the Attorney General determines that the drug product is
8 manufactured and distributed in a manner that prevents
9 diversion. In making this determination the Attorney Gen-
10 eral shall consider the factors listed in subsection (d)(2)
11 of this section. Any regulation issued pursuant to this sub-
12 section may be amended or revoked based on the factors
13 listed in subsection (d)(4) of this section.

14 **SEC. 429. SEIZURE AND FORFEITURE OF REGULATED**
15 **CHEMICALS.**

16 (a) Section 404 of the Controlled Substances Act (21
17 U.S.C. 844) is amended)—

18 (1) in subsection (a)—

19 (A) by inserting the following after “of this
20 chapter” in the first sentence: “or to possess
21 any list I chemical obtained pursuant to or
22 under authority of a registration issued to that
23 person under section 303 of this title or section
24 1008 of title III if that registration has been
25 revoked or suspended, if that registration has

1 expired or if the registrant has ceased to do
2 business in the manner contemplated by his
3 registration”; and

4 (B) by inserting “or chemical” after “drug
5 or narcotic” wherever that phrase appears; and
6 (2) in subsection (c)—

7 (A) by inserting “or chemical” after “drug
8 or narcotic”; and

9 (B) by inserting “or which is a listed
10 chemical or a chemical controlled under state
11 law” after “this subchapter”.

12 (b) Section 511(a) of the Controlled Substances Act
13 (21 U.S.C. 881(a)) is amended—

14 (1) in paragraph (2) by inserting “or listed
15 chemical” after “controlled substance”;

16 (2) in paragraph (6) by inserting “or listed
17 chemical” after “controlled substance”; and

18 (3) in paragraph (9) by striking “a felony pro-
19 vision of”.

20 (c) Section 607 of the Tariff Act of 1930 (19 U.S.C.
21 1607) is amended by—

22 (1) in paragraph (a)(3), inserting “or listed
23 chemical” after “controlled substance”; and

24 (2) by amending paragraph (b) to read as fol-
25 lows:

1 “(b) As used in this section, the terms ‘controlled
2 substance’ and ‘listed chemical’ have the meaning given
3 these terms in section 102 of the Controlled Substances
4 Act (21 U.S.C. 802).”.

5 **SEC. 430. PENALTIES FOR ADDITIONAL UNLAWFUL ACT.**

6 (a) Section 402(a) of the Controlled Substances Act
7 (21 U.S.C. 842(a)) is amended by—

8 (1) in paragraph (9) striking “or” after the
9 semicolon;

10 (2) in paragraph (10) by striking the period
11 and inserting “; or”; and

12 (3) adding a new paragraph (11), as follows:

13 “(11) to sell or otherwise distribute a labora-
14 tory supply to a person who uses or attempts to use
15 the laboratory supply to manufacture a controlled
16 substance or listed chemical in violation of this sub-
17 chapter or subchapter II of this chapter, without ex-
18 ercising reasonable care to assure that the labora-
19 tory supply will not be used for an illicit purpose;
20 *Provided*, That the person or firm has been notified
21 by the Attorney General, or otherwise had actual
22 knowledge, that within the previous two years, a lab-
23 oratory supply sold or otherwise distributed by the
24 person has been found at a clandestine laboratory
25 for the unlawful production of a controlled substance

1 or listed chemical, or has been found in the posses-
2 sion of a person who intends to use or furnish the
3 laboratory supply to such a clandestine laboratory.
4 As used in this paragraph the term ‘laboratory sup-
5 ply’ means a listed chemical or substance on a spe-
6 cial surveillance list published by the Attorney Gen-
7 eral, which list contains chemicals, products, mate-
8 rials, or equipment used in the manufacture of con-
9 trolled substances and listed chemicals.”.

10 (b) Section 402(c) of the Controlled Substances Act
11 (21 U.S.C. 842(c)) is amended by adding a new subpara-
12 graph (2)(C), as follows:

13 “(C) In addition to the penalties set forth
14 elsewhere in this subchapter or subchapter II of
15 this chapter, any person who violates paragraph
16 (11) of subsection (a) of this section shall, with
17 respect to any such violation, be subject to a
18 civil penalty of not more than \$100,000 if the
19 violator is an individual, and not more than
20 \$250,000 if the violator is other than an indi-
21 vidual, but shall not be subject to criminal pen-
22 alties for such act under this section.”.

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