

105TH CONGRESS
1ST SESSION

S. 488

To control crime, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 1997

Mr. KYL introduced the following bill; which was read twice and referred to
the Committee on the Judiciary

A BILL

To control crime, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Crime Prevention Act of 1997”.

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

Sec. 1. Short title; table of contents.

TITLE I—EQUAL PROTECTION FOR VICTIMS

Sec. 101. Right of victim to an impartial jury.

Sec. 102. Rebuttal of attacks on the character of victim.

Sec. 103. Right of victim to allocution in sentencing.

Sec. 104. Right of victim to fair treatment in legal proceedings.

Sec. 105. Use of notice concerning release of offender.

Sec. 106. Balance in the composition of rules committees.

TITLE II—DOMESTIC VIOLENCE

- Sec. 201. Death penalty for fatal domestic violence offenses.
- Sec. 202. Evidence of disposition of defendant toward victim in domestic violence cases and other cases.
- Sec. 203. Battered women's syndrome evidence.
- Sec. 204. HIV testing of defendants in sexual assault cases.

TITLE III—FIREARMS

- Sec. 301. Mandatory minimum sentences for criminals using firearms.
- Sec. 302. Firearms possession by violent felons and serious drug offenders.
- Sec. 303. Use of firearms in connection with counterfeiting or forgery.
- Sec. 304. Possession of an explosive during the commission of a felony.

TITLE IV—EXCLUSIONARY RULE

- Sec. 401. Admissibility of certain evidence.

TITLE V—FEDERAL DEATH PENALTY

- Sec. 501. Strengthening of Federal death penalty standards and procedures.
- Sec. 502. Murder of witness as aggravating factor.
- Sec. 503. Death penalty for murders committed with firearms.
- Sec. 504. Death penalty for murders committed in the District of Columbia.

TITLE VI—HABEAS CORPUS

- Sec. 601. Stopping abuse of Federal collateral remedies.

TITLE VII—JUVENILES AND DRUGS

- Sec. 701. Serious juvenile drug offenses as Armed Career Criminal Act predicates.
- Sec. 702. Adult prosecution of serious juvenile offenders.
- Sec. 703. Increased penalties for recidivists committing drug crimes involving minors.
- Sec. 704. Amendments concerning records of crimes committed by juveniles.
- Sec. 705. Drive-by shootings.
- Sec. 706. Steroids offense.
- Sec. 707. Drug testing of Federal offenders.

TITLE VIII—ADMINISTRATIVE SUBPOENA

- Sec. 801. Authorization for United States Secret Service to issue and serve administrative summonses.

TITLE X—SPECIAL MASTERS

- Sec. 1001. Special masters.

TITLE XI—LIMITATIONS ON SOCIAL SECURITY BENEFITS FOR PRISONERS

- Sec. 1101. Implementation of prohibition against payment of title II benefits to prisoners.
- Sec. 1102. Elimination of title II requirement that confinement be a result of crime punishable by imprisonment for more than 1 year.

Sec. 1103. Inclusion of title II issues in study and report requirements relating to prisoners.

Sec. 1104. Conforming title XVI amendments.

Sec. 1105. Exemption from computer matching requirements.

TITLE XIII—MISCELLANEOUS PROVISIONS

Sec. 1301. Prisoner copayments for health care services.

1 **TITLE I—EQUAL PROTECTION** 2 **FOR VICTIMS**

3 **SEC. 101. RIGHT OF VICTIM TO AN IMPARTIAL JURY.**

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

9 **SEC. 102. REBUTTAL OF ATTACKS ON THE CHARACTER OF** 10 **VICTIM.**

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

17 **SEC. 103. RIGHT OF VICTIM TO ALLOCUTION IN SENTENC-** 18 **ING.**

19 Rule 32 of the Federal Rules of Criminal Procedure
20 is amended—

1 (1) in subdivision (c)(3)(E), by striking “if sen-
2 tence is to be imposed for a crime of violence or sex-
3 ual abuse,”; and

4 (2) by striking subdivision (f) and inserting the
5 following:

6 “(f) DEFINITION OF VICTIM; ALLOCUTION.—

7 “(1) IN GENERAL.—In this rule, the term ‘vic-
8 tim’ means any individual against whom an offense
9 has been committed for which a sentence is to be
10 imposed.

11 “(2) ALLOCUTION.—The right of allocution
12 under subdivision (c)(3)(E) may be exercised, re-
13 gardless of whether the victim is present, by—

14 “(A) a parent or legal guardian who is
15 present at the sentencing hearing, if the victim
16 is less than 18 years of age or is incompetent;
17 or

18 “(B) one or more family members or rel-
19 atives designated by the court and present at
20 the sentencing hearing, if the victim is deceased
21 or incapacitated regardless of whether the vic-
22 tim is present.”.

1 **SEC. 104. RIGHT OF VICTIM TO FAIR TREATMENT IN LEGAL**
 2 **PROCEEDINGS.**

3 The following rules, to be cited as the Rules of Pro-
 4 fessional Conduct for Attorneys in Federal Practice, are
 5 enacted as an appendix to title 28, United States Code:

6 **“RULES OF PROFESSIONAL CONDUCT FOR**
 7 **ATTORNEYS IN FEDERAL PRACTICE**

“Rule 1. Scope.

“Rule 2. Abuse of Victims and Others Prohibited.

“Rule 3. Duty of Inquiry in Relation to Client.

“Rule 4. Duty To Expedite Litigation.

“Rule 5. Duty To Prevent Commission of Crime.

8 **“Rule 1. Scope**

9 “(a) The following rules apply to the conduct of attor-
 10 neys in their representation of clients in relation to pro-
 11 ceedings and potential proceedings before Federal tribu-
 12 nals.

13 “(b) In the following rules, the terms ‘Federal tribu-
 14 nal’ and ‘tribunal’ mean a court of the United States or
 15 an agency of the Federal Government that carries out ad-
 16 judicatory or quasi-adjudicatory functions.

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

18 “(a) An attorney shall not engage in any action or
 19 course of conduct for the purpose of increasing the ex-
 20 pense of litigation for any person, other than a liability
 21 under an order or judgment of a tribunal.

22 “(b) An attorney shall not engage in any action or
 23 course of conduct that has no substantial purpose other

1 than to distress, harass, embarrass, burden, or inconven-
2 ience another person.

3 “(c) An attorney shall not offer evidence that the at-
4 torney knows to be false or attempt to discredit evidence
5 that the attorney knows to be true.

6 **“Rule 3. Duty of Inquiry in Relation to Client**

7 “(a) An attorney shall attempt to elicit from the cli-
8 ent a truthful account of the material facts concerning the
9 matters in issue.

10 “(b) In representing a client charged with a crime
11 or civil wrong, the duty of inquiry under this rule in-
12 cludes—

13 “(1) attempting to elicit from the client a mate-
14 rially complete account of the alleged criminal activ-
15 ity or civil wrong if the client acknowledges involve-
16 ment in the alleged criminal activity or civil wrong;
17 and

18 “(2) attempting to elicit from the client the ma-
19 terial facts relevant to a defense of alibi if the client
20 denies that involvement.

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

22 “(a) An attorney shall seek to bring about the expedi-
23 tious conduct and conclusion of litigation.

1 “(b) An attorney shall not seek a continuance or oth-
2 erwise attempt to delay or prolong proceedings in the hope
3 or expectation that—

4 “(1) evidence will become unavailable;

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

8 “(3) an advantage will be obtained in relation
9 to another party because of the expense, frustration,
10 distress, or other hardship resulting from prolonged
11 or delayed proceedings.

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

13 “(a) An attorney may disclose information relating
14 to the representation of a client, including information ob-
15 tained from the client, to the extent necessary to prevent
16 the commission of a crime or other unlawful act.

17 “(b) An attorney shall disclose information relating
18 to the representation of a client, including information ob-
19 tained from the client, if disclosure is required by law.

20 “(c) An attorney shall disclose information relating
21 to the representation of a client, including information ob-
22 tained from the client, to the extent necessary to pre-
23 vent—

24 “(1) the commission of a crime involving the
25 use or threatened use of force against a person, or

1 a substantial risk of death or serious bodily injury
2 to a person; or

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

5 “(d) In this rule, the term ‘crime’ means a crime
6 under the laws of the United States or the laws of a State,
7 and ‘unlawful act’ means an act in violation of the laws
8 of the United States or the laws of a State.”.

9 **SEC. 105. USE OF NOTICE CONCERNING RELEASE OF OF-**
10 **FENDER.**

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

13 **SEC. 106. BALANCE IN THE COMPOSITION OF RULES COM-**
14 **MITTEES.**

15 Section 2073 of title 28, United States Code, is
16 amended—

17 (1) in subsection (a)(2), by adding at the end
18 the following: “On each committee that makes rec-
19 ommendations concerning rules that affect criminal
20 cases, including the Federal Rules of Criminal Pro-
21 cedure, the Federal Rules of Evidence, the Federal
22 Rules of Appellate Procedure, the Rules Governing
23 Section 2254 Cases, and the Rules Governing Sec-
24 tion 2255 Cases, the number of members who rep-
25 resent or supervise the representation of defendants

1 in the trial, direct review, or collateral review of
 2 criminal cases shall not exceed the number of mem-
 3 bers who represent or supervise the representation of
 4 the Federal Government or a State in the trial, di-
 5 rect review, or collateral review of criminal cases.”;
 6 and

7 (2) in subsection (b), by adding at the end the
 8 following: “The number of members of the standing
 9 committee who represent or supervise the represen-
 10 tation of defendants in the trial, direct review, or
 11 collateral review of criminal cases shall not exceed
 12 the number of members who represent or supervise
 13 the representation of the Federal Government or a
 14 State in the trial, direct review, or collateral review
 15 of criminal cases.”.

16 **TITLE II—DOMESTIC VIOLENCE**

17 **SEC. 201. DEATH PENALTY FOR FATAL DOMESTIC VIO-** 18 **LENCE OFFENSES.**

19 Sections 2261(b)(1) and 2262(b)(1) of title 18, Unit-
 20 ed States Code, are each amended by inserting “or may
 21 be sentenced to death” after “years,”.

1 **SEC. 202. EVIDENCE OF DISPOSITION OF DEFENDANT TO-**
2 **WARD VICTIM IN DOMESTIC VIOLENCE CASES**
3 **AND OTHER CASES.**

4 Rule 404(b) of the Federal Rules of Evidence is
5 amended in the second sentence, by striking “or absence
6 of mistake or accident” and inserting “absence of mistake
7 or accident, or a disposition toward a particular individ-
8 ual”.

9 **SEC. 203. BATTERED WOMEN’S SYNDROME EVIDENCE.**

10 Rule 702 of the Federal Rules of Evidence is amend-
11 ed by adding at the end the following: “Testimony that
12 may be admitted pursuant to this rule includes testimony
13 concerning the behavior, and mental or emotional condi-
14 tions of victims to explain the failure of a victim to report
15 or delay in reporting an offense, recantation of an accusa-
16 tion, or failure to cooperate in the investigation or pros-
17 ecution.”.

18 **SEC. 204. HIV TESTING OF DEFENDANTS IN SEXUAL AS-**
19 **SAULT CASES.**

20 (a) IN GENERAL.—Chapter 109A of title 18, United
21 States Code, is amended by adding at the end the follow-
22 ing:

1 **“§ 2249. Testing for human immunodeficiency virus;**
2 **disclosure of test results to victim; effect**
3 **on penalty**

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

19 “(b) TESTING AT LATER TIME.—If a person charged
20 with an offense under this chapter was not tested for the
21 human immunodeficiency virus pursuant to subsection (a),
22 the court may at a later time direct that such a test be
23 performed upon the person, and that followup tests be per-
24 formed 6 months and 12 months following the date of the
25 initial test, if it appears to the court that the conduct of
26 the person may have risked transmission of the virus to

1 the victim. A testing requirement under this subsection
2 may be imposed at any time while the charge is pending,
3 or following conviction at any time prior to the completion
4 by the person of service of the sentence.

5 “(c) TERMINATION OF TESTING REQUIREMENT.—A
6 requirement of followup testing imposed under this section
7 shall be canceled if any test is positive for the human im-
8 mune deficiency virus or the person obtains an acquittal
9 on, or dismissal of, all charges under this chapter.

10 “(d) DISCLOSURE OF TEST RESULTS.—

11 “(1) IN GENERAL.—The results of any test for
12 the human immunodeficiency virus performed pursu-
13 ant to an order under this section shall be provided
14 to the judicial officer or court. The judicial officer
15 or court shall ensure that the results are disclosed
16 to the victim (or to the parent or legal guardian of
17 the victim, as appropriate), the attorney for the gov-
18 ernment, and the person tested.

19 “(2) APPLICABILITY OF OTHER LAW.—Any test
20 results disclosed pursuant to this subsection shall be
21 subject to paragraphs (5) through (7) of section
22 40503(b) of the Violent Crime Control Act of 1994
23 (42 U.S.C. 14011(b)).

24 “(3) COUNSELING.—Any test result of the de-
25 fendant given to the victim or to the defendant must

1 be accompanied by appropriate counseling, unless
 2 the recipient indicates that the recipient does not
 3 want to receive that counseling.

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

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

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

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

20 (1) by striking the subsection heading and in-
 21 serting the following: “(b) TESTING OF DEFEND-
 22 ANTS.—”;

23 (2) in paragraph (1)—

1 (A) by inserting “, or the government in
2 such a case,” after “subsection (a)”;

3 (B) by inserting “(or to the parent or legal
4 guardian of the victim, as appropriate)” after
5 “communicated to the victim”; and

6 (C) by inserting “, unless the recipient
7 does not wish to receive that counseling” after
8 “counseling”; and

9 (3) in paragraph (2)—

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

15 (B) in subparagraph (A)—

16 (i) by striking “with the offense”;

17 (ii) by inserting “with a sexual assault
18 involving alleged conduct that poses a risk
19 of transmission of the etiologic agent for
20 acquired immune deficiency syndrome”
21 after “court”; and

22 (iii) by inserting “and” after the semi-
23 colon;

1 (C) in subparagraph (B), by striking
 2 “after appropriate counseling; and” and insert-
 3 ing a period; and

4 (D) by striking subparagraph (C).

5 **TITLE III—FIREARMS**

6 **SEC. 301. MANDATORY MINIMUM SENTENCES FOR CRIMI-** 7 **NALS USING FIREARMS.**

8 Section 924(c)(1) of title 18, United States Code, is
 9 amended—

10 (1) by inserting “(A)” after “(1)”;

11 (2) in the second sentence, by striking “In the”
 12 and inserting the following:

13 “(D) In the”; and

14 (3) by striking the third and fourth sentences;
 15 and

16 (4) by inserting after subparagraph (A), as so
 17 designated by paragraph (1) of this section, the fol-
 18 lowing:

19 “(B) Except to the extent that a greater minimum
 20 sentence is otherwise provided by subparagraph (A) or by
 21 any other provision of this subsection or any other law,
 22 a person who, during and in relation to any crime of vio-
 23 lence or drug trafficking crime (including a crime of vio-
 24 lence or drug trafficking crime that provides for an en-
 25 hanced punishment if committed by the use of a deadly

1 or dangerous weapon or device) for which a person may
2 be prosecuted in a court of the United States, uses or car-
3 ries a firearm shall, in addition to the punishment pro-
4 vided for that crime of violence or drug trafficking crime—

5 “(i) be punished by imprisonment for not less
6 than 10 years;

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

9 “(iii) if the death of a person results, be pun-
10 ished by death or by imprisonment for not less than
11 life.

12 “(C) Notwithstanding any other provision of law, the
13 court shall not place on probation or suspend the sentence
14 of any person convicted of a violation of this subsection,
15 nor shall the term of imprisonment imposed under this
16 subsection run concurrently with any other term of impris-
17 onment, including that imposed for the crime of violence
18 or drug trafficking crime in which the firearm was used
19 or carried. No person sentenced under this subsection
20 shall be eligible for parole during the term of imprison-
21 ment imposed under this subsection.”.

22 **SEC. 302. FIREARMS POSSESSION BY VIOLENT FELONS AND**
23 **SERIOUS DRUG OFFENDERS.**

24 Section 924 of title 18, United States Code, is
25 amended—

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

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

10 “(p) VIOLENT FELONS AND SERIOUS DRUG OF-
11 FENDERS.—

12 “(1) IN GENERAL.—Notwithstanding subsection
13 (a)(2), any person who violates section 922(g) and
14 who has 2 previous convictions by any court referred
15 to in section 922(g)(1) for a violent felony (as de-
16 fined in subsection (e)(2)(B)) or a serious drug of-
17 fense (as defined in subsection (e)(2)(A)) committed
18 on different occasions shall be fined in accordance
19 with this title, imprisoned not less than 10 years and
20 not more than 20 years, or both.

21 “(2) NO PROBATIONARY SENTENCE.—Notwith-
22 standing any other provision of law, the court shall
23 not grant a probationary sentence to a person de-
24 scribed in paragraph (1) with respect to the convic-
25 tion under section 922(g).”.

1 **SEC. 303. USE OF FIREARMS IN CONNECTION WITH COUN-**
 2 **TERFEITING OR FORGERY.**

3 Section 924(c)(1)(A) of title 18, United States Code,
 4 as so designated by section 301(1) of this Act, is amended
 5 by inserting “or during and in relation to any felony pun-
 6 ishable under chapter 25,” after “United States,”.

7 **SEC. 304. POSSESSION OF AN EXPLOSIVE DURING THE**
 8 **COMMISSION OF A FELONY.**

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

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

14 (2) by striking “used or carried” and inserting
 15 “used, carried, or possessed”.

16 **TITLE IV—EXCLUSIONARY RULE**

17 **SEC. 401. ADMISSIBILITY OF CERTAIN EVIDENCE.**

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

21 **“§ 3510. Admissibility of evidence obtained by search**
 22 **or seizure**

23 **“(a) EVIDENCE OBTAINED BY OBJECTIVELY REA-**
 24 **SONABLE SEARCH OR SEIZURE.—**

25 **“(1) IN GENERAL.—**Evidence that is obtained
 26 as a result of a search or seizure shall not be ex-

1 cluded in a proceeding in a court of the United
2 States on the ground that the search or seizure was
3 in violation of the fourth amendment to the Con-
4 stitution of the United States, if the search or sei-
5 zure was carried out in circumstances justifying an
6 objectively reasonable belief that it was in conform-
7 ity with the fourth amendment.

8 “(2) PRIMA FACIE EVIDENCE.—The fact that
9 evidence was obtained pursuant to and within the
10 scope of a warrant constitutes prima facie evidence
11 of the existence of circumstances described in para-
12 graph (1).

13 “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR
14 RULE.—

15 “(1) GENERALLY.—Evidence shall not be ex-
16 cluded in a proceeding in a court of the United
17 States on the ground that it was obtained in viola-
18 tion of a statute, an administrative rule or regula-
19 tion, or a rule of procedure unless exclusion is ex-
20 pressly authorized by statute or by a rule prescribed
21 by the Supreme Court pursuant to statutory author-
22 ity.

23 “(2) SPECIAL RULE RELATING TO OBJECTIVELY
24 REASONABLE SEARCHES AND SEIZURES.—Evidence
25 that is otherwise excludable under paragraph (1)

1 shall not be excluded if the search or seizure was
 2 carried out in circumstances justifying an objectively
 3 reasonable belief that the search or seizure was in
 4 conformity with the statute, administrative rule or
 5 regulation, or rule of procedure, the violation of
 6 which occasioned the evidence being excludable.

7 “(c) RULES OF CONSTRUCTION.—This section shall
 8 not be construed to require or authorize the exclusion of
 9 evidence in any proceeding.”.

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

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

13 **TITLE V—FEDERAL DEATH**
 14 **PENALTY**

15 **SEC. 501. STRENGTHENING OF FEDERAL DEATH PENALTY**
 16 **STANDARDS AND PROCEDURES.**

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

19 (1) in section 3592(c), by striking paragraph
 20 (2) and inserting the following:

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

1 “(A) during and in relation to the commis-
2 sion of the offense or in escaping or attempting
3 to escape apprehension used or possessed a fire-
4 arm (as defined in section 921); or

5 “(B) has previously been convicted of a
6 Federal or State offense punishable by a term
7 of imprisonment of more than 1 year involving
8 the use or attempted or threatened use of a
9 firearm (as defined in section 921) against an-
10 other person.”;

11 (2) in section 3593—

12 (A) in subsection (a)—

13 (i) by inserting “AND THE DEFEND-
14 ANT” after “GOVERNMENT” in the sub-
15 section heading;

16 (ii) by redesignating paragraphs (1)
17 and (2) as subparagraphs (A) and (B), re-
18 spectively, and indenting appropriately;

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

21 (iv) in the matter immediately follow-
22 ing subparagraph (B), as redesignated, by
23 striking “The factors” and inserting the
24 following:

25 “(3) The factors”;

1 (v) by inserting after paragraph (1) as
2 so designated, the following:

3 “(2) The defendant shall, during a reasonable
4 period of time before a hearing under subsection (b),
5 sign and file with the court a notice setting forth the
6 mitigating factor or factors, if any, upon which the
7 defendant intends to present information at the
8 hearing.”; and

9 (vi) in paragraph (3), as so des-
10 ignated—

11 (I) by inserting “by the attorney
12 for the government” after “this sub-
13 section”;

14 (II) by striking “, and may in-
15 clude” and all that follows through
16 “relevant information”;

17 (III) by inserting “or the defend-
18 ant” after “permit the attorney for
19 the government”; and

20 (IV) by inserting “under this
21 subsection” after “to amend the no-
22 tice”.

23 (B) in subsection (c)—

24 (i) in the fourth sentence, by inserting
25 “for which notice has been provided under

1 subsection (a)” after “The defendant may
2 present any information relevant to a miti-
3 gating factor”; and

4 (ii) by inserting after the fifth sen-
5 tence the following: “The information pre-
6 sented by the government in support of
7 factors concerning the effect of the offense
8 on the victim and the family of the victim
9 may include oral testimony, a victim im-
10 pact statement that identifies the victim of
11 the offense and the nature and extent of
12 harm and loss suffered by the victim and
13 the family of the victim, and any other rel-
14 evant information.”; and

15 (C) in subsection (e), by striking “shall
16 consider” and all that follows through the end
17 of the subsection and inserting the following:
18 “shall then consider whether the aggravating
19 factor or factors found to exist outweigh any
20 mitigating factors. The jury, or if there is no
21 jury, the court, shall recommend a sentence of
22 death if it unanimously finds at least one ag-
23 gravating factor and no mitigating factor or if
24 it finds one or more aggravating factors that
25 outweigh any mitigating factors. In any other

1 case, it shall not recommend a sentence of
2 death. The jury shall be instructed that it must
3 avoid any influence of sympathy, sentiment,
4 passion, prejudice, or other arbitrary factors in
5 its decision, and shall make such a rec-
6 ommendation as the information warrants. The
7 jury shall be instructed that its recommenda-
8 tion concerning a sentence of death is to be
9 based on the aggravating factor or factors and
10 any mitigating factors, but that the final deci-
11 sion concerning the balance of aggravating and
12 mitigating factors is a matter for the judgment
13 of the jury.”;

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

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

21 (5) in section 3597—

22 (A) by striking the section heading and in-
23 serting the following:

1 **“§ 3597. Excuse of an employee on moral or religious**
 2 **grounds”;**

3 (B) striking subsection (a); and

4 (C) in subsection (b)—

5 (i) by striking “(b) EXCUSE OF AN
 6 EMPLOYEE ON MORAL OR RELIGIOUS
 7 GROUNDS.—”;

8 (ii) in the first sentence, by striking
 9 “this section” and inserting “this chap-
 10 ter”;

11 (iii) in the second sentence, by strik-
 12 ing “this subsection” and inserting “this
 13 section”.

14 (b) UNIFORMITY OF PROCEDURES.—Section 408 of
 15 the Controlled Substances Act (21 U.S.C. 848) is amend-
 16 ed—

17 (1) by striking subsections (g) through (p) and
 18 subsection (r); and

19 (2) in subsection (q)—

20 (A) by striking paragraphs (1) through (3)
 21 and redesignating paragraphs (4) through (10)
 22 as paragraphs (1) through (7), respectively;

23 (B) by striking “(5), (6), (7), (8), and (9)”
 24 each place it appears and inserting “paragraphs
 25 (2) through (6)”;

1 (C) in paragraph (4), as redesignated, by
2 striking “(5) and (6)” and inserting “(2) and
3 (3)”;

4 (D) in paragraph (6), as redesignated, by
5 striking “(10)” and inserting “(7)”;

6 (E) in paragraph (7), as redesignated, by
7 striking “(4) through (9)” and inserting “(1)
8 through (6)”;

9 and (3) by redesignating sub-
section (q) as subsection (g).

10 **SEC. 502. MURDER OF WITNESS AS AGGRAVATING FACTOR.**

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

15 **SEC. 503. DEATH PENALTY FOR MURDERS COMMITTED**
16 **WITH FIREARMS.**

17 (a) IN GENERAL.—Chapter 51 of title 18, United
18 States Code, is amended by adding at the end the follow-
19 ing:

20 **“§ 1123. Murder involving the use of a firearm**

21 “(a) OFFENSE.—A person who has been found guilty
22 of causing, through the use of a firearm (as defined in
23 section 921), the death of another person, intentionally,
24 knowingly, or through recklessness manifesting extreme
25 indifference to human life, or through the intentional in-

1 fliction of serious bodily injury, shall be punished by death
2 or imprisoned for any term of years or for life.

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

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

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

10 “(c) CONGRESSIONAL INTENT.—

11 “(1) IN GENERAL.—It is the intent of Congress
12 that—

13 “(A) this section shall be used to supple-
14 ment and not supplant the efforts of State and
15 local prosecutors in prosecuting murders involv-
16 ing firearms that have moved in interstate or
17 foreign commerce that could be prosecuted
18 under State law; and

19 “(B) the Attorney General shall give due
20 deference to the interest that a State or local
21 prosecutor has in prosecuting a person under
22 State law.

23 “(2) LIMITATION.—This subsection does not
24 create any rights, substantive or procedural, enforce-
25 able at law by any party in any manner, civil or

1 criminal, nor does it place any limitations on other-
2 wise lawful prerogatives of the Attorney General.”.

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

“1123. Murder involving the use of a firearm.”.

6 **SEC. 504. DEATH PENALTY FOR MURDERS COMMITTED IN**
7 **THE DISTRICT OF COLUMBIA.**

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

11 **“§ 1124. Capital punishment for murders in the Dis-**
12 **trict of Columbia**

13 “(a) DEFINITIONS.—In this section—

14 “(1) the term ‘State’ has the same meaning as
15 in section 513;

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

20 “(3) the term ‘drug trafficking activity’ means
21 a drug trafficking crime (as defined in section
22 929(a)(2)), or a pattern or series of acts involving
23 one or more drug trafficking crimes;

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

1 “(5) the term ‘burglary’ means entering or re-
2 maining in a building or structure in violation of the
3 law of a State or the United States, with the intent
4 to commit an offense in the building or structure;

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

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

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

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

22 “(10) the term ‘public servant’ means an em-
23 ployee, agent, officer, or official of a State or the
24 United States, or an employee, agent, officer, or offi-

1 cial of a foreign government who is within the scope
2 of section 1116.

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

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

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

20 “(e) MITIGATING FACTORS.—In determining whether
21 to recommend a sentence of death under this section, the
22 jury shall consider whether any aspect of the character,
23 background, or record of the defendant or any cir-
24 cumstance of the offense that the defendant may proffer

1 as a mitigating factor exists, including the following fac-
2 tors:

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

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

10 “(3) PARTICIPATION IN OFFENSE MINOR.—The
11 defendant is punishable as a principal (pursuant to
12 section 2) in the offense, which was committed by
13 another, and the participation of the defendant was
14 relatively minor.

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

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

23 “(2) KILLING IN THE COURSE OF OTHER SERI-
24 OUS VIOLENT CRIMES.—The defendant engaged in
25 the conduct resulting in death in the course of com-

1 mitting or attempting to commit an offense involving
2 robbery, burglary, sexual abuse, kidnaping, or arson.

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

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

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

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

1 “(7) HEINOUS, CRUEL, OR DEPRAVED MANNER
2 OF COMMISSION.—The defendant committed the of-
3 fense in an especially heinous, cruel, or depraved
4 manner in that it involved torture or serious physical
5 abuse to the victim.

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

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

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

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

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

24 “(A) while that public servant was engaged
25 in the performance of his or her official duties;

1 “(B) because of the performance of the of-
2 ficial duties of that public servant; or

3 “(C) because of the status of the public
4 servant as a public servant.

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

11 “(g) OTHER CHARGES.—If an offense is charged
12 under this section, the government may join any charge
13 under the District of Columbia Code that arises from the
14 same incident.”.

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

“1124. Capital punishment for murders in the District of Columbia.”.

18 **TITLE VI—HABEAS CORPUS**

19 **SEC. 601. STOPPING ABUSE OF FEDERAL COLLATERAL** 20 **REMEDIES.**

21 (a) IN GENERAL.—Chapter 153 of title 28, United
22 States Code, is amended by adding at the end the follow-
23 ing:

1 **“§ 2257. Adequacy of State remedies**

2 “Notwithstanding any other provision of law, an ap-
 3 plication for a writ of habeas corpus on behalf of a person
 4 in custody pursuant to a judgment or order of a State
 5 court, shall not be entertained by a judge or a court of
 6 the United States unless the remedies in the courts of the
 7 State are inadequate or ineffective to test the legality of
 8 the detention of the person.”.

9 (b) CLERICAL AMENDMENT.—The analysis for chap-
 10 ter 153 of title 18, United States Code, is amended by
 11 adding at the end the following:

“2257. Adequacy of State remedies.”.

12 **TITLE VII—JUVENILES AND**
 13 **DRUGS**

14 **SEC. 701. SERIOUS JUVENILE DRUG OFFENSES AS ARMED**
 15 **CAREER CRIMINAL ACT PREDICATES.**

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

18 (1) in clause (i), by striking “or” at the end ;

19 (2) in clause (ii), by striking “and” at the end

20 and inserting “or”; and

21 (3) by adding at the end the following:

22 “(iii) any act of juvenile delinquency
 23 that, if committed by an adult, would be a
 24 serious drug offense described in this para-
 25 graph;”.

1 **SEC. 702. ADULT PROSECUTION OF SERIOUS JUVENILE OF-**
2 **FENDERS.**

3 Section 5032 of title 18, United States Code, is
4 amended—

5 (1) in the first and fourth undesignated para-
6 graphs—

7 (A) by striking “an offense described in
8 section 401 of the Controlled Substances Act
9 (21 U.S.C. 841),” and inserting “an offense (or
10 a conspiracy or an attempt to commit an of-
11 fense) described in section 401 of the Con-
12 trolled Substances Act (21 U.S.C. 841 or
13 846),”; and

14 (B) by striking “924 (b), (g), or (h)” and
15 inserting “subsection (b), (g), (h), (j), (k), or (l)
16 of section 924”;

17 (2) in the fourth undesignated paragraph—

18 (A) by striking the second and third sen-
19 tences; and

20 (B) in the first sentence, by inserting “and
21 with respect to a juvenile who is 13 years of age
22 or older and who is alleged to have committed
23 an act after the thirteenth birthday of the juve-
24 nile that, if committed by an adult, would be a
25 serious violent felony (as defined in section

1 3559(c)(2)(F)),” before “criminal prosecution
2 on”;

3 (3) in the fifth undesignated paragraph, by
4 adding at the end the following: “There shall be a
5 rebuttable presumption that transfer is in the inter-
6 est of justice for a juvenile who is alleged to have
7 committed an act after the fifteenth birthday of the
8 juvenile that, if committed by an adult, would be a
9 serious violent felony (as defined in section
10 3559(c)(2)(F)).”; and

11 (4) by designating the first through the elev-
12 enth undesignated paragraphs as paragraphs (1)
13 through (11), respectively.

14 **SEC. 703. INCREASED PENALTIES FOR RECIDIVISTS COM-**
15 **MITTING DRUG CRIMES INVOLVING MINORS.**

16 (a) DRUG DISTRIBUTION TO MINOR BY RECIDIVIST.—Section 418(b) of the Controlled Substances Act
17 VIST.—Section 418(b) of the Controlled Substances Act
18 (21 U.S.C. 859(b)) is amended by striking “one year” and
19 inserting “3 years”.

20 (b) USE OF MINOR IN TRAFFICKING BY RECIDIVIST.—Section 420(c) of the Controlled Substances Act
21 VIST.—Section 420(c) of the Controlled Substances Act
22 (21 U.S.C. 861(b)) is amended by striking “one year” and
23 inserting “3 years”.

1 **SEC. 704. AMENDMENTS CONCERNING RECORDS OF**
2 **CRIMES COMMITTED BY JUVENILES.**

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

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

6 (2) by redesignating subsection (e) as sub-
7 section (d); and

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

9 “(e) USE OF JUVENILE RECORDS.—

10 “(1) IN GENERAL.—If a juvenile has been
11 found guilty of committing an act that, if committed
12 by an adult, would be an offense described in clause
13 (3) of the first undesignated paragraph of section
14 5032—

15 “(A) the juvenile shall be fingerprinted and
16 photographed, and the court shall submit to the
17 Federal Bureau of Investigation those finger-
18 prints and photographs; and

19 “(B) the court shall submit to the Federal
20 Bureau of Investigation the information con-
21 cerning the adjudication, including name, date
22 of adjudication, court, offenses, and sentence,
23 and the notation that the matter was a juvenile
24 adjudication; and

25 “(2) AVAILABILITY.—The fingerprints, photo-
26 graph, and other records and information relating to

1 a juvenile described in this subsection, or to a juve-
2 nile who is prosecuted as an adult, shall be made
3 available in the manner applicable to adult defend-
4 ants.

5 “(f) ADDITIONAL STATE AUTHORIZATIONS.—In ad-
6 dition to any other authorization under this section for
7 the reporting, retention, disclosure, or availability of
8 records or information, if the law of the State in which
9 a Federal juvenile delinquency proceeding takes place per-
10 mits or requires the reporting, retention, disclosure, or
11 availability of records or information relating to a juvenile
12 or to a juvenile delinquency proceeding or adjudication in
13 certain circumstances, that reporting, retention, disclo-
14 sure, or availability is permitted under this section in the
15 same circumstances.”.

16 (b) REPEAL OF SPECIAL PROBATION AND
17 EXPUNGEMENT PROCEDURES FOR DRUG OFFENDERS.—

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

20 (2) TECHNICAL AMENDMENT.—The analysis for
21 chapter 229 of title 18, United States Code, is
22 amended by striking the item relating to section
23 3607.

24 (c) PENALTY FOR DISTRIBUTION OF SMALL AMOUNT
25 OF MARIHUANA.—Section 401(b)(4) of the Controlled

1 Substances Act (21 U.S.C. 841(b)(4)) is amended by
2 striking “and section 3607 of title 18”.

3 **SEC. 705. DRIVE-BY SHOOTINGS.**

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

6 **“§ 931. Drive-by shootings**

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

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

11 “(2) from a motor vehicle,

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

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

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

“931. Drive-by shootings.”.

22 **SEC. 706. STEROIDS OFFENSE.**

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

1 “(b) STEROIDS OFFENSE.—

2 “(1) IN GENERAL.—Whoever, being a physical
3 trainer or adviser to an individual, endeavors to per-
4 suade or induce that individual to possess or use an-
5 abolic steroids in violation of subsection (a)—

6 “(A) shall be fined under this title, impris-
7 oned not more than 2 years, or both; or

8 “(B) if that individual has not attained the
9 age of 18 years, shall be fined under this title,
10 imprisoned not more than 5 years, or both.

11 “(2) DEFINITION OF PHYSICAL TRAINER OR
12 ADVISER.—In this subsection, the term ‘physical
13 trainer or adviser’ means a professional or amateur
14 coach, manager, trainer, instructor, or other such
15 person, who provides any athletic or physical in-
16 struction, training, advice, assistance, or other such
17 service to any individual.”.

18 **SEC. 707. DRUG TESTING OF FEDERAL OFFENDERS.**

19 (a) CONDITIONS OF PROBATION.—Section 3563(a) of
20 title 18, United States Code, is amended, in the undesig-
21 nated matter following paragraph (7)—

22 (1) by striking “(4)” each place it appears and
23 inserting “(5)”; and

24 (2) by inserting “, hair, or blood” after
25 “urine”.

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

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

11 **TITLE VIII—ADMINISTRATIVE** 12 **SUBPOENA**

13 **SEC. 801. AUTHORIZATION FOR UNITED STATES SECRET** 14 **SERVICE TO ISSUE AND SERVE ADMINISTRA-** 15 **TIVE SUMMONSES.**

16 (a) IN GENERAL.—Chapter 203 of title 18, United
 17 States Code, is amended by inserting after section 3056
 18 the following:

19 **“§ 3056A. Administrative summons authority of Unit-** 20 **ed States Secret Service**

21 “(a) AUTHORITY.—Pursuant to regulations promul-
 22 gated by the Secretary of the Treasury in consultation
 23 with the Director of the United States Secret Service, the
 24 Director and supervisory-level Special Agents of the Unit-
 25 ed States Secret Service designated by the Director may

1 issue in writing and cause to be served a summons requir-
2 ing the production of books, records, papers, documents,
3 or other tangible things or objects in accordance with this
4 section.

5 “(b) GROUNDS FOR ISSUANCE.—The issuance of a
6 summons under this section shall be based on a deter-
7 mination by the Director or other designated supervisory-
8 level Special Agent of the United States Secret Service,
9 that the person or entity served may possess, or have care,
10 custody, or control of, any books, records, papers, docu-
11 ments, or other tangible things or objects, in any form,
12 relevant to a protective intelligence investigation being
13 conducted by the United States Secret Service under sec-
14 tion 871, 879, or 3056 that involves endangerment to the
15 life or physical safety of any person.

16 “(c) FORM.—A summons issued under this section
17 shall—

18 “(1) describe the material to be produced with
19 reasonable clarity to enable the material to be identi-
20 fied; and

21 “(2) designate a place and time for the produc-
22 tion of that material, including a return date that
23 provides a reasonable period of time within which
24 the material can be assembled and made available.

25 “(d) SERVICE.—

1 “(1) IN GENERAL.—A summons issued under
2 this section may be served—

3 “(A) by any agent designated in the sum-
4 mons to make that service; and

5 “(B) upon—

6 “(i) a natural person by personal de-
7 livery of the summons; or

8 “(ii) upon a domestic or foreign cor-
9 poration or upon a partnership or other
10 unincorporated association, by delivering
11 the summons personally or by certified or
12 registered mail to—

13 “(I) an officer or a managing or
14 general agent; or

15 “(II) any other agent authorized
16 by appointment, or by the law of any
17 State or jurisdiction to receive service
18 of process.

19 “(2) PROOF OF SERVICE.—With respect to any
20 summons issued under this section that is served
21 under paragraph (1), the affidavit of the person
22 serving the summons shall be proof of service.

23 “(e) PLACE OF SERVICE.—A summons issued under
24 this section may be served at any place within the United

1 States or at any place subject to the laws or the jurisdic-
2 tion of the United States.

3 “(f) PROHIBITION OF DISCLOSURE.—

4 “(1) IN GENERAL.—

5 “(A) ISSUANCE OF EX PARTE ORDER.—

6 Notwithstanding any other provision of Federal,
7 State, or local law, a United States District
8 Court judge for the district in which an inves-
9 tigation is pending may, upon application of the
10 United States without notice to a summons re-
11 cipient, issue an ex parte order prohibiting any
12 person served with a summons issued under
13 this section, or the representative of such per-
14 son, from disclosing to any other person the ex-
15 istence of such summons, for a prescribed pe-
16 riod of not more than 180 days.

17 “(B) SHOWING REQUIRED.—An order
18 under this paragraph may be issued upon a
19 showing that—

20 “(i) the materials being sought may
21 be relevant to a legitimate law enforcement
22 or protective intelligence inquiry; and

23 “(ii) there is reason to believe that
24 such disclosure may result in

1 endangerment to the life or physical safety
2 of any person.

3 “(C) EXTENSION OF PERIOD.—The period
4 of nondisclosure described in subparagraph (A)
5 may be renewed for one or more additional peri-
6 ods of not more than 180 days.

7 “(2) PENALTY.—Whoever knowingly and will-
8 fully discloses or attempts to disclose the existence
9 of a summons in violation of this subsection shall be
10 subject to imprisonment for not more than 5 years
11 or fined as provided under section 3571, or both.

12 “(3) PERMISSIBLE DISCLOSURE.—Nothing in
13 this subsection shall prohibit any person from dis-
14 closing the service of a summons issued pursuant to
15 this section to any attorney for purposes of filing a
16 petition under subsection (g)(2).

17 “(4) PROHIBITION ON LIABILITY.—Any third-
18 party recordkeeper, agent, or employee thereof, who,
19 in good faith reliance on an order of nondisclosure,
20 produces any materials and does not disclose such
21 production to the subject of the records shall not be
22 liable to any customer or other person for such non-
23 disclosure.

24 “(g) ENFORCEMENT.—

1 “(1) COURT ASSISTANCE.—In the case of con-
2 tumacy, neglect, or refusal by any person to obey a
3 summons issued and served under this section, the
4 Attorney General or a designee of the Attorney Gen-
5 eral, on behalf of the Director of the United States
6 Secret Service or a designee of the Director, may in-
7 voke the assistance of any court of the United States
8 in any Federal judicial district within which the in-
9 vestigation is pending, the summons was served, or
10 the summoned person carries on business or may be
11 found, to compel compliance with the summons.
12 Process in any such case may be served in any judi-
13 cial district in which such person may be found.

14 “(2) PETITION FOR MODIFICATION OR SET-
15 ASIDE.—

16 “(A) IN GENERAL.—Not later than the
17 earlier of 10 days after the service of a sum-
18 mons upon a person, or the return date speci-
19 fied in the summons, a person served may file,
20 in the District Court of the United States for
21 the judicial district in which the investigation is
22 pending, a petition for an order modifying or
23 setting aside a summons issued pursuant to
24 subsection (a) or a prohibition of disclosure
25 order obtained under subsection (f).

1 “(B) ORDER OF NONDISCLOSURE.—An
2 order of nondisclosure obtained under sub-
3 section (f) shall not be grounds for a petition
4 to modify or set aside the summons under this
5 paragraph.

6 “(C) TOLLING OF STATUTE OF LIMITA-
7 TIONS.—The period of time allowed for initi-
8 ation of criminal proceedings under any applica-
9 ble statute of limitations shall be tolled while a
10 petition filed under this paragraph is pending in
11 court or on appeal.

12 “(3) COURT JURISDICTION.—The District
13 Courts of the United States have jurisdiction to hear
14 and determine the matters arising under this sec-
15 tion, and to enter such orders as are necessary to ef-
16 fectuate this section. Failure to obey an order en-
17 tered by a district court under this section may be
18 punished as a contempt thereof. Any petition filed or
19 order entered relating to a summons issued and
20 served with an order of nondisclosure shall be made
21 under seal.”.

22 (b) TECHNICAL AMENDMENT.—The table of sections
23 for chapter 203 of title 18, United States Code, is amend-
24 ed by inserting after the item relating to section 3056 the
25 following:

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

1 **TITLE X—SPECIAL MASTERS**

2 **SEC. 1001. SPECIAL MASTERS.**

3 (a) IN GENERAL.—Section 3626(f) of title 18, United
4 States Code, is amended—

5 (1) by inserting “in any civil action in a Fed-
6 eral court with respect to prison conditions” after
7 “Special Masters”;

8 (2) in paragraph (1)—

9 (A) in subparagraph (A), by striking from
10 “In any civil action” through “prison condi-
11 tions, the” and inserting “The”; and

12 (B) in subparagraph (B), by striking
13 “under this subsection”;

14 (3) in paragraph (2)—

15 (A) in subparagraph (A), by striking “in-
16 stitution”; and

17 (B) by inserting after subparagraph (C)
18 the following:

19 “(D) This paragraph shall apply only to special
20 masters appointed after the date of enactment of the
21 Prison Litigation Reform Act of 1995.”;

22 (4) in paragraph (3), by striking “under this
23 subsection”;

24 (5) in paragraph (4)—

1 (A) by striking “under this section”; and
2 in paragraph (6), by striking “appointed under
3 this subsection”; and

4 (B) by adding at the end the following: “In
5 no event shall the court require the parties to
6 pay the compensation, expenses, or costs of the
7 special master.”;

8 (6) in paragraph (5), by striking from “In any
9 civil action” through “subsection, the” and inserting
10 “The”; and

11 (7) in paragraph (6)—

12 (A) by striking subparagraph (A) and in-
13 serting the following:

14 “(A) may be authorized by a court to con-
15 duct hearings on the record and shall make any
16 findings based on the record as a whole.”;

17 (B) in subparagraph (B), by adding “and”
18 at the end;

19 (C) by striking subparagraph (C); and

20 (D) by redesignating subparagraph (D) as
21 subparagraph (C).

22 (b) EFFECTIVE DATE OF CERTAIN PROVISIONS.—
23 The amendment made by subsection (a)(5)(B) shall take
24 effect as of the date of enactment of the Prison Litigation
25 Reform Act of 1995.

1 **TITLE XI—LIMITATIONS ON SO-**
2 **CIAL SECURITY BENEFITS**
3 **FOR PRISONERS**

4 **SEC. 1101. IMPLEMENTATION OF PROHIBITION AGAINST**
5 **PAYMENT OF TITLE II BENEFITS TO PRIS-**
6 **ONERS.**

7 (a) IN GENERAL.—Section 202(x)(3) of the Social
8 Security Act (42 U.S.C. 402(x)(3)) is amended—

9 (1) by inserting “(A)” after “(3)”; and

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

11 “(B)(i) The Commissioner shall enter into an agree-
12 ment, with any interested State or local institution com-
13 prising a jail, prison, penal institution, correctional facil-
14 ity, or other institution of which a purpose is to confine
15 individuals as described in paragraph (1)(A), under
16 which—

17 “(I) the institution shall provide to the Com-
18 missioner, on a monthly basis and in a manner spec-
19 ified by the Commissioner, the names, social security
20 account numbers, dates of birth, confinement com-
21 mencement dates, and, to the extent available to the
22 institution, other identifying information concerning
23 the individuals confined in the institution as the
24 Commissioner may require for the purpose of carry-
25 ing out paragraph (1); and

1 “(II) except as provided in clause (ii), the Com-
2 missioner shall pay to the institution, with respect to
3 providing information described in subclause (I) con-
4 cerning each individual who is confined as described
5 in paragraph (1)(A), to whom a benefit under this
6 title is payable for the month preceding the first
7 month of confinement, and whose benefit under this
8 title ceases to be payable as a result of the applica-
9 tion of this subsection, \$400 (subject to reduction
10 under clause (iii)) if the institution furnishes the in-
11 formation to the Commissioner not later than 30
12 days after the date of the confinement of the individ-
13 ual in the institution begins, or \$200 (subject to re-
14 duction under clause (iii)) if the institution furnishes
15 the information more than 30 days after the date
16 of the confinement of the individual in the institu-
17 tion begins, but not later than 90 days after such
18 date.

19 “(ii) An amount shall not be payable to an institution
20 with respect to providing information concerning an indi-
21 vidual under an agreement entered into under clause (i)
22 if, prior to the receipt by the Commissioner of the informa-
23 tion, the Commissioner has determined that benefits under
24 this title are no longer payable to the individual as a result
25 of the application of this subsection.

1 “(iii) The dollar amounts specified in clause (i)(II)
2 shall be reduced by 50 percent if the Commissioner is also
3 required to make a payment to the institution with respect
4 to the same individual under an agreement entered into
5 under section 1611(e)(1)(I).

6 “(iv) There shall be transferred from the Federal
7 Old-Age and Survivors Insurance Trust Fund and the
8 Federal Disability Insurance Trust Fund, as appropriate,
9 sums as may be necessary to enable the Commissioner to
10 make payments to institutions as required by clause
11 (i)(II). Sums so transferred shall be treated as direct
12 spending for purposes of the Balanced Budget and Emer-
13 gency Deficit Control Act of 1985 and excluded from
14 budget totals in accordance with section 13301 of the
15 Budget Enforcement Act of 1990.

16 “(v) The Commissioner is authorized to provide, on
17 a reimbursable basis, information obtained pursuant to
18 agreements entered into under clause (i) to any Federal
19 or federally-assisted cash, food, or medical assistance pro-
20 gram for eligibility purposes.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section take effect as if included in the enactment of
23 section 203(a) of the Personal Responsibility and Work
24 Opportunity Reconciliation Act of 1996 (Public Law 104–
25 193; 110 Stat. 2186).

1 (1) in subparagraph (A), by striking “section
2 1611(e)(1)” and inserting “sections 202(x) and
3 1611(e)(1)”; and

4 (2) in subparagraph (B), by striking “section
5 1611(e)(1)(I)” and inserting “section 202(x)(3)(B)
6 or 1611(e)(1)(I)”.

7 (b) INCLUSION IN REPORT.—Section 203(c) of the
8 Personal Responsibility and Work Opportunity Reconcili-
9 ation Act of 1996 (Public Law 104–193; 110 Stat. 2187)
10 is amended by striking “section 1611(e)(1)(I)” and all
11 that follows and inserting “sections 202(x)(3)(B) and
12 1611(e)(1)(I) of the Social Security Act.”.

13 (c) EFFECTIVE DATE.—

14 (1) INCLUSION IN STUDY.—The amendments
15 made by subsection (a) take effect as if included in
16 section 203(b) of the Personal Responsibility and
17 Work Opportunity Reconciliation Act of 1996 (Pub-
18 lic Law 104–193, 110 Stat. 2187); and

19 (2) INCLUSION IN REPORT.—The amendment
20 made by subsection (b) takes effect as if included in
21 section 203(c) of the Personal Responsibility and
22 Work Opportunity Reconciliation Act of 1996 (Pub-
23 lic Law 104–193; 110 Stat. 2187).

1 **SEC. 1104. CONFORMING TITLE XVI AMENDMENTS.**

2 (a) PRECLUSION OF TITLE XVI PAYMENT WHEN IN-
 3 FORMATION FURNISHED BY AN INSTITUTION IS ALREADY
 4 KNOWN BY THE COMMISSIONER.—Section 1611(e)(1)(I)
 5 of the Social Security Act (42 U.S.C. 1382(e)(1)(I)) is
 6 amended—

7 (1) in clause (i)(II), by inserting “except as
 8 provided in clause (ii),” after “(II)”;

9 (2) by redesignating clauses (ii) and (iii) as
 10 clauses (iv) and (v), respectively; and

11 (3) by inserting after clause (i) the following:

12 “(ii) An amount shall not be payable to an institution
 13 with respect to providing information concerning an in-
 14 mate under an agreement entered into under clause (i)
 15 if, prior to the receipt by the Commissioner of the informa-
 16 tion, the Commissioner has determined that the inmate
 17 is no longer an eligible individual or eligible spouse for
 18 purposes of this title as a result of the application of this
 19 paragraph.”.

20 (b) FIFTY PERCENT REDUCTION IN TITLE XVI PAY-
 21 MENT IN CASE INVOLVING COMPARABLE TITLE II PAY-
 22 MENT.—Section 1611(e)(1)(I) of the Social Security Act
 23 (42 U.S.C. 1382(e)(1)(I)) (as amended by subsection (a))
 24 is amended—

25 (1) in clause (i)(II)—

1 (A) by inserting “(subject to reduction
2 under clause (iii))” after “\$400”; and

3 (B) by inserting “(subject to reduction
4 under clause (iii))” after “\$200”; and

5 (2) by inserting after clause (ii) the following:

6 “(iii) The dollar amounts specified in clause (i)(II)
7 shall be reduced by 50 percent if the Commissioner is also
8 required to make a payment to the institution with respect
9 to the same individual under an agreement entered into
10 under section 202(x)(3)(B).”.

11 (c) EXPANSION OF CATEGORIES OF INSTITUTIONS
12 ELIGIBLE TO ENTER INTO AGREEMENTS WITH THE
13 COMMISSIONER.—Section 1611(e)(1)(I)(i) of the Social
14 Security Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended in
15 the matter preceding subclause (I) by striking “institu-
16 tion” and all that follows through the second “section
17 202(x)(1)(A),” and inserting “institution comprising a
18 jail, prison, penal institution, or correctional facility, or
19 with any other interested State or local institution of
20 which a purpose is to confine individuals as described in
21 section 202(x)(1)(A)(ii).”.

22 (d) LIMITATION ON CATEGORIES OF INMATES WITH
23 RESPECT TO WHOM PAYMENT MAY BE MADE.—Section
24 1611(e)(1)(I)(i)(II) of the Social Security Act (42 U.S.C.
25 1382(e)(1)(I)(i)(II)) is amended by striking “inmate of

1 the institution” and all that follows through “in such insti-
2 tution and” and inserting “individual who is eligible for
3 a benefit under this title for the month preceding the first
4 month in which the individual is an inmate of the jail,
5 prison, penal institution, or correctional facility, or is con-
6 fined in the institution as described in section
7 202(x)(1)(A)(ii), and”.

8 (e) TECHNICAL CORRECTION.—Section
9 1611(e)(1)(I)(i)(II) of the Social Security Act (42 U.S.C.
10 1382(e)(1)(I)(i)(II)) (as amended by subsection (d)) is
11 amended by striking “subparagraph” and inserting “para-
12 graph”.

13 (f) EFFECTIVE DATE.—The amendments made by
14 this section take effect as if included in the enactment of
15 section 203(a) of the Personal Responsibility and Work
16 Opportunity Reconciliation Act of 1996 (Public Law 104–
17 193, 110 Stat. 2187). The references to section
18 202(x)(1)(A)(ii) of the Social Security Act in section
19 1611(e)(1)(I)(i) of such Act as amended by subsections
20 (c) and (d) of this section shall be deemed a reference to
21 such section 202(x)(1)(A)(ii) as amended by section
22 1102(a)(3) of this Act.

1 **SEC. 1105. EXEMPTION FROM COMPUTER MATCHING RE-**
2 **QUIREMENTS.**

3 (a) **IN GENERAL.**—Section 552a(a)(8)(B) of title 5,
4 United States Code, is amended—

5 (1) by striking “or” at the end of clause (vi);

6 (2) by adding “or” at the end of clause (vii);

7 and

8 (3) by inserting after clause (vii) the following:

9 “(viii) matches performed by the
10 Commissioner of Social Security pursuant
11 to section 202(x) or 1611(e)(1) of the So-
12 cial Security Act;”.

13 (b) **CONFORMING AMENDMENT.**—Section
14 1611(e)(1)(I)(iv) of the Social Security Act (42 U.S.C.
15 1382(e)(1)(I)(iv)) (as redesignated by section 1104(a)(2))
16 is amended by striking “(I) The provisions” and all that
17 follows through “(II) The Commissioner” and inserting
18 “The Commissioner”.

19 (c) **EFFECTIVE DATE.**—The amendments made by
20 this section take effect on the date of enactment of this
21 Act.

1 **TITLE XIII—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 1301. PRISONER COPAYMENTS FOR HEALTH CARE**
4 **SERVICES.**

5 (a) IN GENERAL.—Chapter 303 of title 18, United
6 States Code, is amended by adding at the end the follow-
7 ing:

8 **“§ 4048. Prisoner copayments for health care services**

9 “(a) DEFINITIONS.—In this section—

10 “(1) the term ‘account’ means the trust fund
11 account (or institutional equivalent) of a prisoner;

12 “(2) the term ‘Director’ means the Director of
13 the Bureau of Prisons;

14 “(3) the term ‘health care provider’ means any
15 person who is licensed or certified under State law
16 to provide health care services and who is operating
17 within the scope of such license;

18 “(4) the term ‘health care visit’ means any visit
19 by a prisoner to an institutional or noninstitutional
20 health care provider, if the visit is made at the re-
21 quest of the prisoner;

22 “(5) the term ‘prisoner’ means any person sub-
23 ject to incarceration, detention, or admission to any
24 facility who is accused of, convicted of, sentenced
25 for, or adjudicated delinquent for, violations of

1 criminal law or the terms and conditions of parole,
2 probation, pretrial release, or diversionary program;
3 and

4 “(6) the term ‘qualified health care visit’ does
5 not include any health care visit—

6 “(A) that—

7 “(i) is conducted during the incarcer-
8 ation intake process;

9 “(ii) is an annual examination;

10 “(iii) is determined by the health care
11 provider to be an emergency visit;

12 “(iv) is initiated by the health care
13 staff of the Bureau of Prisons; or

14 “(v) is the direct result of a referral
15 made by a prison official; or

16 “(B) by a prisoner who is—

17 “(i) less than 18 years of age;

18 “(ii) pregnant; or

19 “(iii) determined by the appropriate
20 official of the Bureau of Prisons to be seri-
21 ously mentally ill.

22 “(b) COPAYMENTS FOR HEALTH CARE SERVICES.—

23 The Director shall assess and collect a fee in accordance
24 with this section—

1 “(1) in an amount equal to not less than \$3
2 and not more than \$5, for each qualified health care
3 visit;

4 “(2) in an amount not to exceed \$5, which shall
5 be established by the Director by regulation, for—

6 “(A) each prescription medication provided
7 to the prisoner by a health care provider; and

8 “(B) each health care visit described in
9 subparagraph (A)(iii) or (B)(i) of subsection
10 (a)(6); and

11 “(3) in an amount established by the Director
12 by regulation, for each health care visit occurring as
13 a result of an injury inflicted on a prisoner by an-
14 other prisoner.

15 “(c) RESPONSIBILITY FOR PAYMENT.—Each fee as-
16 sessed under subsection (b) shall be collected by the Direc-
17 tor from the account of—

18 “(1) the prisoner making the health care visit
19 or receiving the prescription medication; or

20 “(2) in the case of a health care visit described
21 in subsection (b)(3), the prisoner who is determined
22 by the Director to have inflicted the injury.

23 “(d) TIMING.—Each fee assessed under this section
24 shall be collected from the appropriate account under sub-
25 section (c)—

1 “(1) on the date on which the qualified health
2 care visit occurs; or

3 “(2) in the case of a prisoner whose account
4 balance is determined by the Director to be insuffi-
5 cient for collection of the fee in accordance with
6 paragraph (1), in accordance with an installment
7 payment plan, which shall be established by the Di-
8 rector by regulation.

9 “(e) NO REFUSAL OF TREATMENT FOR FINANCIAL
10 REASONS.—Nothing in this section shall be construed to
11 permit any refusal of treatment to a prisoner on the basis
12 that—

13 “(1) account of the prisoner is insolvent; or

14 “(2) the prisoner is otherwise unable to pay a
15 fee assessed under this section in accordance with
16 subsection (d)(1).

17 “(f) USE OF AMOUNTS.—Any amounts collected by
18 the Director under this section shall be deposited in the
19 Crime Victims’ Fund established under section 1402 of
20 the Victims of Crime Act of 1984 (42 U.S.C. 10601).

21 “(g) REPORTS TO CONGRESS.—Not later than 1 year
22 after the date of enactment of the Crime Prevention Act
23 of 1997 and annually thereafter, the Director shall submit
24 to Congress a report, which shall include—

1 “(1) a description of the amounts collected
2 under this section during the preceding 12-month
3 period; and

4 “(2) an analysis of the effects of the implemen-
5 tation of this section, if any, on the nature and ex-
6 tent of health care visits by prisoners.”.

7 (b) CLERICAL AMENDMENT.—The chapter analysis
8 for chapter 303 of title 18, United States Code, is amend-
9 ed by adding at the end the following:

“4048. Prisoner copayments for health care services.”.

