

Calendar No. 102

104TH CONGRESS
1ST SESSION

S. 735

A BILL

To prevent and punish acts of terrorism, and for
other purposes.

MAY 1, 1995

Read the second time and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, APRIL 24), 1995

Mr. DOLE (for himself, Mr. HATCH, Mr. NICKLES, Mr. THURMOND, Mr. SIMPSON, Mr. BROWN, Mr. KYL, and Mr. GRAMM) introduced the following bill; which was read the first time

MAY 1, 1995

Read the second time and placed on the calendar

A BILL

To prevent and punish acts of terrorism, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Terror-
5 ism Prevention Act of 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

Sec. 1. Short title.

★(Star Print)

Sec. 2. Table of contents.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

- Sec. 101. Increased penalty for conspiracies involving explosives.
- Sec. 102. Acts of terrorism transcending national boundaries.
- Sec. 103. Conspiracy to harm people and property overseas.
- Sec. 104. Increased penalties for certain terrorism crimes.
- Sec. 105. Firearms and explosives.
- Sec. 106. Penalty for possession of stolen explosives.
- Sec. 107. Enhanced penalties for use of explosives or arson.

TITLE II—COMBATING INTERNATIONAL TERRORISM

- Sec. 201. Findings.
- Sec. 202. Prohibition on assistance to countries that aid terrorist states.
- Sec. 203. Prohibition on assistance to countries that provide military equipment to terrorist states.
- Sec. 204. Opposition to assistance by international financial institutions to terrorist states.
- Sec. 205. Antiterrorism assistance.
- Sec. 206. Jurisdiction for lawsuits against terrorist states.
- Sec. 207. Technology transfers to terrorist states.
- Sec. 208. Report on support for international terrorists.

TITLE III—ALIEN REMOVAL

- Sec. 301. Alien terrorist removal.
- Sec. 302. Extradition of aliens.
- Sec. 303. Changes to the Immigration and Nationality Act to facilitate removal of alien terrorists.
- Sec. 304. Access to certain confidential immigration and naturalization files through court order.

TITLE IV—CONTROL OF FUNDRAISING FOR TERRORISM
ACTIVITIES

- Sec. 401. Prohibition on terrorist fundraising.
- Sec. 402. Correction to material support provision.

TITLE V—ASSISTANCE TO FEDERAL LAW ENFORCEMENT
AGENCIES

Subtitle A—Antiterrorism Assistance

- Sec. 501. Study and report on domestic terrorism.
- Sec. 502. Federal Bureau of Investigation counterintelligence.
- Sec. 503. Administrative subpoenas for common carriers and innkeepers.
- Sec. 504. Increase in maximum rewards for information concerning international terrorism.
- Sec. 505. Federal Bureau of Investigation report.

Subtitle B—Intelligence

- Sec. 511. Study and report on electronic surveillance.
- Sec. 512. Wiretap authority for terrorism and related offenses.
- Sec. 513. Participation of foreign and State government personnel in interceptions of communications.

- Sec. 514. Disclosure of intercepted communications to foreign law enforcement agencies.
- Sec. 515. Authorization for interceptions of communications in certain terrorism related offenses.

Subtitle C—Additional Funding for Law Enforcement

- Sec. 521. Federal Bureau of Investigation assistance to combat terrorism.
- Sec. 522. Authorization of additional appropriations for the United States Customs Service.
- Sec. 523. Authorization of additional appropriations for the Immigration and Naturalization Service.
- Sec. 524. Drug Enforcement Administration.
- Sec. 525. Department of Justice.
- Sec. 526. Funding source.

TITLE VI—TERRORIST INTERDICTION

- Sec. 601. Terrorist interdiction.

TITLE VII—CRIMINAL PROCEDURAL IMPROVEMENTS

Subtitle A—Habeas Corpus Reform

- Sec. 701. Filing deadlines.
- Sec. 702. Appeal.
- Sec. 703. Amendment of Federal Rules of Appellate Procedure.
- Sec. 704. Section 2254 amendments.
- Sec. 705. Section 2255 amendments.
- Sec. 706. Limits on second or successive applications.
- Sec. 707. Death penalty litigation procedures.
- Sec. 708. Technical amendment.

Subtitle B—Criminal Procedural Improvements

- Sec. 721. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
- Sec. 722. Extension of territorial sea.
- Sec. 723. Jurisdiction of United States courts over acts of international terrorism.
- Sec. 724. Addition of foreign murder as a money laundering predicate.
- Sec. 725. Expansion of weapons of mass destruction statute.
- Sec. 726. Addition of terrorist offenses to the RICO statute.
- Sec. 727. Addition of terrorism offenses to the money laundering statute.
- Sec. 728. Clarification of maritime violence jurisdiction.
- Sec. 729. Protection of current or former officials, officers, or employees of the United States.
- Sec. 730. Addition of conspiracy to terrorism offenses.
- Sec. 731. Pretrial detention for possession of firearms or explosives by convicted felons.
- Sec. 732. Inclusion of alien smuggling as a RICO predicate.

TITLE VIII—MARKING OF PLASTIC EXPLOSIVES

- Sec. 801. Implementation of the convention on the marking of plastic explosives.
- Sec. 802. Study on tagging of explosive materials.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. Severability.

1 **TITLE I—SUBSTANTIVE**
2 **CRIMINAL LAW ENHANCEMENTS**

3 **SEC. 101. INCREASED PENALTY FOR CONSPIRACIES IN-**
4 **VOLVING EXPLOSIVES.**

5 Section 844 of title 18, United States Code, is
6 amended by adding at the end the following new sub-
7 section:

8 “(n) Except as otherwise provided in this section, a
9 person who conspires to commit any offense defined in this
10 chapter shall be subject to the same penalties (other than
11 the penalty of death) as those prescribed for the offense
12 the commission of which was the object of the conspir-
13 acy.”.

14 **SEC. 102. ACTS OF TERRORISM TRANSCENDING NATIONAL**
15 **BOUNDARIES.**

16 (a) REDESIGNATION.—(1) Chapter 113B of title 18,
17 United States Code (relating to torture) is redesignated
18 as chapter 113C.

19 (2) The chapter analysis of title 18, United States
20 Code, is amended by striking “113B” the second place
21 it appears and inserting “113C”.

22 (b) OFFENSE.—Chapter 113B of title 18, United
23 States Code, is amended by inserting after section 2332a
24 the following new section:

1 **“§ 2332b. Acts of terrorism transcending national**
2 **boundaries**

3 “(a) PURPOSE.—The purpose of this section is to
4 provide Federal law enforcement the fullest possible basis
5 allowed under the Constitution to address acts of inter-
6 national terrorism occurring within the United States.

7 “(b) PROHIBITED ACTS.—

8 “(1) Whoever, in a circumstance described in
9 subsection (c)—

10 “(A) kills, kidnaps, maims, commits an as-
11 sult resulting in serious bodily injury, or as-
12 sults with a dangerous weapon any individual
13 within the United States; or

14 “(B) destroys or damages any structure,
15 conveyance or other real or personal property
16 within the United States,
17 in violation of the laws of any State or the United
18 States shall be punished as prescribed in subsection
19 (d).

20 “(2) Whoever threatens, attempts, or conspires
21 to commit an offense under subsection (b)(1) shall
22 be punished under subsection (d).

23 “(c) JURISDICTIONAL BASES.—

24 “(1) This section applies to conduct described
25 in subsection (b) if—

1 “(A) the mail, or any facility utilized in
2 interstate commerce, is used in furtherance of
3 the commission of the offense or to effect the
4 escape of any offender after the commission of
5 such offense;

6 “(B) the victim, or intended victim, is the
7 United States Government or any official, offi-
8 cer, employee, or agent of the legislative, execu-
9 tive, or judicial branches, or of any department
10 or agency, of the United States;

11 “(C) the structure, conveyance or other
12 real or personal property was in whole or in
13 part owned, possessed, or used by, or leased to
14 the United States, or any department or agency
15 thereof;

16 “(D) the offense is committed in the terri-
17 torial sea (including the airspace above and the
18 seabed and subsoil below, and artificial islands
19 and fixed structures erected thereon) of the
20 United States; or

21 “(E) the offense is committed in places
22 within the United States that are in the special
23 maritime and territorial jurisdiction of the
24 United States.

1 “(2) Jurisdiction shall exist over all principals,
2 coconspirators, and accessories after the fact, of an
3 offense under subsection (b) if at least one of the
4 circumstances described in paragraph (1) is applica-
5 ble to at least one offender.

6 “(d) PENALTIES.—

7 “(1) Whoever violates this section shall, in addi-
8 tion to the punishment provided for any other crime
9 charged in the indictment, be punished—

10 “(A) if death results to any person, by
11 death, or by imprisonment for any term of
12 years or for life;

13 “(B) for kidnapping, by imprisonment for
14 any term of years or for life;

15 “(C) for maiming, by imprisonment for not
16 more than 35 years;

17 “(D) for assault with a dangerous weapon
18 or assault resulting in serious bodily injury, by
19 imprisonment for not more than 30 years;

20 “(E) for destroying or damaging any
21 structure, conveyance, or other real or personal
22 property, by imprisonment for not more than
23 25 years;

24 “(F) for attempting or conspiring to com-
25 mit the offense, for any term of years up to the

1 maximum punishment that would have applied
2 had the offense been completed; and

3 “(G) for threatening to commit the of-
4 fense, by imprisonment for not more than 10
5 years.

6 “(2) Notwithstanding any other provision of
7 law, the court shall not place on probation any per-
8 son convicted of a violation of this section.

9 “(3) Notwithstanding any other provision of
10 law, a term of imprisonment imposed under this sec-
11 tion shall not run concurrently with any other term
12 of imprisonment.

13 “(e) LIMITATION ON PROSECUTION.—No indictment
14 for any offense described in this section shall be sought
15 by the United States except after the Attorney General,
16 or the highest ranking subordinate of the Attorney Gen-
17 eral with responsibility for criminal prosecutions, has
18 made a written certification that, in the judgment of the
19 certifying official—

20 “(1) such offense, or any activity preparatory to
21 its commission, transcended national boundaries;
22 and

23 “(2) the offense appears to have been intended
24 to coerce, intimidate, or retaliate against a govern-

1 ment or a civilian population, including any segment
2 thereof.

3 “(f) INVESTIGATIVE RESPONSIBILITY.—Violations of
4 this section shall be investigated by the Attorney General.

5 “(g) EVIDENCE.—

6 “(1) In a prosecution under this section, the
7 United States shall not be required to prove knowl-
8 edge by any defendant of a jurisdictional base al-
9 leged in the indictment.

10 “(2) In a prosecution under this section that is
11 based upon the adoption of State law, only the ele-
12 ments of the offense under State law, and not any
13 provisions pertaining to criminal procedure or evi-
14 dence, are adopted.

15 “(h) EXTRATERRITORIAL JURISDICTION.—There is
16 extraterritorial Federal jurisdiction over—

17 “(1) any offense under subsection (b), including
18 any threat, attempt, or conspiracy to commit such
19 offense; and

20 “(2) conduct that, under section 3 of this title,
21 renders any person an accessory after the fact to an
22 offense under subsection (b).

23 “(i) DEFINITIONS.—As used in this section—

24 “(1) the term ‘commerce’ has the meaning
25 given such term in section 1951(b)(3) of this title;

1 “(2) the term ‘facility utilized in any manner in
2 commerce’ includes means of transportation, com-
3 munication, and transmission;

4 “(3) the term ‘national of the United States’
5 has the meaning given such term in section
6 101(a)(22) of the Immigration and Nationality Act
7 (8 U.S.C. 1101(a)(22));

8 “(4) the term ‘serious bodily injury’ has the
9 meaning given such term in section 1365(g)(3) of
10 this title;

11 “(5) the term ‘State’ includes a State of the
12 United States, the District of Columbia, and any
13 commonwealth, territory, or possession of the United
14 States; and

15 “(6) the term ‘territorial sea of the United
16 States’ means all waters extending seaward to 12
17 nautical miles from the baselines of the United
18 States determined in accordance with international
19 law.”.

20 (c) TECHNICAL AMENDMENT.—The chapter analysis
21 for Chapter 113B of title 18, United States Code, is
22 amended by inserting after the item relating to section
23 2332a, the following new item:

“2332b. Acts of terrorism transcending national boundaries.”.

24 (d) STATUTE OF LIMITATIONS AMENDMENT.—Sec-
25 tion 3286 of title 18, United States Code, is amended—

1 (1) by striking “any offense” and inserting
2 “any non-capital offense”;

3 (2) by striking “36” and inserting “37”;

4 (3) by striking “2331” and inserting “2332”;

5 (4) by striking “2339” and inserting “2332a”;

6 and

7 (5) by inserting “2332b (acts of terrorism tran-
8 scending national boundaries),” after “(use of weap-
9 ons of mass destruction),”.

10 (e) PRESUMPTIVE DETENTION.—Section 3142(e) of
11 title 18, United States Code, is amended by inserting “or
12 section 2332b” after “section 924(c)”.

13 (f) WIRETAP AMENDMENT.—Section 2518(11)(b)(ii)
14 of title 18, United States Code, is amended—

15 (1) by inserting “(A)” before “thwart” and

16 (2) by inserting “, or (B) commit a violation of
17 section 2332b of this title” after “facilities”.

18 **SEC. 103. CONSPIRACY TO HARM PEOPLE AND PROPERTY**

19 **OVERSEAS.**

20 (a) Section 956 of title 18, United States Code, is
21 amended to read as follows:

22 **“§956. Conspiracy to kill, kidnap, maim, or injure**
23 **certain property in a foreign country**

24 “(a)(1) Whoever, within the jurisdiction of the United
25 States, conspires with one or more other persons, regard-

1 less of where such other person or persons are located,
2 to commit at any place outside the United States an act
3 that would constitute the offense of murder, kidnapping,
4 or maiming if committed in the special maritime and terri-
5 torial jurisdiction of the United States, shall, if he or any
6 such other person commits an act within the jurisdiction
7 of the United States to effect any object of the conspiracy,
8 be punished as provided in subsection (a)(2).

9 “(2) The punishment for an offense under paragraph
10 (1) is—

11 “(A) imprisonment for any term of years or for
12 life if the offense is conspiracy to murder or kidnap;
13 and

14 “(B) imprisonment for not more than 35 years
15 if the offense is conspiracy to maim.

16 “(b) Whoever, within the jurisdiction of the United
17 States, conspires with one or more persons, regardless of
18 where such other person or persons are located, to injure
19 or destroy specific property situated within a foreign coun-
20 try and belonging to a foreign government or to any politi-
21 cal subdivision thereof with which the United States is at
22 peace, or any railroad, canal, bridge, airport, airfield, or
23 other public utility, public conveyance, or public structure,
24 or any religious, educational, or cultural property so situ-
25 ated, shall, if he or any such other person commits an

1 act within the jurisdiction of the United States to effect
2 any object of the conspiracy, be imprisoned not more than
3 25 years.”.

4 (b) The chapter analysis for chapter 45 of title 18,
5 United States Code, is amended by striking the item relat-
6 ing to section 956 and inserting the following:

“956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign
country.”.

7 **SEC. 104. INCREASED PENALTIES FOR CERTAIN TERROR-**
8 **ISM CRIMES.**

9 (a) Title 18, United States Code, is amended—

10 (1) in section 114, by striking “maim or dis-
11 figure” and inserting “torture, maim, or disfigure”;

12 (2) in section 371, by striking “five years” and
13 inserting “20 years”;

14 (3) in section 755, by striking “two years” and
15 inserting “five years”;

16 (4) in section 756, by striking “one year” and
17 inserting “five years”;

18 (5) in section 878(a), by striking “by killing,
19 kidnapping, or assaulting a foreign official, official
20 guest, or internationally protected person”;

21 (6) in section 1113, by striking “three years or
22 fined” and inserting “seven years”;

23 (7) in section 1116(a), by inserting “or to
24 death,” after “imprisonment for life,”; and

1 (8) in section 2332(c), by striking “five” and
2 inserting “ten”.

3 (b) Section 1472(l)(1) of title 49 App., United States
4 Code is amended by striking “one” and inserting “ten”.

5 **SEC. 105. FIREARMS AND EXPLOSIVES.**

6 Section 924 of title 18, United States Code, is
7 amended—

8 (1) in subsection (h)—

9 (A) by inserting “or explosive materials (as
10 defined in section 841)” after “knowingly
11 transfers a firearm”; and

12 (B) by striking “not more than 10 years”
13 and inserting “not less than 10 years”; and

14 (2) by adding at the end the following new sub-
15 section:

16 “(o) Except as otherwise provided in this section, a
17 person who conspires to commit any offense defined in this
18 chapter shall be subject to the same penalties (other than
19 the penalty of death) as those prescribed for the offense
20 the commission of which was the object of the conspir-
21 acy.”.

1 **SEC. 106. PENALTY FOR POSSESSION OF STOLEN EXPLO-**
2 **SIVES.**

3 Section 842(h) of title 18, United States Code, is
4 amended by striking “to receive” and inserting “to pos-
5 sess, receive”.

6 **SEC. 107. ENHANCED PENALTIES FOR USE OF EXPLOSIVES**
7 **OR ARSON.**

8 Section 844 of title 18, United States Code, is
9 amended—

10 (1) in subsection (e), by striking “five” and in-
11 serting “10”;

12 (2) by amending subsection (f) to read as fol-
13 lows:

14 “(f)(1) Whoever maliciously damages or destroys, or
15 attempts to damage or destroy, by means of fire or an
16 explosive, any building, vehicle, or other personal or real
17 property in whole or in part owned, possessed, or used
18 by, or leased to, the United States, any department or
19 agency thereof, or any institution or organization receiving
20 Federal financial assistance shall be imprisoned for not
21 less than 5 years and not more than 20 years, fined the
22 greater of \$100,000 or the cost of repairing or replacing
23 any property that is damaged or destroyed, or both.

24 “(2) Whoever engages in conduct prohibited by this
25 subsection shall be imprisoned not less than 7 years and
26 not more than 40 years, fined the greater of \$200,000

1 or the cost of repairing or replacing any property that is
2 damaged or destroyed, or both, if the conduct results in
3 personal injury to any person, including any public safety
4 officer performing duties, as a direct or proximate result
5 of such conduct.

6 “(3) Whoever engages in conduct prohibited by this
7 subsection shall be imprisoned for any term of years, for
8 life, or sentenced to death, fined the greater of \$200,000
9 or the cost of repairing or replacing any property that is
10 damaged or destroyed, or both, if the conduct results in
11 death to any person, including any public safety officer
12 performing duties, as a direct or proximate result of such
13 conduct.”;

14 (3) in subsection (h)—

15 (A) in the first sentence by striking “5
16 years but not more than 15 years” and insert-
17 ing “10 years”; and

18 (B) in the second sentence by striking “10
19 years but not more than 25 years” and insert-
20 ing “20 years”; and

21 (4) in subsection (i)—

22 (A) by striking “not more than 20 years,
23 fined the greater of a fine under this title or the
24 cost of repairing or replacing any property that
25 is damaged or destroyed,” and inserting “not

1 less than 5 years and not more than 20 years,
2 fined the greater of \$100,000 or the cost of re-
3 pairing or replacing any property that is dam-
4 aged or destroyed”;

5 (B) by striking “not more than 40 years,
6 fined the greater of a fine under this title or the
7 cost of repairing or replacing any property that
8 is damaged or destroyed,” and inserting “not
9 less than 7 years and not more than 40 years,
10 fined the greater of \$200,000 or the cost of re-
11 pairing or replacing any property that is dam-
12 aged or destroyed”; and

13 (C) by striking “7 years” and inserting
14 “10 years”.

15 **TITLE II—COMBATING**
16 **INTERNATIONAL TERRORISM**

17 **SEC. 201. FINDINGS.**

18 The Congress finds that—

19 (1) international terrorism is among the most
20 serious transnational threats faced by the United
21 States and its allies, far eclipsing the dangers posed
22 by population growth or pollution;

23 (2) the President should make efforts to
24 counter international terrorism a national security
25 priority, including the establishment of an office in

1 the White House to coordinate United States Gov-
2 ernment efforts to counter terrorism;

3 (3) the President should undertake immediate
4 efforts to organize an international conference,
5 under the auspices of the United Nations, to discuss
6 cooperative, multilateral responses to the threat of
7 international terrorism;

8 (4) the President should use all necessary
9 means, including covert action and military force, to
10 disrupt, dismantle and destroy infrastructure used
11 by international terrorists, including terrorist train-
12 ing facilities and safe havens;

13 (5) the Congress deplores decisions to ease,
14 evade, or end international sanctions on state spon-
15 sors of terrorism, including the recent decision by
16 the United Nations to allow airline flights to and
17 from Libya despite Libya's noncompliance with
18 United Nations resolutions; and

19 (6) the President should undertake efforts to
20 increase the international isolation of state sponsors
21 of international terrorism, including efforts to
22 strengthen international sanctions, and should op-
23 pose any future initiatives to ease sanctions on
24 Libya or other state sponsors of terrorism.

1 **SEC. 202. PROHIBITION ON ASSISTANCE TO COUNTRIES**
2 **THAT AID TERRORIST STATES.**

3 The Foreign Assistance Act of 1961 is amended by
4 adding immediately after section 620F the following new
5 section:

6 **“SEC. 620G. PROHIBITION ON ASSISTANCE TO COUNTRIES**
7 **THAT AID TERRORIST STATES.**

8 “No assistance under this Act shall be provided to
9 any country that provides assistance to the government
10 of any other country for which the Secretary of State has
11 made a determination under section 620A.”.

12 **SEC. 203. PROHIBITION ON ASSISTANCE TO COUNTRIES**
13 **THAT PROVIDE MILITARY EQUIPMENT TO**
14 **TERRORIST STATES.**

15 The Foreign Assistance Act of 1961, as amended by
16 section 202, is further amended by adding immediately
17 after section 620G the following new section:

18 **“SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES**
19 **THAT PROVIDE MILITARY EQUIPMENT TO**
20 **TERRORIST STATES.**

21 “No assistance under this Act may be provided to any
22 country that provided military equipment through lease,
23 loan, grant, sale, or other means in the previous fiscal year
24 to any country for which the Secretary of State has made
25 a determination under section 620A, unless the President
26 determines and reports to Congress, not later than 15

1 days prior to providing such assistance, in accordance with
2 the procedures in section 634A, that such assistance is
3 in the national security interest of the United States.”.

4 **SEC. 204. OPPOSITION TO ASSISTANCE BY INTERNATIONAL**
5 **FINANCIAL INSTITUTIONS TO TERRORIST**
6 **STATES.**

7 The International Financial Institutions Act is
8 amended by inserting after section 1620 the following new
9 section:

10 **“SEC. 1621. OPPOSITION TO ASSISTANCE BY INTER-**
11 **NATIONAL FINANCIAL INSTITUTIONS TO TER-**
12 **RORIST STATES.**

13 “(a) IN GENERAL.—The Secretary of the Treasury
14 shall instruct the United States Executive Director of each
15 international financial institution to vote against any loan
16 or other use of the funds of the respective institution to
17 or for a country for which the Secretary of State has made
18 a determination under section 6(j) of the Export Adminis-
19 tration Act of 1979 or section 620A of the Foreign Assist-
20 ance Act of 1961.

21 “(b) DEFINITION.—For purposes of this section, the
22 term ‘international financial institution’ includes—

23 “(1) the International Bank for Reconstruction
24 and Development, the International Development
25 Association, and the International Monetary Fund;

1 “(2) wherever applicable, the Inter-American
2 Bank, the Asian Development Bank, the European
3 Bank for Reconstruction and Development, the Afri-
4 can Development Bank, and the African Develop-
5 ment Fund; and

6 “(3) any similar institution established after the
7 date of enactment of this section.”.

8 **SEC. 205. ANTITERRORISM ASSISTANCE.**

9 (a) FOREIGN ASSISTANCE ACT.—Section 573 of the
10 Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is
11 amended—

12 (1) in subsection (c), by striking “development
13 and implementation of the antiterrorism assistance
14 program under this chapter, including”;

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

17 “(d)(1) Arms and ammunition may be provided
18 under this chapter only if they are directly related to
19 antiterrorism assistance.

20 “(2) The value (in terms of original acquisition cost)
21 of all equipment and commodities provided under this
22 chapter may not exceed 30 percent of the funds made
23 available to carry out this chapter for that fiscal year.”;
24 and

25 (3) by striking subsection (f).

1 (b) ASSISTANCE TO FOREIGN COUNTRIES.—Notwith-
2 standing any other provision of law (except section 620A
3 of the Foreign Assistance Act of 1961) not more than
4 \$1,000,000 in assistance may be provided to a foreign
5 country for counterterrorism efforts in any fiscal year if—

6 (1) such assistance is for the purpose of pro-
7 tecting the property of the United States Govern-
8 ment or the life and property of any United States
9 citizen, or furthering the apprehension of any indi-
10 vidual involved in any act of terrorism against such
11 property or persons; and

12 (2) the appropriate committees of Congress are
13 notified not later than 15 days prior to the provision
14 of such assistance.

15 **SEC. 206. JURISDICTION FOR LAWSUITS AGAINST TERROR-**
16 **IST STATES.**

17 Section 1605 of title 28, United States Code, is
18 amended by inserting after subsection (d), the following
19 new section:

20 “(e) A foreign country designated as a state sponsor
21 of terrorism under section 6(j) of the Export Administra-
22 tion Act of 1979 or section 620A of the Foreign Assist-
23 ance Act of 1961 shall not be immune from the jurisdic-
24 tion of the courts of the United States.”.

1 **SEC. 207. TECHNOLOGY TRANSFERS TO TERRORIST**
2 **STATES.**

3 (a) **CRITICAL TECHNOLOGY.**—The Secretary of State
4 shall provide an annual report to the Speaker of the House
5 of Representatives and to the Chairman of the Committee
6 on Foreign Relations of the United States Senate includ-
7 ing a list of all products and technologies that could be
8 used to promote or engage in terrorist acts, including nec-
9 essary support equipment, which shall be designated as
10 “critical technology” for the purposes of this Act.

11 (b) **TECHNOLOGY TRANSFERS.**—Notwithstanding
12 any other provision of law, no product or technology man-
13 ufactured or developed in the United States or by a sub-
14 sidiary of a United States body that has been determined
15 by the Secretary of the State to be critical technology or
16 product under section (a) may be sold by the United
17 States Government or by private United States commer-
18 cial interests to a state sponsor of terrorism as determined
19 by the Secretary of State under section 6(j) of the Export
20 Administration Act of 1979 or section 620A of the For-
21 eign Assistance Act of 1961 to any entity or organization
22 operating within such a state sponsor of terrorism.

23 **SEC. 208. REPORT ON SUPPORT FOR INTERNATIONAL TER-**
24 **RORISTS.**

25 Not later than 60 days after the date of enactment
26 of this Act, and annually thereafter in the report required

1 by section 140 of the Foreign Relations Authorization Act,
2 Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), the Sec-
3 retary of State shall submit a report to the Speaker of
4 the House of Representatives and the Committee on For-
5 eign Relations of the Senate that includes—

6 (1) a detailed assessment of any country that
7 provided support of any type for international ter-
8 rorism, terrorist groups, or individual terrorists, in-
9 cluding countries that knowingly allowed terrorist
10 groups or individuals to transit or reside in their ter-
11 ritory, regardless of whether terrorist acts were com-
12 mitted on their territory by such individuals;

13 (2) a detailed assessment of individual country
14 efforts to take effective action against countries
15 named in section 6(j) of the Export Administration
16 Act of 1979 (50 U.S.C. App. 2405(j)), including the
17 status of compliance with international sanctions
18 and the status of bilateral economic relations; and

19 (3) United States Government efforts to imple-
20 ment this title.

21 **TITLE III—ALIEN REMOVAL**

22 **SEC. 301. ALIEN TERRORIST REMOVAL.**

23 The Immigration and Nationality Act (8 U.S.C. 1101
24 et seq.) is amended by inserting immediately after section
25 242B the following new section:

1 “REMOVAL OF ALIEN TERRORISTS

2 “SEC. 242C. (a) DEFINITIONS.—As used in this sec-
3 tion—

4 “(1) the term ‘alien terrorist’ means any alien
5 described in section 241(a)(4)(B);

6 “(2) the term ‘classified information’ has the
7 same meaning as defined in section 1(a) of the Clas-
8 sified Information Procedures Act (18 U.S.C. App.
9 IV);

10 “(3) the term ‘national security’ has the same
11 meaning as defined in section 1(b) of the Classified
12 Information Procedures Act (18 U.S.C. App. IV);

13 “(4) the term ‘special court’ means the court
14 described in subsection (d) of this section; and

15 “(5) the term ‘special removal hearing’ means
16 the hearing described in subsection (f) of this sec-
17 tion.

18 “(b) APPLICATION FOR USE OF PROCEDURES.—This
19 section shall apply whenever the Attorney General certifies
20 under seal to the special court that—

21 “(1) the Attorney General or Deputy Attorney
22 General has approved of the proceeding under this
23 section;

24 “(2) an alien terrorist is physically present in
25 the United States; and

1 “(3) removal of such alien terrorist by deporta-
2 tion proceedings described in sections 242, 242A, or
3 242B would pose a risk to the national security of
4 the United States because such proceedings would
5 disclose classified information.

6 “(c) CUSTODY AND RELEASE PENDING HEARING.—
7 (1) The Attorney General may take into custody any alien
8 with respect to whom a certification has been made under
9 subsection (b), and notwithstanding any other provision
10 of law, may retain such alien in custody in accordance with
11 this subsection.

12 “(2)(A) An alien with respect to whom a certification
13 has been made under subsection (b) shall be given a re-
14 lease hearing before the special court designated pursuant
15 to subsection (d).

16 “(B) The judge shall grant the alien release, subject
17 to such terms and conditions prescribed by the court (in-
18 cluding the posting of any monetary amount), pending the
19 special removal hearing if—

20 “(i) the alien is lawfully admitted for perma-
21 nent residence in the United States;

22 “(ii) the alien demonstrates that the alien, if re-
23 leased, is not likely to flee; and

1 “(iii) the alien demonstrates that release of the
2 alien will not endanger national security or the safe-
3 ty of any person or the community.

4 “(C) The judge may consider classified information
5 submitted in camera and ex parte in making a determina-
6 tion whether to release an alien pending the special hear-
7 ing.

8 “(d) SPECIAL COURT.—(1) The Chief Justice of the
9 United States shall publicly designate not more than 5
10 judges from up to 5 United States judicial districts to hear
11 and decide cases arising under this section, in a manner
12 consistent with the designation of judges described in sec-
13 tion 103(a) of the Foreign Intelligence Surveillance Act
14 (50 U.S.C. 1803(a)).

15 “(2) The Chief Justice may, in the Chief Justice’s
16 discretion, designate the same judges under this section
17 as are designated pursuant to section 1803(a) of title 50,
18 United States Code.

19 “(e) INVOCATION OF SPECIAL COURT PROCEDURE.—
20 (1) When the Attorney General makes the application de-
21 scribed in subsection (b), a single judge of the special
22 court shall consider the application in camera and ex
23 parte.

1 “(2) The judge shall invoke the procedures of sub-
2 section (f), if the judge determines that there is probable
3 cause to believe that—

4 “(A) the alien who is the subject of the applica-
5 tion has been correctly identified; and

6 “(B) a deportation proceeding described in sec-
7 tion 242, 242A, or 242B would pose a risk to the
8 national security of the United States because such
9 proceedings would disclose classified information.

10 “(f) SPECIAL REMOVAL HEARING.—(1) Except as
11 provided in paragraph (4), the special removal hearing au-
12 thorized by a showing of probable cause described in sub-
13 section (e)(2) shall be open to the public.

14 “(2) The alien shall have a right to be present at such
15 hearing and to be represented by counsel. Any alien finan-
16 cially unable to obtain counsel shall be entitled to have
17 counsel assigned to represent such alien. Counsel may be
18 appointed as described in section 3006A of title 18, United
19 States Code.

20 “(3) The alien shall have a right to introduce evi-
21 dence on his own behalf, and except as provided in para-
22 graph (4), shall have a right to cross-examine any witness
23 or request that the judge issue a subpoena for the pres-
24 ence of a named witness.

1 “(4) The judge shall authorize the introduction in
2 camera and ex parte of any item of evidence for which
3 the Attorney General determines that public disclosure
4 would pose a risk to the national security of the United
5 States because it would disclose classified information.
6 With respect to such evidence, the Attorney General shall
7 also submit to the court either—

8 “(A) a statement admitting relevant facts that
9 the specific evidence would tend to prove; or

10 “(B) a summary of the specific evidence pre-
11 pared in accordance with paragraph (5).

12 “(5)(A) The information submitted under paragraph
13 (4)(B) shall contain a summary of the classified informa-
14 tion that does not pose a risk to national security.

15 “(B) The judge shall approve the summary if the
16 judge finds that the summary is sufficient to inform the
17 alien of the general nature of the evidence that such per-
18 son is an alien as described in section 241(a), and to per-
19 mit the alien to prepare a defense.

20 “(C) The Attorney General shall cause to be delivered
21 to the alien of a copy of the summary approved under sub-
22 paragraph (B).

23 “(6) If the judge determines that the substituted evi-
24 dence described in paragraph (4)(B) will provide the alien
25 with substantially the same ability to make his defense as

1 would disclosure of the specific evidence, then the deter-
2 mination of deportation (described in subsection (g)) may
3 be made pursuant to this section.

4 “(g) DETERMINATION OF DEPORTATION.—If the de-
5 termination in subsection (f)(6) has been made, the judge
6 shall, considering the evidence on the record as a whole
7 (in camera and otherwise), require that the alien be de-
8 ported if the Attorney General proves, by clear and con-
9 vincing evidence, that the alien is subject to deportation
10 because such alien is an alien as described in section
11 241(a)(4)(B).

12 “(h) APPEALS.—(1) The alien may appeal a deter-
13 mination under subsection (g) to the United States Court
14 of Appeals for the District of Columbia Circuit, by filing
15 a notice of appeal with such court not later than 30 days
16 after the determination is made.

17 “(2) The Attorney General may appeal a determina-
18 tion under subsection (e), (f), or (g) to the court of appeals
19 for the Federal Circuit, by filing a notice of appeal with
20 such court not later than 20 days after the determination
21 is made under any one of such subsections.

22 “(3) When requested by the Attorney General, the
23 entire record of the proceeding under this section shall be
24 transmitted to the court of appeals under seal. The court

1 of appeals shall consider such appeal in camera and ex
2 parte.”.

3 **SEC. 302. EXTRADITION OF ALIENS.**

4 (a) SCOPE.—Section 3181 of title 18, United States
5 Code, is amended—

6 (1) by inserting “(a)” before “The provisions of
7 this chapter”; and

8 (2) by adding at the end the following new sub-
9 sections:

10 “(b) The provisions of this chapter shall be construed
11 to permit, in the exercise of comity, the surrender of per-
12 sons, other than citizens, nationals, or permanent resi-
13 dents of the United States, who have committed crimes
14 of violence against nationals of the United States in for-
15 eign countries without regard to the existence of any trea-
16 ty of extradition with such foreign government if the At-
17 torney General certifies, in writing, that—

18 “(1) evidence has been presented by the foreign
19 government that indicates that had the offenses been
20 committed in the United States, they would con-
21 stitute crimes of violence as defined under section 16
22 of this title; and

23 “(2) the offenses charged are not of a political
24 nature.

1 “(c) As used in this section, the term ‘national of the
2 United States’ has the meaning given such term in section
3 101(a)(22) of the Immigration and Nationality Act (8
4 U.S.C. 1101(a)(22)).”.

5 (b) FUGITIVES.—Section 3184 of title 18, United
6 States Code, is amended—

7 (1) in the first sentence by inserting after
8 “United States and any foreign government,” the
9 following: “or in cases arising under section
10 3181(b),”;

11 (2) in the first sentence by inserting after
12 “treaty or convention,” the following: “or provided
13 for under section 3181(b),”; and

14 (3) in the third sentence by inserting after
15 “treaty or convention,” the following: “or under sec-
16 tion 3181(b),”.

17 **SEC. 303. CHANGES TO THE IMMIGRATION AND NATIONAL-**
18 **ITY ACT TO FACILITATE REMOVAL OF ALIEN**
19 **TERRORISTS.**

20 (a) Section 212(a)(3)(B) of the Immigration and Na-
21 tionality Act (8 U.S.C. 1182(a)(3)(B)) is amended to read
22 as follows:

23 “(B) TERRORISM ACTIVITIES.—

24 “(i) IN GENERAL.—Any alien who—

1 “(I) has engaged in a terrorism
2 activity, or

3 “(II) a consular officer or the At-
4 torney General knows, or has reason
5 to believe, is likely to engage after
6 entry in any terrorism activity (as de-
7 fined in clause (iii)),

8 is excludable. As used in clause (B)(i), the
9 term ‘representative’ includes an officer,
10 official, or spokesman of the organization
11 and any person who directs, counsels, com-
12 mands, or induces such organization or its
13 members to engage in terrorism activity.

14 “(ii) **TERRORISM ACTIVITY DE-**
15 **FINED.**—As used in this Act, the term ‘ter-
16 rorism activity’ means any activity that is
17 unlawful under the laws of the place where
18 it is committed (or which, if it had been
19 committed in the United States, would be
20 unlawful under the laws of the United
21 States or any State), and that involves any
22 of the following:

23 “(I) The hijacking or sabotage of
24 any conveyance (including an aircraft,
25 vessel, or vehicle).

1 “(II) The seizing or detaining,
2 and threatening to kill, injure, or con-
3 tinue to detain, another individual to
4 compel a third person (including a
5 governmental organization) to do or
6 abstain from doing any act as an ex-
7 plicit or implicit condition for the re-
8 lease of the individual seized or de-
9 tained.

10 “(III) A violent attack upon an
11 internationally protected person (as
12 defined in section 1116(b)(4) of title
13 18, United States Code) or upon the
14 liberty of such a person.

15 “(IV) An assassination.

16 “(V) The use of any—

17 “(aa) biological agent, chem-
18 ical agent, or nuclear weapon or
19 device, or

20 “(bb) explosive, firearm, or
21 other weapon (other than for
22 mere personal monetary gain),
23 with intent to endanger, directly, or
24 indirectly, the safety of one or more

1 individuals or to cause substantial
2 damage to property.

3 “(VI) A threat, attempt, or con-
4 spiracy to do any of the foregoing.

5 “(iii) ENGAGE IN TERRORISM ACTIV-
6 ITY DEFINED.—As used in this Act, the
7 term ‘engage in terrorism activity’ means
8 to commit, in an individual capacity or as
9 a member of an organization, an act of ter-
10 rorism activity or an act which the actor
11 knows, or reasonably should know, affords
12 material support to any individual, organi-
13 zation, or government which the actor
14 knows or reasonably should know has com-
15 mitted or plans to commit terrorism activ-
16 ity, including any of the following acts:

17 “(I) The preparation or planning
18 of terrorism activity.

19 “(II) The gathering of informa-
20 tion on potential targets for terrorism
21 activity.

22 “(III) The providing of any type
23 of material support, including a safe
24 house, transportation, communica-
25 tions, funds, false documentation or

1 identification, weapons, explosives, or
2 training.

3 “(IV) The soliciting of funds or
4 other things of value for terrorism ac-
5 tivity or for any terrorist organization.

6 “(V) The solicitation of any indi-
7 vidual for membership in a terrorist
8 organization, terrorist government, or
9 to engage in a terrorism activity.

10 “(iv) TERRORIST ORGANIZATION DE-
11 FINED.—As used in this Act, the term ‘ter-
12 rorist organization’ means—

13 “(I) an organization engaged in,
14 or that has a significant subgroup
15 that engages in, in terrorism activity,
16 regardless of any legitimate activities
17 conducted by the organization or its
18 subgroups; and

19 “(II) an organization designated
20 by the President under section 2339B
21 of title 18.

22 “(v) TERRORISM DEFINED.—As used
23 in this Act, the term ‘terrorism’ means
24 premeditated, politically motivated violence

1 perpetrated against noncombatant tar-
2 gets.”.

3 (b) Section 241(a)(4)(B) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1251(a)(4)(B)) is amended to read
5 as follows:

6 “(B) TERRORISM ACTIVITIES.—Any alien who
7 has engaged, is engaged, or at any time after entry
8 engages in any terrorism activity (as defined in sec-
9 tion 212(a)(3)(B)).”.

10 (c) Section 291 of the Immigration and Nationality
11 Act (8 U.S.C. 1361) is amended by inserting after “cus-
12 tody of the Service.” the following new sentence: “The lim-
13 ited production authorized by this provision shall not ex-
14 tend to the records of any other agency or department
15 of the Government or to any documents that do not per-
16 tain to the respondent’s entry.”.

17 (d) Section 242(b) of the Immigration and National-
18 ity Act (8 U.S.C. 1252(b)(3)) is amended by inserting im-
19 mediately after paragraph (4) the following: “For pur-
20 poses of paragraph (3), in the case of an alien who is not
21 lawfully admitted for permanent residence and notwith-
22 standing the provisions of any other law, reasonable op-
23 portunity shall not comprehend access to classified infor-
24 mation, whether or not introduced in evidence against the
25 alien. The provisions and requirements of section 3504 of

1 title 18, United States Code, and 18 U.S.C. 3504 and the
2 International Emergency and Economic Powers Act (50
3 U.S.C. 1801 et seq.) shall not apply in such cases.”.

4 **SEC. 304. ACCESS TO CERTAIN CONFIDENTIAL IMMIGRA-**
5 **TION AND NATURALIZATION FILES THROUGH**
6 **COURT ORDER.**

7 (a) Section 245A(c)(5)(C) of the Immigration and
8 Nationality Act (8 U.S.C. 1255a(c)(5)(C)) is amended by
9 striking “General may provide” through the period and
10 inserting the following: “General may—

11 “(i) provide, in the Attorney General’s
12 discretion, for the furnishing of informa-
13 tion furnished under this section in the
14 same manner and circumstances as census
15 information may be disclosed by the Sec-
16 retary of Commerce under section 8 of title
17 13, United States Code; and

18 “(ii) may authorize an application to
19 a Federal court of competent jurisdiction
20 for, and a judge of such court may grant,
21 an order authorizing disclosure of informa-
22 tion contained in the application of the
23 alien (as a result of an investigation of the
24 alien by an investigative officer or law en-

1 enforcement officer) that is necessary to lo-
2 cate and identify the alien if—

3 “(I) such disclosure may result in
4 the discovery of information leading to
5 the location or identity of the alien;

6 “(II) such information is to be
7 used for identification of the alien
8 when there is reason to believe that
9 the alien has been killed or severely
10 incapacitated;

11 “(III) such disclosure may result
12 in the discovery of information leading
13 to the location or identity of the alien;

14 “(IV) such disclosure (and the
15 information discovered as a result of
16 such disclosure) will be used only for
17 criminal law enforcement purposes as
18 against the alien whose file is being
19 accessed;

20 “(V) may furnish information
21 under this section with respect to an
22 alien to an official coroner (upon the
23 written request of the coroner) for the
24 purposes of permitting the coroner to
25 identify a deceased individual; and

1 “(VI) may provide, in the Attor-
2 ney General’s discretion, for the fur-
3 nishing of information furnished
4 under this section in the same manner
5 and circumstances as census informa-
6 tion may be disclosed to the Secretary
7 of Commerce under section 8 of title
8 13, United States Code.”.

9 (b) Section 210(b) of the Immigration and National-
10 ity Act (8 U.S.C. 1160(b)) is amended—

11 (1) in paragraph (5), by inserting before the pe-
12 riod at the end the following: “, except as allowed
13 by a court order issued pursuant to paragraph (6)
14 of this subsection”; and

15 (2) in paragraph (6)—

16 (A) by striking the period at the end of
17 subparagraph (C) and inserting a comma; and

18 (B) by inserting before “Anyone who uses”
19 the following: “except the Attorney General
20 may authorize an application to a Federal court
21 of competent jurisdiction for, and a judge of
22 such court may grant, an order authorizing dis-
23 closure of information contained in the applica-
24 tion of the alien to be used (A) for identifica-
25 tion of the alien when there is reason to believe

1 that the alien has been killed or severely inca-
2 pacitated, or (B) for criminal law enforcement
3 purposes against the alien whose application is
4 to be disclosed.”.

5 **TITLE IV—CONTROL OF FUND-**
6 **RAISING FOR TERRORISM AC-**
7 **TIVITIES**

8 **SEC. 401. PROHIBITION ON TERRORIST FUNDRAISING.**

9 (a) IN GENERAL.—Chapter 113B of title 18, United
10 States Code, is amended by adding at the end the follow-
11 ing new section:

12 **“§ 2339B. Fundraising for terrorist organizations**

13 “(a) FINDINGS AND PURPOSE.—

14 “(1) The Congress finds that—

15 “(A) terrorism is a serious and deadly
16 problem which threatens the interests of the
17 United States overseas and within our territory;

18 “(B) some foreign terrorist organizations,
19 acting through affiliated groups or individuals,
20 raise significant funds within the United States
21 or use the United States as a conduit for the
22 receipt of funds raised in other nations; and

23 “(C) the provision of funds to organiza-
24 tions that engage in terrorism serves to facili-
25 tate their terrorist endeavors, regardless of

1 whether the funds, in whole or in part, are in-
2 tended or claimed to be used for nonviolent pur-
3 poses.

4 “(2) The purpose of this section is to provide
5 the Federal Government the fullest possible basis,
6 consistent with the Constitution, to prevent persons
7 within the United States or subject to the jurisdic-
8 tion of the United States from providing funds, di-
9 rectly or indirectly, to foreign organizations, includ-
10 ing subordinate or affiliated persons, that engage in
11 terrorism activities.

12 “(b) AUTHORITY.—Notwithstanding any other provi-
13 sion of law, the President is authorized to regulate or pro-
14 hibit—

15 “(1) fundraising or the provision of funds for
16 use by or for the benefit of any foreign organization,
17 including persons assisting such organization in
18 fundraising, that the President has designated pur-
19 suant to subsection (c) as being engaged in terror-
20 ism activities; or

21 “(2) financial transactions with any such for-
22 eign organization,
23 within the United States or by any person subject to the
24 jurisdiction of the States anywhere.

25 “(c) DESIGNATION.—

1 “(1) Pursuant to the authority granted in sub-
2 section (b), the President is authorized to designate
3 any foreign organization based on finding that—

4 “(A) the organization engages in terrorism
5 activity as defined in section 212(a)(3)(B) of
6 the Immigration and Nationality Act (8 U.S.C.
7 1182(a)(3)(B)); and

8 “(B) the organization’s terrorism activities
9 threaten the national security, foreign policy, or
10 economy of the United States.

11 “(2) The President shall prepare and transmit
12 to Congress a report containing a list of the organi-
13 zations that the President has determined engage in,
14 or provide support for, terrorism activity (as defined
15 in section 212(a)(3)(B) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1182(a)(3)(B)).

17 “(3) Pursuant to the authority granted in sub-
18 section (b), the President is authorized to designate
19 persons who are raising funds for, or acting for or
20 on behalf of, any foreign organization designated
21 pursuant to paragraph (1).

22 “(4)(A) If the President finds that the condi-
23 tions that were the basis for any designation issued
24 under this subsection have changed in such a man-
25 ner as to warrant revocation of such designation, or

1 that the national security, foreign relations, or eco-
2 nomic interests of the United States so warrant, the
3 President may revoke such designation in whole or
4 in part.

5 “(B) Not later than 7 calendar days after the
6 President makes a determination that an organiza-
7 tion no longer engages in, or supports, terrorism ac-
8 tivity, the President shall prepare and transmit to
9 Congress a supplemental report stating the reasons
10 for the determination.

11 “(5) Any designation, or revocation thereof, is-
12 sued pursuant to this subsection shall be published
13 in the Federal Register and shall become effective
14 immediately upon publication.

15 “(6) Any revocation of a designation shall not
16 affect any action or proceeding based on any con-
17 duct committed prior to the effective date of such
18 revocation.

19 “(d) JUDICIAL REVIEW.—Persons or organizations
20 designated by the President as engaging in, or supporting,
21 terrorism activities under this section may appeal such
22 designation in the District Court for the District of Co-
23 lumbia not later than 30 days after publication of such
24 designation in the Federal Register.

25 “(e) PROHIBITED ACTIVITIES.—

1 “(1) Except as authorized pursuant to the pro-
2 cedures in subsection (f), it shall be unlawful for any
3 person within the United States, or any person sub-
4 ject to the jurisdiction of the United States any-
5 where, to directly or indirectly, raise, receive, or col-
6 lect on behalf of, or furnish, give, transmit, transfer,
7 or provide funds to or for an organization or person
8 designated by the President under subsection (c), or
9 to attempt to do any of the foregoing.

10 “(2) It shall be unlawful for any person within
11 the United States or any person subject to the juris-
12 diction of the United States anywhere, acting for or
13 on behalf of any organization or person designated
14 under subsection (c)—

15 “(A) to transmit, transfer, or receive any
16 funds raised in violation of paragraph (1); or

17 “(B) to transmit, transfer, or dispose of
18 any funds in which any organization or person
19 designated pursuant to subsection (c) has an
20 interest.

21 “(f) AUTHORIZED TRANSACTIONS.—

22 “(1) The Secretary shall publish regulations,
23 consistent with this subsection, setting forth the pro-
24 cedures to be followed by persons seeking to raise or

1 provide funds for an organization designated under
2 subsection (c)(1).

3 “(2) Any person within the United States, or
4 any person subject to the jurisdiction of the United
5 States anywhere, who seeks to solicit funds for, or
6 transfer funds to, any organization or person des-
7 ignated under subsection (c) shall, regardless of
8 whether it has an agency relationship with the des-
9 ignated organization or person, first obtain a license
10 from the Secretary and may solicit funds or transfer
11 funds to a designated organization or person only as
12 permitted under the terms of a license issued by the
13 Secretary.

14 “(3) The Secretary shall grant a license only
15 after the person establishes to the satisfaction of the
16 Secretary that—

17 “(A) the funds are intended to be used ex-
18 clusively for religious, charitable, literary, or
19 educational, or any other nonterrorist purposes;
20 and

21 “(B) all recipient organizations in any
22 fundraising chain have effective procedures in
23 place to ensure that the funds—

1 “(i) will be used exclusively for reli-
2 gious, charitable, literary, or educational,
3 or any other nonterrorist purposes; and

4 “(ii) will not be used to offset a trans-
5 fer of funds to be used in terrorist activity.

6 “(4) Any person granted a license shall main-
7 tain books and records, as required by the Secretary,
8 that establish the source of all funds it receives, ex-
9 penses it incurs, and disbursements it makes. Such
10 books and records shall be made available for inspec-
11 tion not later than 3 business days after a request
12 by the Secretary. Any person granted a license shall
13 also have an agreement with any recipient organiza-
14 tion or person that the books and records of such or-
15 ganization or person, wherever located, shall be
16 made available for inspection of the Secretary upon
17 a request of the Secretary at a place and time agree-
18 able to the organization or person and the Secretary.

19 “(5)(A) The licensing requirement established
20 by this subsection shall automatically expire upon
21 publication of the revocation of a designation under
22 subsection (c)(4).

23 “(B) Any applicant denied a license under this
24 subsection may appeal to the District Court for the
25 District of Columbia.

1 “(g) SPECIAL REQUIREMENTS FOR FINANCIAL IN-
2 STITUTIONS.—

3 “(1) Except as authorized by the Secretary by
4 means of directives, regulations, or licenses, any fi-
5 nancial institution that becomes aware that it has
6 possession of or control over any funds in which an
7 organization or person designated under subsection
8 (c) has an interest, shall—

9 “(A) retain possession of or maintain con-
10 trol over such funds; and

11 “(B) report to the Secretary the existence
12 of such funds in accordance with the regula-
13 tions prescribed by the Secretary.

14 “(2) Any financial institution that fails to re-
15 port to the Secretary the existence of such funds
16 shall be subject to a civil penalty of \$250 per day
17 for each day that it fails to report to the Sec-
18 retary—

19 “(A) in the case of funds being possessed
20 or controlled at the time of the designation of
21 the organization or person, within 10 days after
22 the designation; and

23 “(B) in the case of funds whose possession
24 of or control over arose after the designation of
25 the organization or person, within 10 days after

1 the financial institution obtained possession of
2 or control over the funds.

3 “(h) INVESTIGATIONS.—Any investigation emanating
4 from a possible violation of this section, or of any license,
5 order, or regulation issued pursuant to this section, shall
6 be conducted by the Attorney General, except that inves-
7 tigation relating to—

8 “(1) a licensee’s compliance with the terms of
9 a license issued by the Secretary pursuant to sub-
10 section (f);

11 “(2) a financial institution’s compliance with
12 the requirements of subsection (g); and

13 “(3) civil penalty proceedings authorized pursu-
14 ant to subsection (j),

15 shall be conducted in coordination with the Attorney Gen-
16 eral by the office within the Department of the Treasury
17 responsible for licensing and civil penalty proceedings au-
18 thorized by this section. Any evidence of a criminal viola-
19 tion of this section arising in the course of an investigation
20 by the Secretary or any other Federal agency shall be re-
21 ferred immediately to the Attorney General for further in-
22 vestigation. The Attorney General shall timely notify the
23 Secretary of any action taken on referrals from the Sec-
24 retary, and may refer investigations to the Secretary for
25 remedial licensing or civil penalty action.

1 “(i) RECORDKEEPING AND REPORTING; CIVIL PRO-
2 CEDURES.—

3 “(1) Notwithstanding any other provision of
4 law, in exercising the authorities granted by this sec-
5 tion, the Secretary and the Attorney General may
6 require any person to keep a full record of, and to
7 furnish under oath, in the form of reports or other-
8 wise, complete information relative to any act or
9 transaction referred to in this section either before,
10 during, or after the completion thereof, or relative to
11 any funds referred to in this section, or as may be
12 necessary to enforce the terms of this section. In any
13 case in which a report by a person could be required
14 under this subsection, the Secretary or the Attorney
15 General may require the production of any books of
16 account, records, contracts, letters, memoranda, or
17 other papers or documents, whether maintained in
18 hard copy or electronically, in the control or custody
19 of such person.

20 “(2) In carrying out this section, the Secretary
21 and the Attorney General may hold hearings, sign
22 and issue subpoenas, administer oaths, examine wit-
23 nesses, and receive evidence.

24 “(3) In the case of contumacy by, or refusal to
25 obey a subpoena issued to, any person, the Attorney

1 General may invoke the aid of any court of the
2 United States within the jurisdiction of which the in-
3 vestigation is carried on or of which the subpoenaed
4 person is an inhabitant, or in which the subpoenaed
5 person carries on business or may be found, to com-
6 pel compliance with the subpoena. The court may
7 issue an order requiring the subpoenaed person to
8 appear before the agency issuing the subpoena, or
9 other order or direction, to produce records, if so or-
10 dered, or to give testimony touching the matter
11 under investigation. Any failure to obey the order of
12 the court may be punished by the court as a con-
13 tempt thereof. All process in any such case may be
14 served in any judicial district in which such person
15 may be found.

16 “(j) PENALTIES.—

17 “(1) Any person who, with knowledge that the
18 donee is a designated entity, violates subsection (e)
19 shall be fined under this title, or imprisoned for up
20 to ten years, or both.

21 “(2)(A) Any person who fails to maintain or to
22 make available to the Secretary upon his request or
23 demand the books or records required by subsection
24 (f), or by regulations promulgated thereunder, shall
25 be subject to a civil penalty of \$50,000 or twice the

1 amount of money which would have been docu-
2 mented had the books and records been properly
3 maintained, whichever is greater.

4 “(B) Any person who fails to take the actions
5 required of financial institutions pursuant to sub-
6 section (g)(1), or by regulations promulgated there-
7 under, shall be subject to a civil penalty of \$50,000
8 per violation, or twice the amount of money of which
9 the financial institution was required to retain pos-
10 session or control, whichever is greater.

11 “(C) Except as otherwise specified in this sec-
12 tion, any person who violates any license, order, di-
13 rection, or regulation issued pursuant to this section
14 shall be subject to a civil penalty of \$50,000 per vio-
15 lation, or twice the value of the violation, whichever
16 is greater.

17 “(3) Any person who intentionally fails to main-
18 tain or to make available to the Secretary the books
19 or records required by subsection (i), or by regula-
20 tions promulgated thereunder, shall be fined under
21 this title, or imprisoned for up to 5 years, or both.

22 “(4) Any organization convicted of an offense
23 under paragraph (1) or (3) of subsection (i) shall,
24 upon conviction, forfeit any charitable designation it

1 might have received under the Internal Revenue
2 Code.

3 “(k) INJUNCTION.—

4 “(1) Whenever it appears to the Secretary or
5 the Attorney General that any person is engaged in,
6 or is about to engage in, any act which constitutes,
7 or would constitute, a violation of this section, the
8 Attorney General may initiate civil action in a dis-
9 trict court of the United States to enjoin such viola-
10 tion.

11 “(2) A proceeding under this subsection is gov-
12 erned by the Federal Rules of Civil Procedure, ex-
13 cept that, if an indictment has been returned against
14 the respondent, discovery is governed by the Federal
15 Rules of Criminal Procedure.

16 “(l) EXTRATERRITORIAL JURISDICTION.—There is
17 extraterritorial Federal jurisdiction over an offense under
18 this section.

19 “(m) CLASSIFIED INFORMATION IN CIVIL PROCEED-
20 INGS BROUGHT BY THE UNITED STATES.—

21 “(1) DISCOVERY OF CLASSIFIED INFORMATION
22 BY DEFENDANTS.—A court, upon a sufficient show-
23 ing, may authorize the United States to delete speci-
24 fied items of classified information from documents
25 to be introduced into evidence or made available to

1 the defendant through discovery under the Federal
2 Rules of Civil Procedure, to substitute a summary of
3 the information for such classified documents, or to
4 substitute a statement admitting relevant facts that
5 the classified information would tend to prove. The
6 court shall permit the United States to make a re-
7 quest for such authorization in the form of a written
8 statement to be inspected by the court alone. If the
9 court enters an order granting relief following such
10 an ex parte showing, the entire text of the statement
11 of the United States shall be sealed and preserved
12 in the records of the court to be made available to
13 the appellate court in the event of an appeal. If the
14 court enters an order denying relief to the United
15 States under this paragraph, the United States may
16 take an immediate, interlocutory appeal in accord-
17 ance with the provisions of paragraph (3). For pur-
18 poses of such an appeal, the entire text of the under-
19 lying written statement of the United States, to-
20 gether with any transcripts of arguments made ex
21 parte to the court in connection therewith, shall be
22 maintained under seal and delivered to the appellate
23 court.

24 “(2) INTRODUCTION OF CLASSIFIED INFORMA-
25 TION; PRECAUTIONS BY COURT.—

1 “(A) EXHIBITS.—The United States, to
2 prevent unnecessary or inadvertent disclosure of
3 classified information in a civil trial or other
4 proceeding brought by the United States under
5 this section, may petition the court ex parte to
6 admit, in lieu of classified writings, recordings
7 or photographs, one or more of the following:

8 “(i) copies of those items from which
9 classified information has been deleted;

10 “(ii) stipulations admitting relevant
11 facts that specific classified information
12 would tend to prove; or

13 “(iii) a summary of the specific classi-
14 fied information.

15 The court shall grant such a motion of the
16 United States if the court finds that the re-
17 dacted item, stipulation, or summary will pro-
18 vide the defendant with substantially the same
19 ability to make his defense as would disclosure
20 of the specific classified information.

21 “(B) TAKING OF TRIAL TESTIMONY.—Dur-
22 ing the examination of a witness in any civil
23 proceeding brought by the United States under
24 this section, the United States may object to
25 any question or line of inquiry that may require

1 the witness to disclose classified information not
2 previously found to be admissible. Following
3 such an objection, the court shall take suitable
4 action to determine whether the response is ad-
5 missible and, in doing so, shall take precautions
6 to guard against the compromise of any classi-
7 fied information. Such action may include per-
8 mitting the United States to provide the court,
9 ex parte, with a proffer of the witness's re-
10 sponse to the question or line of inquiry, and
11 requiring the defendant to provide the court
12 with a proffer of the nature of the information
13 the defendant seeks to elicit.

14 “(C) APPEAL.—If the court enters an
15 order denying relief to the United States under
16 this subsection, the United States may take an
17 immediate interlocutory appeal in accordance
18 with paragraph (3).

19 “(3) INTERLOCUTORY APPEAL.—

20 “(A) An interlocutory appeal by the United
21 States shall lie to a court of appeals from a de-
22 cision or order of a district court—

23 “(i) authorizing the disclosure of clas-
24 sified information;

1 “(ii) imposing sanctions for
2 nondisclosure of classified information; or

3 “(iii) refusing a protective order
4 sought by the United States to prevent the
5 disclosure of classified information.

6 “(B) An appeal taken pursuant to this
7 paragraph either before or during trial shall be
8 expedited by the court of appeals. Prior to trial,
9 an appeal shall be taken not later than 10 days
10 after the decision or order appealed from, and
11 the trial shall not commence until the appeal is
12 resolved. If an appeal is taken during trial, the
13 trial court shall adjourn the trial until the ap-
14 peal is resolved. The court of appeals—

15 “(i) shall hear argument on such ap-
16 peal not later than 4 days after the ad-
17 journment of the trial;

18 “(ii) may dispense with written briefs
19 other than the supporting materials pre-
20 viously submitted to the trial court;

21 “(iii) shall render its decision not
22 later than 4 days after argument on ap-
23 peal; and

1 “(iv) may dispense with the issuance
2 of a written opinion in rendering its deci-
3 sion.

4 “(C) An interlocutory appeal and decision
5 under this paragraph shall not affect the right
6 of the defendant, in a subsequent appeal from
7 a final judgment, to claim as error, reversal by
8 the trial court on remand of a ruling appealed
9 from during trial.

10 “(4) CONSTRUCTION.—Nothing in this sub-
11 section shall prevent the United States from seeking
12 protective orders or asserting privileges ordinarily
13 available to the United States to protect against the
14 disclosure of classified information, including the in-
15 vocation of the military and State secrets privilege.

16 “(n) DEFINITIONS.—As used in this section—

17 “(1) the term ‘classified information’ means
18 any information or material that has been deter-
19 mined by the United States Government pursuant to
20 an Executive order, statute, or regulation, to require
21 protection against unauthorized disclosure for rea-
22 sons of national security and any restricted data, as
23 defined in paragraph r. of section 11 of the Atomic
24 Energy Act of 1954 (42 U.S.C. 2014(y));

1 “(2) the term ‘financial institution’ has the
2 meaning prescribed in section 5312(a)(2) of title 31,
3 United States Code, including any regulations pro-
4 mulgated thereunder;

5 “(3) the term ‘funds’ includes coin or currency
6 of the United States or any other country, traveler’s
7 checks, personal checks, bank checks, money orders,
8 stocks, bonds, debentures, drafts, letters of credit,
9 any other negotiable instrument, and any electronic
10 representation of any of the foregoing;

11 “(4) the term ‘national security’ means the na-
12 tional defense and foreign relations of the United
13 States;

14 “(5) the term ‘person’ includes an individual,
15 partnership, association, group, corporation, or other
16 organization;

17 “(6) the term ‘Secretary’ means the Secretary
18 of the Treasury; and

19 “(7) the term ‘United States’, when used in a
20 geographical sense, includes all commonwealths, ter-
21 ritories, and possessions of the United States.”.

22 (b) TECHNICAL AMENDMENT.—The analysis for
23 chapter 113B of title 18, United States Code, is amended
24 by adding at the end the following new item:

“2339B. Fundraising for terrorist organizations”.

1 (c) CLASSIFIED INFORMATION IN CIVIL PROCEED-
2 INGS.—Section 2339B(k) of title 18, United States Code
3 (relating to classified information in civil proceedings
4 brought by the United States), shall also be applicable to
5 civil proceedings brought by the United States under the
6 International Emergency Economic Powers Act (50
7 U.S.C. 1701 et seq.).

8 **SEC. 402. CORRECTION TO MATERIAL SUPPORT PROVI-**
9 **SION.**

10 Section 120005 of Public Law 103–322, September
11 13, 1994, is amended to read at the time of its enactment
12 on September 13, 1994, as follows:

13 “(a) OFFENSE.—Chapter 113A of title 18, United
14 States Code, is amended by adding the following new sec-
15 tion:

16 **“§ 2339A. Providing material support to terrorists**

17 “(a) DEFINITION.—In this section, ‘material support
18 or resources’ means currency or other financial securities,
19 financial services, lodging, training, safehouses, false doc-
20 umentation or identification, communications equipment,
21 facilities, weapons, lethal substances, explosives, person-
22 nel, transportation, and other physical assets, but does not
23 include humanitarian assistance to persons not directly in-
24 volved in such violations.

1 “(b) OFFENSE.—A person who, within the United
2 States, provides material support or resources or conceals
3 or disguises the nature, location, source, or ownership of
4 material support or resources, knowing or intending that
5 they are to be used in preparation for, in carrying out,
6 a violation of section 32, 37, 351, 844(f) or (i), 956, 1114,
7 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or
8 2332a of this title or section 46502 of title 49, or in prepa-
9 ration for or carrying out the concealment or an escape
10 from the commission of any such violation, shall be fined
11 under this title, imprisoned not more than ten years, or
12 both.”.

13 **TITLE V—ASSISTANCE TO FED-**
14 **ERAL LAW ENFORCEMENT**
15 **AGENCIES**

16 **Subtitle A—Antiterrorism**
17 **Assistance**

18 **SEC. 501. STUDY AND REPORT ON DOMESTIC TERRORISM.**

19 (a) STUDY.—The Director of the Federal Bureau of
20 Investigation shall study all applicable guidelines and laws
21 regulating domestic surveillance.

22 (b) REPORT.—Not later than 30 days after the date
23 of enactment of this Act, the Director of the Federal Bu-
24 reau of Investigation shall report to Congress the findings
25 of the review of laws and guidelines conducted pursuant

1 to subsection (a), and shall provide suggestions, to the ex-
2 tent that any changes in current policy are needed, for
3 enhancing domestic surveillance in support of investiga-
4 tions.

5 **SEC. 502. FEDERAL BUREAU OF INVESTIGATION COUNTER-**
6 **INTELLIGENCE.**

7 (a) IN GENERAL.—The Fair Credit Reporting Act
8 (15 U.S.C. 1681 et seq.) is amended by adding after sec-
9 tion 623 the following new section:

10 **“SEC. 624. DISCLOSURES TO FEDERAL BUREAU OF INVES-**
11 **TIGATION FOR COUNTERINTELLIGENCE PUR-**
12 **POSES.**

13 “(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Not-
14 withstanding section 604 or any other provision of this
15 title, a consumer reporting agency shall furnish to the
16 Federal Bureau of Investigation the names and addresses
17 of all financial institutions (as that term is defined in sec-
18 tion 1101 of the Right to Financial Privacy Act of 1978)
19 at which a consumer maintains or has maintained an ac-
20 count, to the extent that information is in the files of the
21 agency, when presented with a written request for that
22 information, signed by the Director of the Federal Bureau
23 of Investigation, or the Director’s designee, which certifies
24 compliance with this section. The Director or the Direc-
25 tor’s designee may make such a certification only if the

1 Director or the Director’s designee has determined in writ-
2 ing that—

3 “(1) such information is necessary for the con-
4 duct of an authorized foreign counterintelligence in-
5 vestigation; and

6 “(2) there are specific and articulable facts giv-
7 ing reason to believe that the consumer—

8 “(A) is a foreign power (as defined in sec-
9 tion 101 of the Foreign Intelligence Surveil-
10 lance Act of 1978) or a person who is not a
11 United States person (as defined in such sec-
12 tion 101) and is an official of a foreign power;
13 or

14 “(B) is an agent of a foreign power and is
15 engaging or has engaged in international terror-
16 ism (as that term is defined in section 101(c)
17 of the Foreign Intelligence Surveillance Act of
18 1978) or clandestine intelligence activities that
19 involve or may involve a violation of criminal
20 statutes of the United States.

21 “(b) IDENTIFYING INFORMATION.—Notwithstanding
22 section 604 or any other provision of this title, a consumer
23 reporting agency shall furnish identifying information re-
24 specting a consumer, limited to name, address, former ad-
25 dresses, places of employment, or former places of employ-

1 ment, to the Federal Bureau of Investigation when pre-
2 sented with a written request, signed by the Director or
3 the Director's designee, which certifies compliance with
4 this subsection. The Director or the Director's designee
5 may make such a certification only if the Director or the
6 Director's designee has determined in writing that—

7 “(1) such information is necessary to the con-
8 duct of an authorized counterintelligence investiga-
9 tion; and

10 “(2) there is information giving reason to be-
11 lieve that the consumer has been, or is about to be,
12 in contact with a foreign power or an agent of a for-
13 eign power (as defined in section 101 of the Foreign
14 Intelligence Surveillance Act of 1978).

15 “(c) COURT ORDER FOR DISCLOSURE OF CONSUMER
16 REPORTS.—Notwithstanding section 604 or any other
17 provision of this title, if requested in writing by the Direc-
18 tor of the Federal Bureau of Investigation, or a designee
19 of the Director, a court may issue an order ex parte direct-
20 ing a consumer reporting agency to furnish a consumer
21 report to the Federal Bureau of Investigation, upon a
22 showing in camera that—

23 “(1) the consumer report is necessary for the
24 conduct of an authorized foreign counterintelligence
25 investigation; and

1 “(2) there are specific and articulable facts giving
2 reason to believe that the consumer whose
3 consumer report is sought—

4 “(A) is an agent of a foreign power; and

5 “(B) is engaging or has engaged in international
6 terrorism (as that term is defined in
7 section 101(c) of the Foreign Intelligence Surveillance
8 Act of 1978) or clandestine intelligence
9 activities that involve or may involve a
10 violation of criminal statutes of the United
11 States.

12 The terms of an order issued under this subsection shall
13 not disclose that the order is issued for purposes of a
14 counterintelligence investigation.

15 “(d) CONFIDENTIALITY.—

16 “(1) No consumer reporting agency or officer,
17 employee, or agent of a consumer reporting agency
18 shall disclose to any person, other than officers, employees,
19 or agents of a consumer reporting agency necessary to fulfill
20 the requirement to disclose information to the Federal Bureau
21 of Investigation under this section, that the Federal Bureau
22 of Investigation has sought or obtained the identity of financial
23 institutions or a consumer report respecting any
24 consumer under subsection (a), (b), or (c).
25

1 “(2) No consumer reporting agency or officer,
2 employee, or agent of a consumer reporting agency
3 shall include in any consumer report any informa-
4 tion that would indicate that the Federal Bureau of
5 Investigation has sought or obtained such informa-
6 tion or a consumer report.

7 “(e) PAYMENT OF FEES.—The Federal Bureau of
8 Investigation shall, subject to the availability of appropria-
9 tions, pay to the consumer reporting agency assembling
10 or providing reports or information in accordance with
11 procedures established under this section, a fee for reim-
12 bursement for such costs as are reasonably necessary and
13 which have been directly incurred in searching, reproduc-
14 ing, or transporting books, papers, records, or other data
15 required or requested to be produced under this section.

16 “(f) LIMIT ON DISSEMINATION.—The Federal Bu-
17 reau of Investigation may not disseminate information ob-
18 tained pursuant to this section outside of the Federal Bu-
19 reau of Investigation, except—

20 “(1) to the Department of Justice, as may be
21 necessary for the approval or conduct of a foreign
22 counterintelligence investigation; and

23 “(2) where the information concerns a person
24 subject to the Uniform Code of Military Justice, to
25 appropriate investigative authorities within the mili-

1 tary department concerned as may be necessary for
2 the conduct of a joint foreign counterintelligence in-
3 vestigation.

4 “(g) RULES OF CONSTRUCTION.—Nothing in this
5 section shall be construed to prohibit information from
6 being furnished by the Federal Bureau of Investigation
7 pursuant to a subpoena or court order, or in connection
8 with a judicial or administrative proceeding to enforce the
9 provisions of this Act. Nothing in this section shall be con-
10 strued to authorize or permit the withholding or informa-
11 tion from the Congress.

12 “(h) REPORTS TO CONGRESS.—On a semiannual
13 basis, the Attorney General of the United States shall fully
14 inform the Permanent Select Committee on Intelligence
15 and the Committee on Banking and Financial Services of
16 the House of Representatives, and the Select Committee
17 on Intelligence and the Committee on Banking, Housing,
18 and Urban Affairs of the Senate concerning all requests
19 made pursuant to subsections (a), (b), and (c).

20 “(i) DAMAGES.—Any agency or department of the
21 United States obtaining or disclosing any consumer re-
22 ports, records, or information contained therein in viola-
23 tion of this section is liable to the consumer to whom such
24 consumer reports, records, or information relate in an
25 amount equal to the sum of—

1 “(1) \$100, without regard to the volume of
2 consumer reports, records, or information involved;

3 “(2) any actual damages sustained by the
4 consumer as a result of the disclosure;

5 “(3) if the violation is found to have been will-
6 ful or intentional, such punitive damages as a court
7 may allow; and

8 “(4) in the case of any successful action to en-
9 force liability under this subsection, the costs of the
10 action, together with reasonable attorney fees, as de-
11 termined by the court.

12 “(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a
13 court determines that any agency or department of the
14 United States has violated any provision of this section
15 and the court finds that the circumstances surrounding
16 the violation raise questions of whether or not an officer
17 or employee of the agency or department acted willfully
18 or intentionally with respect to the violation, the agency
19 or department shall promptly initiate a proceeding to de-
20 termine whether or not disciplinary action is warranted
21 against the officer or employee who was responsible for
22 the violation.

23 “(k) GOOD-FAITH EXCEPTION.—Notwithstanding
24 any other provision of this title, any consumer reporting
25 agency or agent or employee thereof making disclosure of

1 consumer reports or identifying information pursuant to
2 this subsection in good-faith reliance upon a certification
3 of the Federal Bureau of Investigation pursuant to provi-
4 sions of this section shall not be liable to any person for
5 such disclosure under this title, the constitution of any
6 State, or any law or regulation of any State or any politi-
7 cal subdivision of any State notwithstanding.

8 “(l) LIMITATION OF REMEDIES.—Notwithstanding
9 any other provision of this title, the remedies and sanc-
10 tions set forth in this section shall be the only judicial
11 remedies and sanctions for violation of this section.

12 “(m) INJUNCTIVE RELIEF.—In addition to any other
13 remedy contained in this section, injunctive relief shall be
14 available to require compliance with the procedures of this
15 section. In the event of any successful action under this
16 subsection, costs together with reasonable attorney fees,
17 as determined by the court, may be recovered.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of the Fair Credit Reporting Act (15
20 U.S.C. 1681a et seq.) is amended by adding after the item
21 relating to section 623 the following new item:

“624. Disclosures to the Federal Bureau of Investigation for counterintelligence
purposes.”.

1 **SEC. 503. ADMINISTRATIVE SUBPOENAS FOR COMMON CAR-**
2 **RIERS AND INNKEEPERS.**

3 (a) IN GENERAL.—Title 28, United States Code, is
4 amended by inserting after section 537 the following new
5 section:

6 **“§ 538. Administrative summons authority for com-**
7 **mon carriers and innkeepers**

8 “(a) ISSUANCE.—

9 “(1) AUTHORITY.—Pursuant to regulations
10 promulgated by the Attorney General in consultation
11 with the Director of the Federal Bureau of Inves-
12 tigation, the Director, and supervisory level special
13 agents of the Federal Bureau of Investigation des-
14 ignated by the Director may issue in writing and
15 cause to be served upon a common carrier or inn-
16 keeper, a summons requiring the common carrier or
17 innkeeper to produce the materials at the place des-
18 ignated in the summons, upon a determination that
19 the common carrier or innkeeper may possess, or
20 have care, custody, or control of any books, records,
21 papers, documents, or other tangible things or ob-
22 jects, in any form, that may be relevant to a foreign
23 counterintelligence activity.

24 “(2) CONTENTS.—The summons shall—

25 “(A) describe the materials to be produced
26 with reasonably sufficient clarity and particu-

1 larity to enable the materials to be identified;
2 and

3 “(B) prescribe a return date that provides
4 a reasonable period of time within which the
5 material can be assembled and made available.

6 “(b) SERVICE.—A summons issued under this section
7 may be served by any person designated in the summons
8 to serve it. Service upon a natural person may be made
9 by personal delivery of the summons to the person. Service
10 may be made upon a domestic or foreign corporation or
11 upon a partnership or other unincorporated association by
12 delivering the summons personally or by certified or reg-
13 istered mail to an officer, managing or general agent, or
14 any other agent authorized by appointment, or by law of
15 any State or jurisdiction, to receive service of process. The
16 affidavit of the person serving the summons shall be proof
17 of service.

18 “(c) PLACE OF SERVICE.—A summons issued under
19 this section may be served at any place within the United
20 States or any place subject to the laws or the jurisdiction
21 of the United States.

22 “(d) ENFORCEMENT.—

23 “(1) REFUSAL TO OBEY.—In the case of contu-
24 macy, neglect, or refusal to obey a summons issued
25 to and served upon any person pursuant to this sec-

1 tion, the Attorney General or a designee of the At-
2 torney General may invoke the aid of any court of
3 the United States within which the investigation is
4 pending, the summons was served, or the summoned
5 person carries on business or may be found, to com-
6 pel compliance with the summons. All process in any
7 such case may be served in any judicial district in
8 which such person may be found.

9 “(2) PETITION.—(A) Not later than 10 days
10 after the earlier of the service of a summons upon
11 a common carrier or innkeeper, or at any time be-
12 fore the return date specified in the summons, the
13 common carrier or innkeeper may file in the district
14 court of the United States for the judicial district in
15 which the investigation is pending, a petition for an
16 order modifying or setting aside the summons issued
17 pursuant to subsection (a), or a prohibition of disclo-
18 sure order obtained or a certification issued by the
19 Government pursuant to subsection (f).

20 “(B) The petition shall specify each ground
21 upon which the petitioner relies in seeking relief.

22 “(C) An order or certification of nondisclosure
23 pursuant to subsection (f) shall not be grounds for
24 a petition to modify or set aside the summons.

1 “(D) The time allowed for initiation of formal
2 criminal proceedings under any applicable statute of
3 limitations shall be tolled while the petition is pend-
4 ing in court or an appeal.

5 “(3) JURISDICTION OF DISTRICT COURTS.—The
6 district courts of the United States shall have juris-
7 diction to hear and determine the matters arising
8 under this section, and to enter such orders as may
9 be required to effectuate the provisions of this sec-
10 tion. Any failure to obey the order entered by the
11 district judge may be punished as a contempt there-
12 of. Any petition filed or order entered relating to a
13 summons issued and served with an order of
14 nondisclosure pursuant to subsection (f) shall be
15 under seal. All proceedings relating to or arising
16 from a summons or certification of nondisclosure is-
17 sued in connection with the collection of positive for-
18 eign intelligence or counterintelligence shall be under
19 seal and in compliance with applicable statutes, reg-
20 ulations, and orders relating to handling of classified
21 information.

22 “(4) PRODUCTION OF MATERIALS.—Any person
23 served with a summons issued pursuant to this sec-
24 tion shall proceed to assemble the materials re-

1 requested and shall be prepared to produce them on
2 the date and at the place specified in the summons.

3 “(e) LIMITATIONS.—

4 “(1) CONSTRUCTION WITH OTHER LAWS.—Ex-
5 cept as expressly provided in this section, nothing in
6 this section shall supersede the provisions of any
7 other law of the United States that regulates access
8 to materials by Federal agencies.

9 “(2) SUBPOENA DUCES TECUM.—No summons
10 shall require the production of materials, if such ma-
11 terials would be protected from production under the
12 standards applicable to a subpoena duces tecum is-
13 sued by a court of the United States in aid of the
14 grand jury investigation for the purpose of Federal
15 indictment and prosecution. Nothing in this sub-
16 section shall be construed to bar the use of the sum-
17 mons authorized by this section in connection with
18 gathering data for foreign intelligence purposes.

19 “(3) USE OF MATERIALS IN INVESTIGATION OR
20 OTHER PROCEEDING.—Nothing in this section or in
21 any other statute or rule shall be construed to pro-
22 hibit the use of materials or the information con-
23 tained therein obtained pursuant to this section in
24 any investigation or proceeding.

25 “(f) PROHIBITION OF DISCLOSURE.—

1 “(1) IN GENERAL.—(A) Notwithstanding any
2 other provision of Federal, State, or local law, a
3 United States District Court Judge for the district
4 in which the investigation is pending may, upon ap-
5 plication of the United States without notice to a
6 summons recipient, issue an ex parte order, that no
7 person served with a summons pursuant to this sec-
8 tion, or their representative, shall disclose to any
9 other person the existence of such summons, for a
10 period of 180 days.

11 “(B) Such order may be issued on a showing
12 that the materials being sought may be relevant to
13 a legitimate law enforcement inquiry involving a risk
14 to national security and that there is reason to be-
15 lieve that such disclosure may result in—

16 “(i) endangering the life or physical safety
17 of any person;

18 “(ii) flight from prosecution;

19 “(iii) destruction of or tampering with evi-
20 dence;

21 “(iv) intimidation of potential witnesses; or

22 “(v) defeating any remedy or penalty pro-
23 vided for violation of the laws of the United
24 States.

1 “(2) RENEWAL.—The period of nondisclosure
2 may be renewed for additional 180 day periods pur-
3 suant to this subsection.

4 “(3) FOREIGN INTELLIGENCE OR COUNTER-
5 INTELLIGENCE.—Notwithstanding any other provi-
6 sion of Federal, State, or local law, no person served
7 with a summons issued pursuant to this section, or
8 their representative, shall disclose the existence of
9 such summons in any case in which the Director of
10 the Federal Bureau of Investigation or a special
11 agent of the rank of Assistant Special Agent-In-
12 Charge or above designated by the Director certifies
13 that the summons was issued for the purpose of col-
14 lecting positive foreign intelligence or counterintel-
15 ligence.

16 “(4) PENALTY FOR DISCLOSURE.—Whoever
17 knowingly and willfully discloses or attempts to dis-
18 close the existence of a summons in violation of this
19 subsection shall be subject to imprisonment up to 5
20 years or fined as provided under section 3571 of
21 title 18, or both.

22 “(5) DISCLOSURE TO ATTORNEY.—Nothing in
23 this subsection shall prohibit any person from dis-
24 closing the service of a summons pursuant to this

1 section to any attorney for purposes of filing a peti-
2 tion pursuant to subsection (d)(2).

3 “(6) THIRD-PARTY PRODUCTION.—Any third
4 party recordkeeper, agent, or employee thereof, who,
5 in good faith reliance on an order or certification of
6 nondisclosure pursuant to this subsection, produces
7 any materials and does not disclose such production
8 to the subject of the records shall not be liable to
9 any customer or other person for such
10 nondisclosure.”

11 (b) TECHNICAL AMENDMENT.—The table of sections
12 for chapter 33 of title 28, United States Code, is amended
13 by inserting at the end thereof the following new item:

“Section 538. Administrative summons authority for common carriers and
inkeepers.”

14 **SEC. 504. INCREASE IN MAXIMUM REWARDS FOR INFORMA-**
15 **TION CONCERNING INTERNATIONAL TER-**
16 **RORISM.**

17 (a) TERRORISM ABROAD.—Section 36 of the State
18 Department Basic Authorities Act of 1956 (22 U.S.C.
19 2708) is amended—

20 (1) in subsection (c), by striking “\$2,000,000”
21 and inserting “\$10,000,000”; and

22 (2) in subsection (g), by striking “\$5,000,000”
23 and inserting “\$10,000,000.”

1 (b) DOMESTIC TERRORISM.—Title 18, United States
2 Code, is amended—

3 (1) in section 3072, by striking “\$5,000,000”
4 and inserting “\$10,000,000”; and

5 (2) in section 3075, by striking “\$5,000,000”
6 and inserting “\$10,000,000”.

7 **SEC. 505. FEDERAL BUREAU OF INVESTIGATION REPORT.**

8 Not later than January 31, 1997, the Director of the
9 Federal Bureau of Investigation shall report to Congress
10 on the effectiveness of section 2339A of title 18, United
11 States Code (as added by section 120005(a) of the Violent
12 Crime Control and Law Enforcement Act of 1994). The
13 report shall include any recommendations of the Director
14 for changes in existing law that are needed to improve the
15 effectiveness of such section.

16 **Subtitle B—Intelligence**

17 **SEC. 511. STUDY AND REPORT ON ELECTRONIC SURVEIL-**
18 **LANCE.**

19 (a) STUDY.—The Attorney General and the Director
20 of the Federal Bureau of Investigation shall study all ap-
21 plicable laws and guidelines relating to electronic surveil-
22 lance and the use of pen registers and other trap and trace
23 devices.

24 (b) REPORT.—Not later than 90 days after the date
25 of enactment of this Act, the Attorney General shall report

1 to the Congress on the findings of the study conducted
2 pursuant to subsection (a), and shall provide recommenda-
3 tions for the use of electronic devices in conducting sur-
4 veillance of terrorist or other criminal organizations, and
5 for any modifications in the law necessary to enable the
6 Federal Government to fulfill its law enforcement respon-
7 sibilities within appropriate constitutional parameters.

8 **SEC. 512. WIRETAP AUTHORITY FOR TERRORISM AND RE-**
9 **LATED OFFENSES.**

10 Section 2516(1) of title 18, United States Code, is
11 amended—

12 (1) in paragraph (c), by inserting after “section
13 175 (relating to biological weapons),” the following:
14 “or a felony violation under section 1028 (relating to
15 production of false identification documentation),
16 sections 1541, 1542, 1543, 1544, and 1546 (relating
17 to passport and visa offenses),”;

18 (2) by redesignating paragraphs (m), (n), and
19 (o) as paragraphs (n), (o), and (p), respectively; and

20 (3) by inserting after paragraph (l) the follow-
21 ing new paragraph:

22 “(m) a violation of (i) section 274 of the Immigration
23 and Nationality Act (8 U.S.C. 1324) (relating to alien
24 smuggling), (ii) section 277 of the Immigration and Na-
25 tionality Act (8 U.S.C. 1327) (relating to the smuggling

1 of aliens convicted of aggravated felonies or of aliens sub-
2 ject to exclusion on grounds of national security), or (iii)
3 section 278 of the Immigration and Nationality Act (8
4 U.S.C. 1328) (relating to smuggling of aliens for the pur-
5 pose of prostitution);”.

6 **SEC. 513. PARTICIPATION OF FOREIGN AND STATE GOV-**
7 **ERNMENT PERSONNEL IN INTERCEPTIONS**
8 **OF COMMUNICATIONS.**

9 Section 2518(5) of title 18, United States Code, is
10 amended by inserting “(including personnel of a foreign
11 government or of a State or subdivision of a State)” after
12 “Government personnel”.

13 **SEC. 514. DISCLOSURE OF INTERCEPTED COMMUNICA-**
14 **TIONS TO FOREIGN LAW ENFORCEMENT**
15 **AGENCIES.**

16 Section 2510(7) of title 18, United States Code, is
17 amended by inserting before the semicolon the following:
18 “and, for purposes of subsections (1) and (2) of section
19 2517, any person authorized to perform investigative, law
20 enforcement, or prosecutorial functions by a foreign gov-
21 ernment”.

1 **SEC. 515. AUTHORIZATION FOR INTERCEPTIONS OF COM-**
2 **MUNICATIONS IN CERTAIN TERRORISM RE-**
3 **LATED OFFENSES.**

4 (a) Section 2516(1) of title 18, United States Code,
5 is amended—

6 (1) by striking “and” at the end of paragraph
7 (o), as so redesignated by section 512(a)(2);

8 (2) by redesignating paragraph (p), as so redesi-
9 gnated by section 512(a)(2), as paragraph (s), ; and

10 (3) by inserting after paragraph (o), as so re-
11 designated by section 512(a)(2), the following new
12 subparagraphs:

13 “(p) any violation of section 956 or section 960 of
14 title 18, United States Code (relating to certain actions
15 against foreign nations);

16 “(q) any violation of section 46502 of title 49, United
17 States Code; and”.

18 (b) Section 2516(1)(c) of title 18, United States
19 Code, is amended by inserting before “or section 1992 (re-
20 lating to wrecking trains)” the following: “section 2332
21 (relating to terrorist acts abroad), section 2332a (relating
22 to weapons of mass destruction, section 2332b (relating
23 to acts of terrorism transcending national boundaries),
24 section 2339A (relating to providing material support to
25 terrorists), section 37 (relating to violence at international
26 airports),”.

1 **Subtitle C—Additional Funding for**
2 **Law Enforcement**

3 **SEC. 521. FEDERAL BUREAU OF INVESTIGATION ASSIST-**
4 **ANCE TO COMBAT TERRORISM.**

5 (a) IN GENERAL.—With funds made available pursu-
6 ant to subsection (b), the Attorney General shall—

7 (1) develop digital telephony technology;

8 (2) support and enhance the technical support
9 center and tactical operations;

10 (3) expand legal attaches;

11 (4) enhance Federal wireless communications
12 and antenna site lease shortfall;

13 (5) expand and improve the instructional, oper-
14 ational support, and construction of the Federal Bu-
15 reau of Investigation academy;

16 (6) expand and improve investigative and man-
17 agerial training courses for State, Indian tribal, and
18 local law enforcement agencies;

19 (7) construct a Federal Bureau of Investigation
20 laboratory and provide laboratory examination sup-
21 port; and

22 (8) create a special Federal Bureau of Inves-
23 tigation counterterrorism and counterintelligence
24 fund for costs associated with terrorism cases.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated for the activities of the
3 Federal Bureau of Investigation, to help meet the in-
4 creased demands for activities to combat terrorism—

5 (1) \$203,150,000 for fiscal year 1996, of
6 which—

7 (A) not more than \$52,000,000 shall be
8 available to carry out subsection (a)(1);

9 (B) not more than \$39,900,000 shall be
10 available to carry out subsection (a)(2);

11 (C) not more than \$10,750,000 shall be
12 available to carry out subsection (a)(3);

13 (D) not more than \$24,100,000 shall be
14 available to carry out subsection (a)(4);

15 (E) not more than \$34,000,000 shall be
16 available to carry out subsection (a)(5);

17 (F) not more than \$1,650,000 shall be
18 available to carry out subsection (a)(6);

19 (G) not more than \$16,200,000 shall be
20 available to carry out subsection (a)(7); and

21 (H) not more than \$2,000,000 shall be
22 available to carry out subsection (a)(8);

23 (2) \$184,500,000 for fiscal year 1997, of
24 which—

1 (A) not more than \$52,000,000 shall be
2 available to carry out subsection (a)(1);

3 (B) not more than \$31,000,000 shall be
4 available to carry out subsection (a)(2);

5 (C) not more than \$2,200,000 shall be
6 available to carry out subsection (a)(3);

7 (D) not more than \$24,100,000 shall be
8 available to carry out subsection (a)(4);

9 (E) not more than \$48,000,000 shall be
10 available to carry out subsection (a)(5);

11 (F) not more than \$1,650,000 shall be
12 available to carry out subsection (a)(6);

13 (G) not more than \$3,000,000 shall be
14 available to carry out subsection (a)(7);

15 (H) not more than \$2,000,000 shall be
16 available to carry out subsection (a)(8);

17 (3) \$284,000,000 for fiscal year 1998, of
18 which—

19 (A) not more than \$47,000,000 shall be
20 available to carry out subsection (a)(1);

21 (B) not more than \$20,000,000 shall be
22 available to carry out subsection (a)(2);

23 (C) not more than \$2,200,000 shall be
24 available to carry out subsection (a)(3);

1 (D) not more than \$24,100,000 shall be
2 available to carry out subsection (a)(4);

3 (E) not more than \$31,500,000 shall be
4 available to carry out subsection (a)(5);

5 (F) not more than \$1,650,000 shall be
6 available to carry out subsection (a)(6);

7 (G) not more than \$140,000,000 shall be
8 available to carry out subsection (a)(7);

9 (H) not more than \$2,000,000 shall be
10 available to carry out subsection (a)(8);

11 (4) \$147,500,000 for fiscal year 1999, of
12 which—

13 (A) not more than \$46,000,000 shall be
14 available to carry out subsection (a)(1);

15 (B) not more than \$20,000,000 shall be
16 available to carry out subsection (a)(2);

17 (C) not more than \$2,200,000 shall be
18 available to carry out subsection (a)(3);

19 (D) not more than \$24,100,000 shall be
20 available to carry out subsection (a)(4);

21 (E) not more than \$34,000,000 shall be
22 available to carry out subsection (a)(5);

23 (F) not more than \$1,650,000 shall be
24 available to carry out subsection (a)(6);

1 (G) not more than \$2,500,000 shall be
2 available to carry out subsection (a)(7); and

3 (H) not more than \$2,000,000 shall be
4 available to carry out subsection (a)(8); and

5 (5) \$125,850,000 for fiscal year 2000, of
6 which—

7 (A) not more than \$46,000,000 shall be
8 available to carry out subsection (a)(1);

9 (B) not more than \$12,500,000 shall be
10 available to carry out subsection (a)(2);

11 (C) not more than \$2,200,000 shall be
12 available to carry out subsection (a)(3);

13 (D) not more than \$8,100,000 shall be
14 available to carry out subsection (a)(4);

15 (E) not more than \$36,000,000 shall be
16 available to carry out subsection (a)(5);

17 (F) not more than \$1,650,000 shall be
18 available to carry out subsection (a)(6);

19 (G) not more than \$2,500,000 shall be
20 available to carry out subsection (a)(7); and

21 (H) not more than \$2,000,000 shall be
22 available to carry out subsection (a)(8).

23 (c) AVAILABILITY OF FUNDS.—

1 (3) \$40,000,000 for fiscal year 1998;

2 (4) \$50,000,000 for fiscal year 1999; and

3 (5) \$60,000,000 for fiscal year 2000.

4 (b) AVAILABILITY OF FUNDS.—Funds made avail-
5 able pursuant to subsection (a), in any fiscal year, shall
6 remain available until expended.

7 **SEC. 523. AUTHORIZATION OF ADDITIONAL APPROPRIA-**
8 **TIONS FOR THE IMMIGRATION AND NATU-**
9 **RALIZATION SERVICE.**

10 (a) IN GENERAL.—There are authorized to be appro-
11 priated for the activities of the Immigration and Natu-
12 ralization Service, to help meet the increased needs of the
13 Immigration and Naturalization Service—

14 (1) \$15,000,000 for fiscal year 1996;

15 (2) \$15,000,000 for fiscal year 1997;

16 (3) \$15,000,000 for fiscal year 1998;

17 (4) \$15,000,000 for fiscal year 1999; and

18 (5) \$15,000,000 for fiscal year 2000.

19 (b) AVAILABILITY OF FUNDS.—Funds made avail-
20 able pursuant to subsection (a), in any fiscal year, shall
21 remain available until expended.

22 **SEC. 524. DRUG ENFORCEMENT ADMINISTRATION.**

23 (a) ACTIVITIES OF DRUG ENFORCEMENT ADMINIS-
24 TRATION.—With funds made available pursuant to sub-
25 section (b), the Attorney General shall—

1 (1) fund permanent change of station transfers
2 for special agent personnel;

3 (2) establish and maintain an adequate motor
4 vehicle base; and

5 (3) purchase aircraft and replacement parts.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Drug Enforce-
8 ment Administration, to help meet the increased needs of
9 the Drug Enforcement Administration—

10 (1) \$22,000,000 for fiscal year 1996, of
11 which—

12 (A) not more than \$10,000,000 shall be
13 available to carry out subsection (a)(1);

14 (B) not more than \$5,000,000 shall be
15 available to carry out subsection (a)(2); and

16 (C) not more than \$5,000,000 shall be
17 available to carry out subsection (a)(3);

18 (2) \$35,000,000 for fiscal year 1997, of
19 which—

20 (A) not more than \$20,000,000 shall be
21 available to carry out subsection (a)(1);

22 (B) not more than \$5,000,000 shall be
23 available to carry out subsection (a)(2); and

24 (C) not more than \$5,000,000 shall be
25 available to carry out subsection (a)(3);

1 (3) \$50,000,000 for fiscal year 1998, of
2 which—

3 (A) not more than \$20,000,000 shall be
4 available to carry out subsection (a)(1);

5 (B) not more than \$10,000,000 shall be
6 available to carry out subsection (a)(2); and

7 (C) not more than \$10,000,000 shall be
8 available to carry out subsection (a)(3);

9 (4) \$65,000,000 for fiscal year 1999, of
10 which—

11 (A) not more than \$20,000,000 shall be
12 available to carry out subsection (a)(1);

13 (B) not more than \$10,000,000 shall be
14 available to carry out subsection (a)(2); and

15 (C) not more than \$10,000,000 shall be
16 available to carry out subsection (a)(3); and

17 (5) \$78,000,000 for fiscal year 2000, of
18 which—

19 (A) not more than \$20,000,000 shall be
20 available to carry out subsection (a)(1);

21 (B) not more than \$10,000,000 shall be
22 available to carry out subsection (a)(2); and

23 (C) not more than \$10,000,000 shall be
24 available to carry out subsection (a)(3).

1 (c) AVAILABILITY OF FUNDS.—Funds made available
2 pursuant to this section, in any fiscal year, shall remain
3 available until expended.

4 (d) EXCESS FUNDS.—Any funds remaining after the
5 application of subsection (b) may be expended by the Drug
6 Enforcement Administration—

7 (1) to hire new Drug Enforcement Administra-
8 tion agents;

9 (2) for linguist services; and

10 (3) to acquire technical investigative equipment.

11 **SEC. 525. DEPARTMENT OF JUSTICE.**

12 (a) IN GENERAL.—Subject to the availability of ap-
13 propriations, the Attorney General shall hire additional as-
14 sistance United States Attorneys.

15 (b) AUTHORIZATION OF ADDITIONAL APPROPRIA-
16 TIONS.—There are authorized to be appropriated for the
17 activities of the Department of Justice, to hire additional
18 Assistant United States Attorneys to meet the needs re-
19 sulting from this Act \$20,000,000 for each of the fiscal
20 years 1996, 1997, 1998, 1999, and 2000.

21 **SEC. 526. FUNDING SOURCE.**

22 Notwithstanding any other provision of law, funding
23 for authorizations provided in this subtitle may be paid
24 for out of the Crime Control Trust Fund.

1 **TITLE VI—TERRORIST**
2 **INTERDICTION**

3 **SEC. 601. TERRORIST INTERDICTION.**

4 (a) AUTOMATED VISA LOOKOUT SYSTEM.—Not later
5 than 6 months after the date of the enactment of this sec-
6 tion, the Secretary of State shall implement an upgrade
7 of all overseas visa lookout operations to computerized sys-
8 tems with automated multiple-name search capabilities.

9 (b) NATIONAL CRIME INFORMATION CENTER.—For
10 the purpose of access to the National Crime Information
11 Center and other Federal Bureau of Investigation criminal
12 records, with respect to functions involving the processing
13 of visas and passports and for other immigration-related
14 purposes, the Department of State shall be considered a
15 law enforcement agency.

16 (c) MEMBERSHIP IN A TERRORIST ORGANIZATION AS
17 A BASIS FOR EXCLUSION FROM THE UNITED STATES
18 UNDER THE IMMIGRATION AND NATIONALITY ACT.—Sec-
19 tion 212(a)(3)(B) of the Immigration and Nationality Act
20 (8 U.S.C. 1182(a)(3)(B)) is amended—

21 (1) by inserting “or” at the end of clause
22 (i)(II);

23 (2) by inserting immediately after clause (i)(II)
24 the following:

1 “(III) is a member of an organization
2 that engages in terrorist activity or who
3 actively supports or advocates terrorist ac-
4 tivity,”; and

5 (3) by adding after clause (iii) the following
6 new clause:

7 “(iv) TERRORIST ORGANIZATION DE-
8 FINED.—As used in this Act, the term ‘terrorist
9 organization’ means an organization which com-
10 mits terrorist activity as determined by the At-
11 torney General, in consultation with the Sec-
12 retary of State.”.

13 (d) PROCESSING OF VISAS FOR ADMISSION INTO THE
14 UNITED STATES.—

15 (1) VISA LOOKOUT SYSTEM CHECK.—

16 (A) Whenever a United States consular of-
17 ficial issues a visa for admission to the United
18 States, that official shall certify, in writing, that
19 a check of the Automated Visa Lookout Sys-
20 tem, or any other system or list which main-
21 tains information about the excludability of
22 aliens under the Immigration and Nationality
23 Act, has been made and that there is no basis
24 under such system for the exclusion of such
25 alien.

1 (B) If a consular official issues a visa to
2 an alien for admission to the United States and
3 the alien was named on the Automated Visa
4 Lookout System as excludable from the United
5 States at the time of the consular officer's re-
6 view and issuance of such visa, a notation shall
7 be entered into the personnel file of such con-
8 sular officer and such information shall be con-
9 sidered as a serious negative factor in the offi-
10 cer's annual performance evaluation.

11 (2) ACCOUNTABILITY REVIEW BOARD.—In any
12 case where a serious loss of life or property in the
13 United States involves the issuance of a visa to an
14 alien listed on the Automated Visa Lookout System,
15 or any other system or list which maintains informa-
16 tion about the excludability of aliens under the Im-
17 migration and Nationality Act, the Secretary of
18 State shall convene an Accountability Review Board
19 under the authority of title III of the Omnibus Dip-
20 lomatic Security and Antiterrorism Act of 1986.

21 (e) CONGRESSIONAL REPORT.—The Secretary of
22 State shall submit to the Congress a report for each of
23 the fiscal years 1995 and 1996 that details the number
24 and circumstances of each visa denied as a result of the
25 amendment made by subsection (c).

1 **TITLE VII—CRIMINAL**
2 **PROCEDURAL IMPROVEMENTS**
3 **Subtitle A—Habeas Corpus Reform**

4 **SEC. 701. FILING DEADLINES.**

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

8 “(d)(1) A 1-year period of limitation shall apply to
9 an application for a writ of habeas corpus by a person
10 in custody pursuant to the judgment of a State court. The
11 limitation period shall run from the latest of—

12 “(A) the date on which the judgment became
13 final by the conclusion of direct review or the expira-
14 tion of the time for seeking such review;

15 “(B) the date on which the impediment to filing
16 an application created by State action in violation of
17 the Constitution or laws of the United States is re-
18 moved, if the applicant was prevented from filing by
19 such State action;

20 “(C) the date on which the constitutional right
21 asserted was initially recognized by the Supreme
22 Court, if the right has been newly recognized by the
23 Supreme Court and is made retroactively applicable;
24 or

1 “(D) the date on which the factual predicate of
2 the claim or claims presented could have been dis-
3 covered through the exercise of due diligence.

4 “(2) The time during which a properly filed applica-
5 tion for State post-conviction or other collateral review
6 with respect to the pertinent judgment or claim shall not
7 be counted toward any period of limitation under this sub-
8 section.”.

9 **SEC. 702. APPEAL.**

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

12 **“§ 2253. Appeal**

13 “(a) In a habeas corpus proceeding or a proceeding
14 under section 2255 before a district judge, the final order
15 shall be subject to review, on appeal, by the court of ap-
16 peals for the circuit in which the proceeding is held.

17 “(b) There shall be no right of appeal from a final
18 order in a proceeding to test the validity of a warrant to
19 remove to another district or place for commitment or trial
20 a person charged with a criminal offense against the Unit-
21 ed States, or to test the validity of such person’s detention
22 pending removal proceedings.

23 “(c)(1) Unless a circuit justice or judge issues a cer-
24 tificate of appealability, an appeal may not be taken to
25 the court of appeals from—

1 “(A) the final order in a habeas corpus proceed-
2 ing in which the detention complained of arises out
3 of process issued by a State court; or

4 “(B) the final order in a proceeding under sec-
5 tion 2255.

6 “(2) A certificate of appealability may issue under
7 paragraph (1) only if the applicant has made a substantial
8 showing of the denial of a constitutional right.

9 “(3) The certificate of appealability under paragraph
10 (1) shall indicate which specific issue or issues satisfy the
11 showing required by paragraph (2).”.

12 **SEC. 703. AMENDMENT OF FEDERAL RULES OF APPELLATE**
13 **PROCEDURE.**

14 Rule 22 of the Federal Rules of Appellate Procedure
15 is amended to read as follows:

16 **“Rule 22. Habeas corpus and section 2255 pro-**
17 **ceedings**

18 “(a) APPLICATION FOR THE ORIGINAL WRIT.—An
19 application for a writ of habeas corpus shall be made to
20 the appropriate district court. If application is made to
21 a circuit judge, the application shall be transferred to the
22 appropriate district court. If an application is made to or
23 transferred to the district court and denied, renewal of the
24 application before a circuit judge shall not be permitted.
25 The applicant may, pursuant to section 2253 of title 28,

1 United States Code, appeal to the appropriate court of ap-
2 peals from the order of the district court denying the writ.

3 “(b) CERTIFICATE OF APPEALABILITY.—In a habeas
4 corpus proceeding in which the detention complained of
5 arises out of process issued by a State court, an appeal
6 by the applicant for the writ may not proceed unless a
7 district or a circuit judge issues a certificate of
8 appealability pursuant to section 2253(c) of title 28, Unit-
9 ed States Code. If an appeal is taken by the applicant,
10 the district judge who rendered the judgment shall either
11 issue a certificate of appealability or state the reasons why
12 such a certificate should not issue. The certificate or the
13 statement shall be forwarded to the court of appeals with
14 the notice of appeal and the file of the proceedings in the
15 district court. If the district judge has denied the certifi-
16 cate, the applicant for the writ may then request issuance
17 of the certificate by a circuit judge. If such a request is
18 addressed to the court of appeals, it shall be deemed ad-
19 dressed to the judges thereof and shall be considered by
20 a circuit judge or judges as the court deems appropriate.
21 If no express request for a certificate is filed, the notice
22 of appeal shall be deemed to constitute a request ad-
23 dressed to the judges of the court of appeals. If an appeal
24 is taken by a State or its representative, a certificate of
25 appealability is not required.”.

1 **SEC. 704. SECTION 2254 AMENDMENTS.**

2 Section 2254 of title 28, United States Code, is
3 amended—

4 (1) by amending subsection (b) to read as fol-
5 lows:

6 “(b)(1) An application for a writ of habeas corpus
7 on behalf of a person in custody pursuant to the judgment
8 of a State court shall not be granted unless it appears
9 that—

10 “(A) the applicant has exhausted the remedies
11 available in the courts of the State; or

12 “(B)(i) there is an absence of available State
13 corrective process; or

14 “(ii) circumstances exist that render such proc-
15 ess ineffective to protect the rights of the applicant.

16 “(2) An application for a writ of habeas corpus may
17 be denied on the merits, notwithstanding the failure of the
18 applicant to exhaust the remedies available in the courts
19 of the State.

20 “(3) A State shall not be deemed to have waived the
21 exhaustion requirement or be estopped from reliance upon
22 the requirement unless the State, through counsel, ex-
23 pressly waives the requirement.”;

24 (2) by redesignating subsections (d), (e), and
25 (f) as subsections (e), (f), and (g), respectively;

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

3 “(d) An application for a writ of habeas corpus on
4 behalf of a person in custody pursuant to the judgment
5 of a State court shall not be granted with respect to any
6 claim that was adjudicated on the merits in State court
7 proceedings unless the adjudication of the claim—

8 “(1) resulted in a decision that was contrary to,
9 or involved an unreasonable application of, clearly
10 established Federal law, as determined by the Su-
11 preme Court of the United States; or

12 “(2) resulted in a decision that was based on an
13 unreasonable determination of the facts in light of
14 the evidence presented in the State court proceed-
15 ing.”;

16 (4) by amending subsection (e), as redesignated
17 by paragraph (2), to read as follows:

18 “(e)(1) In a proceeding instituted by an application
19 for a writ of habeas corpus by a person in custody pursu-
20 ant to the judgment of a State court, a determination of
21 a factual issue made by a State court shall be presumed
22 to be correct. The applicant shall have the burden of re-
23 butting the presumption of correctness by clear and con-
24 vincing evidence.

1 “(2) If the applicant has failed to develop the factual
2 basis of a claim in State court proceedings, the court shall
3 not hold an evidentiary hearing on the claim unless the
4 applicant shows that—

5 “(A) the claim relies on—

6 “(i) a new rule of constitutional law, made
7 retroactive by the Supreme Court, that was pre-
8 viously unavailable; or

9 “(ii) a factual predicate that could not
10 have been previously discovered through the ex-
11 ercise of due diligence; and

12 “(B) the facts underlying the claim would be
13 sufficient to establish by clear and convincing evi-
14 dence that but for constitutional error, no reasonable
15 factfinder would have found the applicant guilty of
16 the underlying offense.”; and

17 (5) by adding at the end the following new sub-
18 sections:

19 “(h) Notwithstanding any other provision of law, in
20 all proceedings brought under this section, and any subse-
21 quent proceedings on review, appointment of counsel for
22 an applicant who is or becomes financially unable to afford
23 counsel shall be in the discretion of the court, except as
24 provided by a rule promulgated by the Supreme Court
25 pursuant to statutory authority. Appointment of counsel

1 under this section shall be governed by section 3006A of
2 title 18.

3 “(i) The ineffectiveness or incompetence of counsel
4 during Federal or State collateral post-conviction proceed-
5 ings shall not be a ground for relief in a proceeding arising
6 under section 2254.”.

7 **SEC. 705. SECTION 2255 AMENDMENTS.**

8 Section 2255 of title 28, United States Code, is
9 amended—

10 (1) by striking the second and fifth paragraphs;

11 and

12 (2) by adding at the end the following new
13 paragraphs:

14 “A one-year period of limitation shall apply to a mo-
15 tion under this section. The limitation period shall run
16 from the latest of—

17 “(1) the date on which the judgment of convic-
18 tion becomes final;

19 “(2) the date on which the impediment to mak-
20 ing a motion created by governmental action in vio-
21 lation of the Constitution or laws of the United
22 States is removed, if the movant was prevented from
23 making a motion by such governmental action;

24 “(3) the date on which the right asserted was
25 initially recognized by the Supreme Court, if that

1 right has been newly recognized by the Supreme
2 Court and is made retroactively applicable; or

3 “(4) the date on which the facts supporting the
4 claim or claims presented could have been discovered
5 through the exercise of due diligence.

6 “In all proceedings brought under this section, and
7 any subsequent proceedings on review, appointment of
8 counsel for a movant who is or becomes financially unable
9 to afford counsel shall be in the discretion of the court,
10 except as provided by a rule promulgated by the Supreme
11 Court pursuant to statutory authority. Appointment of
12 counsel under this section shall be governed by section
13 3006A of title 18.

14 “A second or successive motion must be certified as
15 provided in section 2244 by a panel of the appropriate
16 court of appeals to contain—

17 “(1) newly discovered evidence that, if proven
18 and viewed in light of the evidence as a whole, would
19 be sufficient to establish by clear and convincing evi-
20 dence that no reasonable factfinder would have
21 found the movant guilty of the offense; or

22 “(2) a new rule of constitutional law, made ret-
23 roactive by the Supreme Court, that was previously
24 unavailable.”.

1 **SEC. 706. LIMITS ON SECOND OR SUCCESSIVE APPLICA-**
2 **TIONS.**

3 (a) CONFORMING AMENDMENT TO SECTION
4 2244(a).—Section 2244(a) of title 28, United States
5 Code, is amended by striking “and the petition” and all
6 that follows through “by such inquiry.” and inserting “,
7 except as provided in section 2255.”.

8 (b) LIMITS ON SECOND OR SUCCESSIVE APPLICA-
9 TIONS.—Section 2244(b) of title 28, United States Code,
10 is amended to read as follows:

11 “(b)(1) A claim presented in a second or successive
12 habeas corpus application under section 2254 that was
13 presented in a prior application shall be dismissed.

14 “(2) A claim presented in a second or successive ha-
15 beas corpus application under section 2254 that was not
16 presented in a prior application shall be dismissed un-
17 less—

18 “(A) the applicant shows that the claim relies
19 on a new rule of constitutional law, made retroactive
20 by the Supreme Court, that was previously unavail-
21 able; or

22 “(B)(i) the factual predicate for the claim could
23 not have been discovered previously through the ex-
24 ercise of due diligence; and

25 “(ii) the facts underlying the claim, if proven
26 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 applicant guilty
4 of the underlying offense.

5 “(3)(A) Before a second or successive application per-
6 mitted by this section is filed in the district court, the ap-
7 plicant shall move in the appropriate court of appeals for
8 an order authorizing the district court to consider the ap-
9 plication.

10 “(B) A motion in the court of appeals for an order
11 authorizing the district court to consider a second or suc-
12 cessive application shall be determined by a three-judge
13 panel of the court of appeals.

14 “(C) The court of appeals may authorize the filing
15 of a second or successive application only if it determines
16 that the application makes a prima facie showing that the
17 application satisfies the requirements of this subsection.

18 “(D) The court of appeals shall grant or deny the
19 authorization to file a second or successive application not
20 later than 30 days after the filing of the motion.

21 “(E) The grant or denial of an authorization by a
22 court of appeals to file a second or success application
23 shall not be appealable and shall not be the subject of a
24 petition for rehearing or for a writ of certiorari.

1 “(4) A district court shall dismiss any claim pre-
 2 sented in a second or successive application that the court
 3 of appeals has authorized to be filed unless the applicant
 4 shows that the claim satisfies the requirements of this sec-
 5 tion.”.

6 **SEC. 707. DEATH PENALTY LITIGATION PROCEDURES.**

7 (a) ADDITION OF CHAPTER TO TITLE 28, UNITED
 8 STATES CODE.—Title 28, United States Code, is amended
 9 by inserting after chapter 153 the following new chapter:
 10 **“CHAPTER 154—SPECIAL HABEAS CORPUS**
 11 **PROCEDURES IN CAPITAL CASES**

“Sec.

“2261. Prisoners in State custody subject to capital sentence; appointment of
 counsel; requirement of rule of court or statute; procedures for
 appointment.

“2262. Mandatory stay of execution; duration; limits on stays of execution; sec-
 ond or abusive petitions.

“2263. Filing of habeas corpus application; time requirements; tolling rules.

“2264. Scope of Federal review; district court adjudications.

“2265. Application to State unitary review procedure.

“2266. Limitation periods for determining applications and motions.

12 **“§ 2261. Prisoners in State custody subject to capital**
 13 **sentence; appointment of counsel; re-**
 14 **quirement of rule of court or statute; pro-**
 15 **cedures for appointment**

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

1 “(b) This chapter is applicable if a State establishes
2 by statute, rule of its court of last resort, or by another
3 agency authorized by State law, a mechanism for the ap-
4 pointment, compensation, and payment of reasonable liti-
5 gation expenses of competent counsel in State post-convic-
6 tion proceedings brought by indigent prisoners whose cap-
7 ital convictions and sentences have been upheld on direct
8 appeal to the court of last resort in the State or have oth-
9 erwise become final for State law purposes. The rule of
10 court or statute must provide standards of competency for
11 the appointment of such counsel.

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

17 “(1) appointing one or more counsel to rep-
18 resent the prisoner upon a finding that the prisoner
19 is indigent and accepted the offer or is unable com-
20 petently to decide whether to accept or reject the
21 offer;

22 “(2) finding, after a hearing if necessary, that
23 the prisoner rejected the offer of counsel and made
24 the decision with an understanding of its legal con-
25 sequences; or

1 “(3) denying the appointment of counsel upon
2 a finding that the prisoner is not indigent.

3 “(d) No counsel appointed pursuant to subsections
4 (b) and (c) to represent a State prisoner under capital
5 sentence shall have previously represented the prisoner at
6 trial or on direct appeal in the case for which the appoint-
7 ment is made unless the prisoner and counsel expressly
8 request continued representation.

9 “(e) The ineffectiveness or incompetence of counsel
10 during State or Federal post-conviction proceedings in a
11 capital case shall not be a ground for relief in a proceeding
12 arising under section 2254. This limitation shall not pre-
13 clude the appointment of different counsel, on the court’s
14 own motion or at the request of the prisoner, at any phase
15 of State or Federal post-conviction proceedings on the
16 basis of the ineffectiveness or incompetence of counsel in
17 such proceedings.

18 **“§ 2262. Mandatory stay of execution; duration; limits**
19 **on stays of execution; successive peti-**
20 **tions**

21 “(a) Upon the entry in the appropriate State court
22 of record of an order under section 2261(c), a warrant
23 or order setting an execution date for a State prisoner
24 shall be stayed upon application to any court that would
25 have jurisdiction over any proceedings filed under section

1 2254. The application shall recite that the State has in-
2 voked the post-conviction review procedures of this chapter
3 and that the scheduled execution is subject to stay.

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

6 “(1) a State prisoner fails to file a habeas cor-
7 pus application under section 2254 within the time
8 required in section 2263;

9 “(2) before a court of competent jurisdiction, in
10 the presence of counsel, unless the prisoner has com-
11 petently and knowingly waived such counsel, and
12 after having been advised of the consequences, a
13 State prisoner under capital sentence waives the
14 right to pursue habeas corpus review under section
15 2254; or

16 “(3) a State prisoner files a habeas corpus peti-
17 tion under section 2254 within the time required by
18 section 2263 and fails to make a substantial showing
19 of the denial of a Federal right or is denied relief
20 in the district court or at any subsequent stage of
21 review.

22 “(c) If one of the conditions in subsection (b) has
23 occurred, no Federal court thereafter shall have the au-
24 thority to enter a stay of execution in the case, unless the

1 court of appeals approves the filing of a second or succes-
2 sive application under section 2244(b).

3 **“§ 2263. Filing of habeas corpus application; time re-
4 quirements; tolling rules**

5 “(a) Any application under this chapter for habeas
6 corpus relief under section 2254 must be filed in the ap-
7 propriate district court not later than 180 days after final
8 State court affirmance of the conviction and sentence on
9 direct review or the expiration of the time for seeking such
10 review.

11 “(b) The time requirements established by subsection
12 (a) shall be tolled—

13 “(1) from the date that a petition for certiorari
14 is filed in the Supreme Court until the date of final
15 disposition of the petition if a State prisoner files
16 the petition to secure review by the Supreme Court
17 of the affirmance of a capital sentence on direct re-
18 view by the court of last resort of the State or other
19 final State court decision on direct review;

20 “(2) from the date on which the first petition
21 for post-conviction review or other collateral relief is
22 filed until the final State court disposition of such
23 petition; and

24 “(3) during an additional period not to exceed
25 30 days, if—

1 “(A) a motion for an extension of time is
2 filed in the Federal district court that would
3 have jurisdiction over the case upon the filing
4 of a habeas corpus application under section
5 2254; and

6 “(B) a showing of good cause is made for
7 the failure to file the habeas corpus application
8 within the time period established by this sec-
9 tion.

10 **“§ 2264. Scope of Federal review; district court adju-**
11 **dications**

12 “(a) Whenever a State prisoner under capital sen-
13 tence files a petition for habeas corpus relief to which this
14 chapter applies, the district court shall only consider a
15 claim or claims that have been raised and decided on the
16 merits in the State courts, unless the failure to raise the
17 claim properly is—

18 “(1) the result of State action in violation of
19 the Constitution or laws of the United States;

20 “(2) the result of the Supreme Court recogni-
21 tion of a new Federal right that is made retro-
22 actively applicable; or

23 “(3) based on a factual predicate that could not
24 have been discovered through the exercise of due

1 diligence in time to present the claim for State or
2 Federal post-conviction review.

3 “(b) Following review subject to subsections (a), (d),
4 and (e) of section 2254, the court shall rule on the claims
5 properly before it.

6 **“§ 2265. Application to State unitary review proce-**
7 **dure**

8 “(a) For purposes of this section, a ‘unitary review’
9 procedure means a State procedure that authorizes a per-
10 son under sentence of death to raise, in the course of di-
11 rect review of the judgment, such claims as could be raised
12 on collateral attack. This chapter shall apply, as provided
13 in this section, in relation to a State unitary review proce-
14 dure if the State establishes by rule of its court of last
15 resort or by statute a mechanism for the appointment,
16 compensation, and payment of reasonable litigation ex-
17 penses of competent counsel in the unitary review proceed-
18 ings, including expenses relating to the litigation of collat-
19 eral claims in the proceedings. The rule of court or statute
20 must provide standards of competency for the appoint-
21 ment of such counsel.

22 “(b) To qualify under this section, a unitary review
23 procedure must include an offer of counsel following trial
24 for the purpose of representation on unitary review, and
25 entry of an order, as provided in section 2261(c), concern-

1 ing appointment of counsel or waiver or denial of appoint-
2 ment of counsel for that purpose. No counsel appointed
3 to represent the prisoner in the unitary review proceedings
4 shall have previously represented the prisoner at trial in
5 the case for which the appointment is made unless the
6 prisoner and counsel expressly request continued represen-
7 tation.

8 “(c) Sections 2262, 2263, 2264, and 2266 shall apply
9 in relation to cases involving a sentence of death from any
10 State having a unitary review procedure that qualifies
11 under this section. References to State ‘post-conviction re-
12 view’ and ‘direct review’ in such sections shall be under-
13 stood as referring to unitary review under the State proce-
14 dure. The reference in section 2262(a) to ‘an order under
15 section 2261(c)’ shall be understood as referring to the
16 post-trial order under subsection (b) concerning represen-
17 tation in the unitary review proceedings, but if a tran-
18 script of the trial proceedings is unavailable at the time
19 of the filing of such an order in the appropriate State
20 court, then the start of the 180-day limitation period
21 under section 2263 shall be deferred until a transcript is
22 made available to the prisoner or counsel of the prisoner.

1 **“§ 2266. Limitation periods for determining applica-**
2 **tions and motions**

3 “(a) The adjudication of any application under sec-
4 tion 2254 that is subject to this chapter, and the adjudica-
5 tion of any motion under section 2255 by a person under
6 sentence of death, shall be given priority by the district
7 court and by the court of appeals over all noncapital mat-
8 ters.

9 “(b)(1)(A) A district court shall render a final deter-
10 mination and enter a final judgment on any application
11 for a writ of habeas corpus brought under this chapter
12 in a capital case not later than 180 days after the date
13 on which the application is filed.

14 “(B) A district court shall afford the parties at least
15 120 days in which to complete all actions, including the
16 preparation of all pleadings and briefs, and if necessary,
17 a hearing, prior to the submission of the case for decision.

18 “(C)(i) A district court may delay for not more than
19 one additional 30-day period beyond the period specified
20 in subparagraph (A), the rendering of a determination of
21 an application for a writ of habeas corpus if the court is-
22 sues a written order making a finding, and stating the
23 reasons for the finding, that the ends of justice that would
24 be served by allowing the delay outweigh the best interests
25 of the public and the applicant in a speedy disposition of
26 the application.

1 “(ii) The factors, among others, that a court shall
2 consider in determining whether a delay in the disposition
3 of an application is warranted are as follows:

4 “(I) Whether the failure to allow the delay
5 would be likely to result in a miscarriage of justice.

6 “(II) Whether the case is so unusual or so com-
7 plex, due to the number of defendants, the nature of
8 the prosecution, or the existence of novel questions
9 of fact or law, that it is unreasonable to expect ade-
10 quate briefing within the time limitations established
11 by subparagraph (A).

12 “(III) Whether the failure to allow a delay in
13 a case, that, taken as a whole, is not so unusual or
14 so complex as described in subclause (II), but would
15 otherwise deny the applicant reasonable time to ob-
16 tain counsel, would unreasonably deny the applicant
17 or the government continuity of counsel, or would
18 deny counsel for the applicant or the government the
19 reasonable time necessary for effective preparation,
20 taking into account the exercise of due diligence.

21 “(iii) No delay in disposition shall be permissible be-
22 cause of general congestion of the court’s calendar.

23 “(iv) The court shall transmit a copy of any order
24 issued under clause (i) to the Director of the Administra-

1 tive Office of the United States Courts for inclusion in
2 the report under paragraph (5).

3 “(2) The time limitations under paragraph (1) shall
4 apply to—

5 “(A) an initial application for a writ of habeas
6 corpus;

7 “(B) any second or successive application for a
8 writ of habeas corpus; and

9 “(C) any redetermination of an application for
10 a writ of habeas corpus following a remand by the
11 court of appeals or the Supreme Court for further
12 proceedings, in which case the limitation period shall
13 run from the date the remand is ordered.

14 “(3)(A) The time limitations under this section shall
15 not be construed to entitle an applicant to a stay of execu-
16 tion, to which the applicant would otherwise not be enti-
17 tled, for the purpose of litigating any application or ap-
18 peal.

19 “(B) No amendment to an application for a writ of
20 habeas corpus under this chapter shall be permitted after
21 the filing of the answer to the application, except on the
22 grounds specified in section 2244(b).

23 “(4)(A) The failure of a court to meet or comply with
24 a time limitation under this section shall not be a ground

1 for granting relief from a judgment of conviction or sen-
2 tence.

3 “(B) The State may enforce a time limitation under
4 this section by petitioning for a writ of mandamus to the
5 court of appeals. The court of appeals shall act on the
6 petition for a writ or mandamus not later than 30 days
7 after the filing of the petition.

8 “(5)(A) The Administrative Office of United States
9 Courts shall submit to Congress an annual report on the
10 compliance by the district courts with the time limitations
11 under this section.

12 “(B) The report described in subparagraph (A) shall
13 include copies of the orders submitted by the district
14 courts under paragraph (1)(B)(iv).

15 “(c)(1)(A) A court of appeals shall hear and render
16 a final determination of any appeal of an order granting
17 or denying, in whole or in part, an application brought
18 under this chapter in a capital case not later than 120
19 days after the date on which the reply brief is filed, or
20 if no reply brief is filed, not later than 120 days after
21 the date on which the answering brief is filed.

22 “(B)(i) A court of appeals shall decide whether to
23 grant a petition for rehearing or other request for rehear-
24 ing en banc not later than 30 days after the date on which
25 the petition for rehearing is filed unless a responsive

1 pleading is required, in which case the court shall decide
2 whether to grant the petition not later than 30 days after
3 the date on which the responsive pleading is filed.

4 “(ii) If a petition for rehearing or rehearing en banc
5 is granted, the court of appeals shall hear and render a
6 final determination of the appeal not later than 120 days
7 after the date on which the order granting rehearing or
8 rehearing en banc is entered.

9 “(2) The time limitations under paragraph (1) shall
10 apply to—

11 “(A) an initial application for a writ of habeas
12 corpus;

13 “(B) any second or successive application for a
14 writ of habeas corpus; and

15 “(C) any redetermination of an application for
16 a writ of habeas corpus or related appeal following
17 a remand by the court of appeals en banc or the Su-
18 preme Court for further proceedings, in which case
19 the limitation period shall run from the date the re-
20 mand is ordered.

21 “(3) The time limitations under this section shall not
22 be construed to entitle an applicant to a stay of execution,
23 to which the applicant would otherwise not be entitled, for
24 the purpose of litigating any application or appeal.

1 “(4)(A) The failure of a court to meet or comply with
2 a time limitation under this section shall not be a ground
3 for granting relief from a judgment of conviction or sen-
4 tence.

5 “(B) The State may enforce a time limitation under
6 this section by applying for a writ of mandamus to the
7 Supreme Court.

8 “(5) The Administrative Office of United States
9 Courts shall submit to Congress an annual report on the
10 compliance by the courts of appeals with the time limita-
11 tions under this section.”.

12 (b) TECHNICAL AMENDMENT.—The part analysis for
13 part IV of title 28, United States Code, is amended by
14 adding after the item relating to chapter 153 the following
15 new item:

**“154. Special habeas corpus procedures in capital
 cases 2261.”.**

16 **SEC. 708. TECHNICAL AMENDMENT.**

17 Section 408(q) of the Controlled Substances Act (21
18 U.S.C. 848(q)) is amended—

19 (1) in paragraph (4)(A), by striking “shall” and
20 inserting “may”;

21 (2) in paragraph (4)(B), by striking “shall”
22 and inserting “may”; and

23 (3) by amending paragraph (9) to read as fol-
24 lows:

1 “(9) Upon a finding that investigative, expert, or
2 other services are reasonably necessary for the representa-
3 tion of the defendant, whether in connection with issues
4 relating to guilt or the sentence, the court may authorize
5 the defendant’s attorneys to obtain such services on behalf
6 of the defendant and, if so authorized, shall order the pay-
7 ment of fees and expenses therefor under paragraph (10).
8 No ex parte proceeding, communication, or request may
9 be considered pursuant to this section unless a proper
10 showing is made concerning the need for confidentiality.
11 Any such proceeding, communication, or request shall be
12 transcribed and made a part of the record available for
13 appellate review.”.

14 **Subtitle B—Criminal Procedural**
15 **Improvements**

16 **SEC. 721. CLARIFICATION AND EXTENSION OF CRIMINAL**
17 **JURISDICTION OVER CERTAIN TERRORISM**
18 **OFFENSES OVERSEAS.**

19 (a) Section 46502(b) of title 49, United States Code,
20 is amended—

21 (1) in paragraph (1), by striking “and later
22 found in the United States”;

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

1 “(2) The courts of the United States have juris-
2 diction over the offense in paragraph (1) if—

3 “(A) a national of the United States was
4 aboard the aircraft;

5 “(B) an offender is a national of the Unit-
6 ed States; or

7 “(C) an offender is afterwards found in the
8 United States.”; and

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

11 “(3) For purposes of this subsection, the term
12 ‘national of the United States’ has the meaning
13 given such term in section 101(a)(22) of the Immi-
14 gration and Nationality Act (8 U.S.C.
15 1101(a)(22)).”.

16 (b) Section 32(b) of title 18, United States Code, is
17 amended—

18 (1) by striking “(b) Whoever” and inserting
19 “(b)(1) Whoever”;

20 (2) by redesignating paragraphs (1) through
21 (4) as subparagraphs (A) through (D);

22 (3) by striking “, if the offender is later found
23 in the United States,”; and

24 (4) by adding at the end the following new
25 paragraphs:

1 “(2) The courts of the United States have jurisdiction
2 over an offense described in this subsection if—

3 “(A) a national of the United States was
4 on board, or would have been on board, the air-
5 craft;

6 “(B) an offender is a national of the Unit-
7 ed States; or

8 “(C) an offender is afterwards found in the
9 United States.

10 “(3) For purposes of this subsection, the term
11 ‘national of the United States’ has the meaning
12 given such term in section 101(a)(22) of the Immi-
13 gration and Nationality Act (8 U.S.C.
14 1101(a)(22)).”.

15 (c) Section 1116 of title 18, United States Code, is
16 amended—

17 (1) in subsection (b), by adding at the end the
18 following new paragraph:

19 “(7) ‘National of the United States’ has the
20 meaning given such term in section 101(a)(22) of
21 the Immigration and Nationality Act (8 U.S.C.
22 1101(a)(22)).”; and

23 (2) in subsection (c), by striking the first sen-
24 tence and inserting the following: “If the victim of
25 an offense under subsection (a) is an internationally

1 protected person outside the United States, the
2 United States may exercise jurisdiction over the of-
3 fense if (1) the victim is a representative, officer,
4 employee, or agent of the United States, (2) an of-
5 fender is a national of the United States, or (3) an
6 offender is afterwards found in the United States.”.

7 (d) Section 112 of title 18, United States Code, is
8 amended—

9 (1) in subsection (c), by inserting “national of
10 the United States,” before “and”; and

11 (2) in subsection (e), by striking the first sen-
12 tence and inserting the following: “If the victim of
13 an offense under subsection (a) is an internationally
14 protected person outside the United States, the
15 United States may exercise jurisdiction over the of-
16 fense if (1) the victim is a representative, officer,
17 employee, or agent of the United States, (2) an of-
18 fender is a national of the United States, or (3) an
19 offender is afterwards found in the United States.”.

20 (e) Section 878 of title 18, United States Code, is
21 amended—

22 (1) in subsection (c), by inserting “national of
23 the United States,” before “and”; and

24 (2) in subsection (d), by striking the first sen-
25 tence and inserting the following: “If the victim of

1 an offense under subsection (a) is an internationally
2 protected person outside the United States, the
3 United States may exercise jurisdiction over the of-
4 fense if (1) the victim is a representative, officer,
5 employee, or agent of the United States, (2) an of-
6 fender is a national of the United States, or (3) an
7 offender is afterwards found in the United States.”.

8 (f) Section 1201(e) of title 18, United States Code,
9 is amended—

10 (1) by striking the first sentence and inserting
11 the following: “If the victim of an offense under sub-
12 section (a) is an internationally protected person
13 outside the United States, the United States may
14 exercise jurisdiction over the offense if (1) the victim
15 is a representative, officer, employee, or agent of the
16 United States, (2) an offender is a national of the
17 United States, or (3) an offender is afterwards
18 found in the United States.”; and

19 (2) by adding at the end the following: “For
20 purposes of this subsection, the term ‘national of the
21 United States’ has the meaning given such term in
22 section 101(a)(22) of the Immigration and National-
23 ity Act (8 U.S.C. 1101(a)(22)).”.

24 (g) Section 37(b)(2) of title 18, United States Code,
25 is amended to read as follows:

1 “(2) the prohibited activity takes place outside
2 the United States, and—

3 “(A) the offender is later found in the
4 United States; or

5 “(B) an offender or a victim is a national
6 of the United States (as defined in section
7 101(a)(22) of the Immigration and Nationality
8 Act (8 U.S.C. 1101(a)(22))).”.

9 (h) Section 178 of title 18, United States Code, is
10 amended—

11 (1) by striking the “and” at the end of para-
12 graph (3);

13 (2) by striking the period at the end of para-
14 graph (4) and inserting “; and”; and

15 (3) by adding at the end the following new
16 paragraph:

17 “(5) the term ‘national of the United States’
18 has the meaning given such term in section
19 101(a)(22) of the Immigration and Nationality Act
20 (8 U.S.C. 1101(a)(22)).”.

21 **SEC. 722. EXTENSION OF TERRITORIAL SEA.**

22 (a) TERRITORIAL SEA EXTENDING TO TWELVE
23 MILES INCLUDED IN SPECIAL MARITIME AND TERRI-
24 TORIAL JURISDICTION.—The Congress declares that all
25 the territorial sea of the United States, as defined by Pres-

1 idential Proclamation 5928 of December 27, 1988, is part
2 of the United States, subject to its sovereignty, and, for
3 purposes of Federal criminal jurisdiction, is within the
4 special maritime and territorial jurisdiction of the United
5 States wherever that term is used in title 18, United
6 States Code.

7 (b) ASSIMILATED CRIMES IN EXTENDED TERRI-
8 TORIAL SEA.—Section 13 of title 18, United States Code
9 (relating to the adoption of State laws for areas within
10 Federal jurisdiction), is amended—

11 (1) in subsection (a), by inserting after “title,”
12 the following: “or on, above, or below any portion of
13 the territorial sea of the United States not within
14 the territory of any State, Territory, Possession, or
15 District”; and

16 (2) by adding at the end the following new sub-
17 section:

18 “(c) Whenever any waters of the territorial sea of the
19 United States lie outside the territory of any State, Terri-
20 tory, Possession, or District, such waters (including the
21 airspace above and the seabed and subsoil below, and arti-
22 ficial islands and fixed structures erected thereon) shall
23 be deemed for purposes of subsection (a) to lie within the
24 area of that State, Territory, Possession, or District it
25 would lie within if the boundaries of such State, Territory,

1 Possession, or District were extended seaward to the outer
2 limit of the territorial sea of the United States.”.

3 **SEC. 723. JURISDICTION OF UNITED STATES COURTS OVER**
4 **ACTS OF INTERNATIONAL TERRORISM.**

5 (a) INAPPLICABILITY OF FOREIGN SOVEREIGN IM-
6 MUNITY IN CASES INVOLVING ACTS OF INTERNATIONAL
7 TERRORISM.—

8 (1) DEFINITION.—Section 1603 of title 28,
9 United States Code, is amended by adding at the
10 end the following new subsection:

11 “(f) The term ‘act of international terrorism’
12 means an act—

13 “(1) that is violent or dangerous to human
14 life and that is a violation of the criminal laws
15 of the United States or of any State or that
16 would be a criminal violation if committed with-
17 in the jurisdiction of the United States or any
18 State; and

19 “(2) that appears to be intended—

20 “(A) to intimidate or coerce a civilian
21 population;

22 “(B) to influence the policy of a gov-
23 ernment by intimidation or coercion; or

24 “(C) to affect the conduct of a gov-
25 ernment by assassination or kidnapping.

1 “(g) The term ‘permanent resident alien’ means
2 an alien who has been lawfully admitted to the Unit-
3 ed States for permanent residence.”.

4 (2) ADDITIONAL EXCEPTION TO FOREIGN
5 STATE IMMUNITY.—Section 1605(a) of title 28,
6 United States Code, is amended—

7 (A) by striking “or” at the end of para-
8 graph (5);

9 (B) by striking the period at the end of
10 paragraph (6) and inserting “; or”; and

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

13 “(7) in which the action is based upon an act
14 of international terrorism—

15 “(A) within the United States; or

16 “(B) outside the United States if money
17 damages are sought against a foreign state for
18 personal injury or death to a United States citi-
19 zen or permanent resident alien,

20 which act occurred not more than 6 years previously
21 and which was committed or aided or abetted by a
22 foreign state that was designated by the Secretary of
23 State as a state repeatedly providing support for
24 acts of international terrorism under section 40(d)
25 of the Arms Export Control Act.”.

1 (3) PROPERTY SUBJECT TO EXECUTION UPON A
2 JUDGMENT.—Section 1610(a) of title 28, United
3 States Code, is amended—

4 (A) by striking “or” at the end of para-
5 graph (5);

6 (B) by striking the period at the end of
7 paragraph (6) and inserting “; or”; and

8 (C) by adding at the end the following new
9 paragraph:

10 “(7) the execution relates to a judgment en-
11 tered in a case based upon an act of international
12 terrorism—

13 “(A) within the United States; or

14 “(B) outside the United States if money
15 damages are sought against a foreign state for
16 personal injury or death to a United States citi-
17 zen or permanent resident alien,

18 which act occurred not more than 6 years previously
19 and which was committed or aided or abetted by a
20 foreign state that was designated by the Secretary of
21 State as a state repeatedly providing support for
22 acts of international terrorism under section 40(d)
23 of the Arms Export Control Act.”.

1 (4) ATTACHMENT OF PROPERTY PRIOR TO
2 ENTRY OF JUDGMENT.—Section 1610(d) of title 28,
3 United States Code, is amended—

4 (A) by redesignating paragraph (1) as
5 paragraph (1)(A);

6 (B) by striking “and” at the end of para-
7 graph (1)(A) and inserting “or”; and

8 (C) by inserting after paragraph (1)(A) the
9 following:

10 “(B) the foreign state is not immune from ju-
11 risdiction by virtue of the operation of section
12 1605(a)(7); and”.

13 (b) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY
14 FOR CERTAIN CASES INVOLVING TORTURE,
15 EXTRAJUDICIAL KILLING, AIRCRAFT SABOTAGE, HOS-
16 TAGE TAKING, OR GENOCIDE IN A FOREIGN STATE.—Sec-
17 tion 1605 of title 28, United States Code (as amended
18 by section 206, and subsection (a) of this section), is
19 amended—

20 (1) in subsection (a)—

21 (A) by striking “or” at the end of para-
22 graph (6);

23 (B) by striking the period at the end of
24 paragraph (7) and inserting “; or”; and

1 (C) by adding at the end the following new
2 paragraph:

3 “(8) not otherwise encompassed in paragraph
4 (2), in which money damages are sought against a
5 foreign state for personal injury or death of a Unit-
6 ed States citizen and caused by the torture or
7 extrajudicial killing of that citizen, or by an act of
8 aircraft sabotage, hostage taking, or genocide com-
9 mitted against that citizen, by such foreign state or
10 by any official, employee, or agent of such foreign
11 state while acting within the scope of his or her of-
12 fice, employment, or agency, except that—

13 “(A) an action under this paragraph shall
14 not be maintained unless the individual whose
15 injury or death gave rise to the action was a
16 United States citizen at the time the conduct
17 causing such injury or death occurred;

18 “(B) the court shall decline to hear a claim
19 under this paragraph if the claimant has not
20 exhausted adequate and available remedies in
21 the place in which the conduct giving rise to the
22 claim occurred and has not afforded the foreign
23 state an opportunity to arbitrate the claim be-
24 fore an international tribunal in accordance
25 with international standards; and

1 “(C) an action under this paragraph shall
2 not be maintained unless—

3 “(i) the action is brought within 10
4 years after the cause of action accrues; or

5 “(ii) the cause of action is based on
6 an act of genocide occurring more than 10
7 years before the date of the enactment of
8 this paragraph and the action is brought
9 within 18 months after such date.”; and

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

12 “(f) For purposes of paragraph (8)—

13 “(1) the terms ‘torture’ and ‘extrajudicial kill-
14 ing’ have the meanings given those terms in section
15 3 of the Torture Victim Protection Act of 1991;

16 “(2) the term ‘hostage taking’ has the meaning
17 given such term in Article 1 of the International
18 Convention Against the Taking of Hostages;

19 “(3) the term ‘aircraft sabotage’ has the mean-
20 ing given such term in Article 1 of the Convention
21 for the Suppression of Unlawful Acts Against the
22 Safety of Civil Aviation; and

23 “(4) the term ‘act of genocide’ means conduct
24 that would be a violation of section 1091 of title 18,

1 United States Code, if committed in the United
2 States.”.

3 (c) EXCEPTION TO IMMUNITY FROM ATTACH-
4 MENT.—

5 (1) FOREIGN STATE.—Section 1610(a) of title
6 28, United States Code, is amended—

7 (A) by striking “or” at the end of para-
8 graph (6);

9 (B) by striking the period at the end of
10 paragraph (7) and inserting “, or”; and

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

13 “(8) the judgment relates to a claim for which
14 the foreign state is not immune under of section
15 1605(a)(8), regardless of whether the property is or
16 was involved in the act upon which the claim is
17 based.”.

18 (2) AGENCY OR INSTRUMENTALITY.—Section
19 1610(b)(2) of such title is amended—

20 (A) by striking “or (5)” and inserting
21 “(5), or (7)”; and

22 (B) by striking “used for the activity” and
23 inserting “involved in the act”.

1 (c) APPLICABILITY.—The amendments made by this
2 section shall apply to any cause of action arising before,
3 on, or after the date of the enactment of this Act.

4 **SEC. 724. ADDITION OF FOREIGN MURDER AS A MONEY**
5 **LAUNDERING PREDICATE.**

6 Section 1956(c)(7)(D) of title 18, United States
7 Code, is amended by inserting “section 2115 (relating to
8 postal burglary),” before “or section 2319”.

9 **SEC. 725. EXPANSION OF WEAPONS OF MASS DESTRUCTION**
10 **STATUTE.**

11 (a) IN GENERAL.—Section 2332a of title 18, United
12 States Code, is amended—

13 (1) in subsection (a), by inserting “threatens,”
14 before “attempts”;

15 (2) by redesignating subsection (b) as sub-
16 section (c);

17 (3) by adding immediately after subsection (a)
18 the following new subsection:

19 “(b) USE OUTSIDE UNITED STATES.—Any national
20 of the United States who outside of the United States
21 uses, threatens, attempts, or conspires to use, a weapon
22 of mass destruction, shall be imprisoned for any term of
23 years or for life, and if death results, shall be punished
24 by death or imprisonment for any term of years or for
25 life.”; and

1 (2) by inserting after “section 224 (relating to
2 sports bribery),” the following: “section 351 (relat-
3 ing to Congressional or Cabinet officer assassina-
4 tion),”;

5 (3) by inserting after “section 664 (relating to
6 embezzlement from pension and welfare funds),” the
7 following: “section 831 (relating to prohibited trans-
8 actions involving nuclear materials), section 844 (f)
9 or (i) (relating to destruction by explosives or fire of
10 government property or property affecting interstate
11 or foreign commerce),”;

12 (4) by inserting after “sections 891–894 (relat-
13 ing to extortionate credit transactions),” the follow-
14 ing: “section 956 (relating to conspiracy to kill, kid-
15 nap, maim, or injure certain property in a foreign
16 country),”;

17 (5) by inserting after “section 1084 (relating to
18 the transmission of gambling information),” the fol-
19 lowing: “section 1111 (relating to murder), section
20 1114 (relating to murder of United States law en-
21 forcement officials), section 1116 (relating to mur-
22 der of foreign officials, official guests, or internation-
23 ally protected persons), section 1203 (relating to
24 hostage taking),”;

1 (6) by inserting after “section 1344 (relating to
2 financial institution fraud),” the following: “section
3 1361 (relating to willful injury of government prop-
4 erty within the special maritime and territorial juris-
5 diction),”;

6 (7) by inserting after “section 1513 (relating to
7 retaliating against a witness, victim, or an inform-
8 ant),” the following: “section 1751 (relating to Pres-
9 idential assassination),”;

10 (8) by inserting after “section 1958 (relating to
11 use of interstate commerce facilities in the commis-
12 sion of murder-for-hire),” the following: “section
13 2280 (relating to violence against maritime naviga-
14 tion), section 2281 (relating to violence against mar-
15 itime fixed platforms),”; and

16 (9) by inserting after “2321 (relating to traf-
17 ficking in certain motor vehicles or motor vehicle
18 parts),” the following: “section 2332 (relating to ter-
19 rorist acts abroad against United States nationals),
20 section 2332a (relating to use of weapons of mass
21 destruction), section 2332b (relating to acts of ter-
22 rorism transcending national boundaries), section
23 2339A (relating to providing material support to ter-
24 rorists),”.

1 (b) Section 1961(1) of title 18, United States Code,
2 is amended—

3 (1) by striking “or” before “(E)”; and

4 (2) by inserting at the semicolon at the end the
5 following: “, or (F) section 46502 of title 49, United
6 States Code”.

7 **SEC. 727. ADDITION OF TERRORISM OFFENSES TO THE**
8 **MONEY LAUNDERING STATUTE.**

9 (a) Section 1956(c)(7)(B)(ii) of title 18, United
10 States Code, is amended to read as follows:

11 “(ii) murder, kidnapping, robbery, extor-
12 tion, or destruction of property by means of ex-
13 plosive or fire;”.

14 (b) Section 1956(c)(7)(D) of title 18, United States
15 Code, is amended—

16 (1) by inserting after “an offense under” the
17 following: “section 32 (relating to the destruction of
18 aircraft), section 37 (relating to violence at inter-
19 national airports), section 115 (relating to influenc-
20 ing, impeding or retaliating against a Federal offi-
21 cial by threatening or injuring a family member),”;

22 (2) by inserting after “section 215 (relating to
23 commissions or gifts for procuring loans),” the fol-
24 lowing: “section 351 (relating to Congressional or
25 Cabinet officer assassination),”;

1 (3) by inserting after “section 798 (relating to
2 espionage),” the following: “section 831 (relating to
3 prohibited transactions involving nuclear materials),
4 section 844 (f) or (i) (relating to destruction by ex-
5 plosives or fire of Government property or property
6 affecting interstate or foreign commerce),”;

7 (4) by inserting after “section 875 (relating to
8 interstate communications),” the following: “section
9 956 (relating to conspiracy to kill, kidnap, maim, or
10 injure certain property in a foreign country),”;

11 (5) by inserting after “section 1032 (relating to
12 concealment of assets from conservator, receiver, or
13 liquidating agent of financial institution),” the fol-
14 lowing: “section 1111 (relating to murder), section
15 1114 (relating to murder of United States law en-
16 forcement officials), section 1116 (relating to mur-
17 der of foreign officials, official guests, or internation-
18 ally protected persons),”;

19 (6) by inserting after “section 1203 (relating to
20 hostage taking)” the following: “section 1361 (relat-
21 ing to willful injury of Government property), sec-
22 tion 1363 (relating to destruction of property within
23 the special maritime and territorial jurisdiction),”;

1 (7) by inserting after “section 1708 (relating to
2 theft from the mail” the following:”), section 1751
3 (relating to Presidential assassination),”;

4 (8) by inserting after “2114 (relating to bank
5 and postal robbery and theft),” the following: “sec-
6 tion 2280 (relating to violence against maritime
7 navigation), section 2281 (relating to violence
8 against maritime fixed platforms),”; and

9 (9) by striking “of this title” and inserting the
10 following: “section 2332 (relating to terrorist acts
11 abroad against United States nationals), section
12 2332a (relating to use of weapons of mass destruc-
13 tion), section 2332b (relating to international terror-
14 ist acts transcending national boundaries), 2339A
15 (relating to providing material support to terrorists)
16 of this title, section 46502 of title 49, United States
17 Code,”.

18 **SEC. 728. CLARIFICATION OF MARITIME VIOLENCE JURIS-**

19 **DICTION.**

20 Section 2280(b)(1)(A) of title 18, United States
21 Code, is amended—

22 (1) in clause (ii), by striking “and the activity
23 is not prohibited as a crime by the State in which
24 the activity takes place”; and

1 tempted kidnapping” and inserting both times “, at-
2 tempted kidnapping or conspiracy to kidnap”.

3 (4)(A) Section 115(b)(3) of title 18, United States
4 Code, is amended by striking “or attempted murder” and
5 inserting “, attempted murder or conspiracy to murder”.

6 (B) Section 115(b)(3) of title 18, United States Code,
7 is further amended by striking “and 1113” and inserting
8 “, 1113 and 1117”.

9 (d) Section 175(a) of title 18, United States Code,
10 is amended by inserting “, or conspires to do so,” after
11 “any organization to do so,”.

12 (e) Section 1203(a) of title 18, United States Code,
13 is amended by inserting “or conspires” after “attempts”.

14 (f) Section 2280(a)(1)(H) of title 18, United States
15 Code, is amended by inserting “or conspires” after “at-
16 tempts”.

17 (g) Section 2281(a)(1)(F) of title 18, United States
18 Code, is amended by inserting “or conspires” after “at-
19 tempts”.

20 (h)(1) Section 46502 of title 49, United States Code,
21 is amended—

22 (A) in subsection (a)(2), by inserting “, conspir-
23 ing,” after “committing” and

24 (B) in subsection (b)(1), by inserting “or con-
25 spiring to commit” after “committing”.

1 (2) Section 46505(b) of title 49, United States Code,
2 is amended—

3 (A) in paragraph (2), by inserting “conspired
4 or” after “has placed,”; and

5 (B) in paragraph (3), by inserting “conspired
6 or” after “has placed,”.

7 **SEC. 731. PRETRIAL DETENTION FOR POSSESSION OF FIRE-**
8 **ARMS OR EXPLOSIVES BY CONVICTED FEL-**
9 **ONS.**

10 Section 3156(a)(4) of title 18, United States Code,
11 is amended—

12 (1) by striking “or” at the end of subparagraph
13 (B);

14 (2) by striking the period at the end of sub-
15 paragraph (C) and inserting “; or”; and

16 (3) by adding after subparagraph (C) the fol-
17 lowing new subparagraph:

18 “(D) an offense that is a violation of sec-
19 tion 842(i) or 922(g) of this title (relating to
20 possession of explosives or firearms by convicted
21 felons).”.

22 **SEC. 732. INCLUSION OF ALIEN SMUGGLING AS A RICO**
23 **PREDICATE.**

24 Section 1961(1) of title 18, United States Code, is
25 amended—

1 (1) by striking “or” before “(E) any Act”; and

2 (2) by inserting after “Currency and Foreign
3 Transactions Reporting Act” the following: “, or (F)
4 any act (or conspiracy to commit any act) which is
5 indictable under section 274, 277, or 278 of the Im-
6 migration and Nationality Act (8 U.S.C. 1324,
7 1327, or 1328 (pertaining to prohibitions on bring-
8 ing in and harboring certain aliens)”.

9 **TITLE VIII—MARKING OF**
10 **PLASTIC EXPLOSIVES**

11 **SEC. 801. IMPLEMENTATION OF THE CONVENTION ON THE**
12 **MARKING OF PLASTIC EXPLOSIVES.**

13 (a) DEFINITIONS.—Section 841 of title 18, United
14 States Code, is amended by adding at the end the follow-
15 ing new subsections:

16 “(o) ‘Convention on the Marking of Plastic Explo-
17 sives’ means the Convention on the Marking of Plastic Ex-
18 plosives for the Purpose of Detection, Done at Montreal
19 on 1 March 1991.

20 “(p) ‘Detection agent’ means any one of the sub-
21 stances specified in this subsection when introduced into
22 a plastic explosive or formulated in such explosive as a
23 part of the manufacturing process in such a manner as
24 to achieve homogeneous distribution in the finished explo-
25 sive, including—

1 “(1) Ethylene glycol dinitrate (EGDN),
2 $C_2H_4(NO_3)_2$, molecular weight 152, when the mini-
3 mum concentration in the finished explosive is 0.2
4 percent by mass;

5 “(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB),
6 $C_6H_{12}(NO_2)_2$, molecular weight 176, when the mini-
7 mum concentration in the finished explosive is 0.1
8 percent by mass;

9 “(3) Para-Mononitrotoluene (p-MNT),
10 $C_7H_7NO_2$, molecular weight 137, when the minimum
11 concentration in the finished explosive is 0.5 percent
12 by mass;

13 “(4) Ortho-Mononitrotoluene (o-MNT),
14 $C_7H_7NO_2$, molecular weight 137, when the minimum
15 concentration in the finished explosive is 0.5 percent
16 by mass; and

17 “(5) any other substance in the concentration
18 specified by the Secretary, after consultation with
19 the Secretary of State and the Secretary of Defense,
20 which has been added to the table in part 2 of the
21 Technical Annex to the Convention on the Marking
22 of Plastic Explosives.

23 “(q) ‘Plastic explosive’ means an explosive material
24 in flexible or elastic sheet form formulated with one or
25 more high explosives which in their pure form have a

1 vapor pressure less than 10^{-4} Pa at a temperature of
2 25°C., is formulated with a binder material, and is as a
3 mixture malleable or flexible at normal room tempera-
4 ture.”.

5 (b) REQUIREMENT OF DETECTION AGENTS FOR
6 PLASTIC EXPLOSIVES.—Section 842 of title 18, United
7 States Code, is amended by adding after subsection (k)
8 the following new subsections:

9 “(l) It shall be unlawful for any person to manufac-
10 ture any plastic explosive that does not contain a detection
11 agent.

12 “(m)(1) It shall be unlawful for any person to import
13 or bring into the United States, or export from the United
14 States, any plastic explosive that does not contain a detec-
15 tion agent.

16 “(2) This subsection does not apply to the importa-
17 tion or bringing into the United States, or the exportation
18 from the United States, of any plastic explosive that was
19 imported, brought into, or manufactured in the United
20 States prior to the date of enactment of the Comprehen-
21 sive Terrorism Prevention Act of 1995 by or on behalf
22 of any agency of the United States performing military
23 or police functions (including any military Reserve compo-
24 nent) or by or on behalf of the National Guard of any
25 State, not later than 15 years after the date of entry into

1 force of the Convention on the Marking of Plastic Explo-
2 sives, with respect to the United States.

3 “(n)(1) It shall be unlawful for any person to ship,
4 transport, transfer, receive, or possess any plastic explo-
5 sive that does not contain a detection agent.

6 “(2) This subsection does not apply to—

7 “(A) the shipment, transportation, transfer, re-
8 ceipt, or possession of any plastic explosive that was
9 imported, brought into, or manufactured in the
10 United States prior to the date of enactment of the
11 Comprehensive Terrorism Prevention Act of 1995 by
12 any person during a period not exceeding 3 years
13 after the such date; or

14 “(B) the shipment, transportation, transfer, re-
15 ceipt, or possession of any plastic explosive that was
16 imported, brought into, or manufactured in the
17 United States prior to the date of enactment of the
18 Comprehensive Terrorism Prevention Act of 1995 by
19 or on behalf of any agency of the United States per-
20 forming a military or police function (including any
21 military reserve component) or by or on behalf of
22 the National Guard of any State, not later than 15
23 years after the date of entry into force of the Con-
24 vention on the Marking of Plastic Explosives, with
25 respect to the United States.

1 “(o) It shall be unlawful for any person, other than
2 an agency of the United States (including any military re-
3 serve component) or the National Guard of any State, pos-
4 sessed any plastic explosive on the date of enactment of
5 the Omnibus Counterterrorism Act of 1995, to fail to re-
6 port to the Secretary within 120 days after such the quan-
7 tity of such explosives possessed, the manufacturer or im-
8 porter, any marks of identification on such explosives, and
9 such other information as the Secretary may by regula-
10 tions prescribe.”.

11 (c) CRIMINAL SANCTIONS.—Section 844(a) of title
12 18, United States Code, is amended to read as follows:

13 “(a) Any person who violates any of subsections (a)
14 through (i) or (l) through (o) of section 842 shall be fined
15 under this title or imprisoned not more than 10 years, or
16 both.”.

17 (d) EXCEPTIONS.—Section 845 of title 18, United
18 States Code, is amended—

19 (1) in subsection (a), by inserting “(l), (m), (n),
20 or (o) of section 842 and subsections” after “sub-
21 sections”;

22 (2) in paragraph (1), by inserting before the
23 semicolon “, and which pertain to safety”; and

24 (3) by adding at the end the following new sub-
25 section:

1 “(c) It is an affirmative defense against any proceed-
2 ing involving sections 842 (l) through (o) if the proponent
3 proves by a preponderance of the evidence that the plastic
4 explosive—

5 “(1) consisted of a small amount of plastic ex-
6 plosive intended for and utilized solely in lawful—

7 “(A) research, development, or testing of
8 new or modified explosive materials;

9 “(B) training in explosives detection or de-
10 velopment or testing of explosives detection
11 equipment; or

12 “(C) forensic science purposes; or

13 “(2) was plastic explosive that, within 3 years
14 after the date of entry into force of the Convention
15 on the Marking of Plastic Explosives, with respect to
16 the United States, will be or is incorporated in a
17 military device within the territory of the United
18 States and remains an integral part of such military
19 device, or is intended to be, or is incorporated in,
20 and remains an integral part of a military device
21 that is intended to become, or has become, the prop-
22 erty of any agency of the United States performing
23 military or police functions (including any military
24 reserve component) or the National Guard of any
25 State, wherever such device is located.

1 “(3) For purposes of this subsection, the term
2 ‘military device’ includes, but is not restricted to,
3 shells, bombs, projectiles, mines, missiles, rockets,
4 shaped charges, grenades, perforators, and similar
5 devices lawfully manufactured exclusively for mili-
6 tary or police purposes.”.

7 (e) INVESTIGATIVE AUTHORITY.—Section 846 of title
8 18, United States Code, is amended—

9 (1) in the last sentence, by inserting in the last
10 sentence before “subsection” the phrase “subsection
11 (m) or (n) of section 842 or;”, and

12 (2) by adding at the end the following: “The
13 Attorney General shall exercise authority over viola-
14 tions of subsection (m) or (n) of section 842 only
15 when they are committed by a member of a terrorist
16 or revolutionary group. In any matter involving a
17 terrorist or revolutionary group or individual, as de-
18 termined by the Attorney General, the Attorney
19 General shall have primary investigative responsibil-
20 ity and the Secretary shall assist the Attorney Gen-
21 eral as requested.”.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect 1 year after the date of the
24 enactment of this Act.

1 **SEC. 802. STUDY ON TAGGING OF EXPLOSIVE MATERIALS.**

2 (a) STUDY.—The Secretary of the Treasury shall di-
3 rect the Director of the Bureau of Alcohol, Tobacco, and
4 Firearms to conduct a study, as soon as is practicable
5 after the date of enactment of this Act, on—

6 (1) tagging of explosive materials for purposes
7 of identification and detection;

8 (2) the possibility and practicality of rendering
9 inert common chemicals used in manufacturing ex-
10 plosives; and

11 (3) the feasibility of imposing controls on cer-
12 tain precursor chemicals used to manufacture explo-
13 sives.

14 (3) REPORT.—The Secretary of the Treasury, or a
15 designee of the Secretary shall prepare and submit to the
16 President and the Congress a report setting forth in detail
17 the findings and determinations made in the study con-
18 ducted pursuant to subsection (a).

19 **TITLE IX—MISCELLANEOUS**
20 **PROVISIONS**

21 **SEC. 901. SEVERABILITY.**

22 If any provision of this Act, an amendment made by
23 this Act, or the application of such provision or amend-
24 ment to any person or circumstance is held to be unconsti-
25 tutional, the remainder of this Act, the amendments made
26 by this Act, and the application of the provisions of such

1 to any person or circumstance shall not be affected there-

2 by.

S 735 PCS1S—2

S 735 PCS1S—3

S 735 PCS1S—4

S 735 PCS1S—5

S 735 PCS1S—6

S 735 PCS1S—7

S 735 PCS1S—8

S 735 PCS1S—9

S 735 PCS1S—10

S 735 PCS1S—11