

107TH CONGRESS
1ST SESSION

H. R. 2979

To enhance the ability of law enforcement to combat money laundering,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2001

Mrs. ROUKEMA introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Financial Services, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance the ability of law enforcement to combat money
laundering, 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 “Money Laundering Act
5 of 2001”.

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

7 The table of sections for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Illegal money transmitting businesses.

- Sec. 4. Long-arm jurisdiction over foreign money launderers.
- Sec. 5. Laundering money through a foreign bank.
- Sec. 6. Specified unlawful activity for money laundering.
- Sec. 7. Criminal forfeiture for money laundering conspiracies.
- Sec. 8. Subpoenas for bank records.
- Sec. 9. Charging money laundering as a course of conduct.
- Sec. 10. Venue in money laundering cases.
- Sec. 11. Technical amendment to restore wiretap authority for certain money laundering offenses.
- Sec. 12. Knowledge that the property is the proceeds of a specific felony.
- Sec. 13. Money purchased on the black market.
- Sec. 14. Money laundering transactions; commingled accounts.
- Sec. 15. Fungible property in bank accounts.
- Sec. 16. Discovery procedure for locating laundered money.
- Sec. 17. Repatriation of property placed beyond the jurisdiction of the court.
- Sec. 18. Laundering the proceeds of terrorism.
- Sec. 19. Bulk cash smuggling.
- Sec. 20. Currency couriers.
- Sec. 21. Violations of section 6050I of the Internal Revenue Code of 1986.
- Sec. 22. Proceeds of foreign crimes.
- Sec. 23. Authorization to share recovered property with cooperating foreign governments.
- Sec. 24. Recovery of criminal proceeds from third parties.
- Sec. 25. Criminal forfeiture of property in government custody.
- Sec. 26. Restraint of property subject to criminal forfeiture.
- Sec. 27. Non-abatement of forfeiture when defendant dies pending appeal.
- Sec. 28. Transfer of reporting requirements from section 6050I of the Internal Revenue Code of 1986 to title 31, United States Code.
- Sec. 29. Penalties for violations of geographic targeting orders and certain record keeping requirements.
- Sec. 30. Exclusion of aliens involved in money laundering.
- Sec. 31. Miscellaneous minor and technical amendments.
- Sec. 32. Additional minor amendments.
- Sec. 33. Availability of tax records.
- Sec. 34. Investigative subpoenas.
- Sec. 35. Collection of criminal forfeiture judgment.
- Sec. 36. Standing to contest forfeiture of funds deposited into foreign bank that has a correspondent account in the United States.
- Sec. 37. Subpoenas for records regarding funds in correspondent bank accounts.
- Sec. 38. Corporation represented by a fugitive.
- Sec. 39. Enforcement of foreign judgment.

1 SEC. 3. ILLEGAL MONEY TRANSMITTING BUSINESSES.

2 (a) SCIENTER REQUIREMENT FOR SECTION 1960
 3 VIOLATION.—Section 1960 of title 18, United States
 4 Code, is amended by adding at the end the following new
 5 section:

1 “(c) For the purposes of proving a violation of this
2 section involving an illegal money transmitting business
3 as defined in subsection (b)(1)(A) or (b)(1)(B), it shall
4 be sufficient for the Government to prove that the defend-
5 ant knew that the money transmitting business lacked a
6 license required by State law, failed to comply with the
7 money transmitting business registration requirements of
8 31 U.S.C. 5330 or the regulations thereunder, or both.
9 It shall not be necessary to show that the defendant knew
10 that the operation of such a business without the required
11 license or registration was an offense punishable as a fel-
12 ony or misdemeanor.”.

13 (b) SEIZURE OF ILLEGALLY TRANSMITTED
14 FUNDS.—Section 981(a)(1)(A) of title 18, United States
15 Code, is amended by striking “or 1957” and inserting
16 “, 1957 or 1960”.

17 **SEC. 4. LONG-ARM JURISDICTION OVER FOREIGN MONEY**
18 **LAUNDERERS.**

19 Section 1956(b) of title 18, United States Code, is
20 amended—

21 (1) by inserting “(1)” after “(b)”;

22 (2) by redesignating paragraphs (1) and (2) as
23 subparagraphs (A) and (B), respectively;

24 (3) by inserting “, or section 1957” after “or
25 (a)(3)”;

1 (4) by adding at the end the following:

2 “(2) For purposes of adjudicating an action
3 filed or enforcing a penalty ordered under this sec-
4 tion, the district courts shall have jurisdiction over
5 any foreign person, including any financial institu-
6 tion authorized under the laws of a foreign country,
7 against whom the action is brought, if service of
8 process upon such foreign person is made under the
9 Federal Rules of Civil Procedure or the laws of the
10 country where the foreign person is found, and

11 “(A) the foreign person commits an offense
12 under subsection (a) involving a financial trans-
13 action that occurs in whole or in part in the
14 United States;

15 “(B) the foreign person converts to such
16 person’s own use property in which the United
17 States has an ownership interest by virtue of
18 the entry of an order of forfeiture by a court
19 of the United States; or

20 “(C) the foreign person is a financial insti-
21 tution that maintains a correspondent bank ac-
22 count at a financial institution in the United
23 States.

24 “(3) The court may issue a pretrial restraining
25 order or take any other action necessary to ensure

1 that any bank account or other property held by the
2 defendant in the United States is available to satisfy
3 a judgment under this section.”.

4 **SEC. 5. LAUNDERING MONEY THROUGH A FOREIGN BANK.**

5 Section 1956(c)(6) of title 18, United States Code,
6 is amended to read as follows:

7 “(6) the term ‘financial institution’ includes any
8 financial institution described in section 5312(a)(2)
9 of title 31, United States Code, or the regulations
10 promulgated thereunder, as well as any foreign
11 bank, as defined in paragraph (7) of section 1(b) of
12 the International Banking Act of 1978 (12 U.S.C.
13 3101(7)).”.

14 **SEC. 6. SPECIFIED UNLAWFUL ACTIVITY FOR MONEY LAUN-**
15 **DERING.**

16 (a) IN GENERAL.—Section 1956(c)(7) of title 18,
17 United States Code, is amended—

18 (1) in subparagraph (B)—

19 (A) by striking clause (ii) and inserting the
20 following new clause:

21 “(ii) any act or acts constituting a
22 crime of violence, as defined in section 16
23 of this title;” and

24 (B) by inserting after clause (iii) the fol-
25 lowing new clauses:

1 “(iv) fraud or any scheme to defraud
2 committed against an individual or entity
3 (other than a foreign government or gov-
4 ernment entity) provided such conduct
5 would constitute a fraud or scheme to de-
6 fraud under the laws of the United States
7 or its constituent parts if committed in the
8 United States;

9 “(v) fraud or any scheme to defraud
10 against a foreign government or foreign
11 government entity, provided such conduct
12 would constitute a violation of Title 18 of
13 the United States Code if it were com-
14 mitted in interstate commerce in the
15 United States and against the United
16 States government or a United States gov-
17 ernmental entity;

18 “(vi) bribery of a public official, or
19 the misappropriation, theft, or embezzle-
20 ment of public funds by or for the benefit
21 of a public official;

22 “(vii) smuggling or export control vio-
23 lations involving munitions listed in the
24 United States Munitions List or tech-
25 nologies with military applications as de-

1 fined in the Commerce Control List of the
2 Export Administration Regulations; or

3 “(viii) an offense with respect to
4 which the United States would be obligated
5 by a multilateral treaty either to extradite
6 the alleged offender or to submit the case
7 for prosecution, if the offender were found
8 within the territory of the United States.”;
9 and

10 (2) in subparagraph (D)—

11 (A) by inserting “section 541 (relating to
12 goods falsely classified),” before “section 542”;

13 (B) by inserting “section 922(1) (relating
14 to the unlawful importation of firearms), sec-
15 tion 924(n) (relating to firearms trafficking),”
16 before “section 956”;

17 (C) by inserting “section 1030 (relating to
18 computer fraud and abuse),” before “1032”;

19 (D) by inserting “any felony violation of
20 the Foreign Agents Registration Act of 1938,
21 as amended,” before “or any felony violation of
22 the Foreign Corrupt Practices Act”; and

23 (E) by striking “fraud in the sale of secu-
24 rities” and inserting “fraud in the purchase or
25 sale of securities”.

1 (3) in paragraph (E), by striking “or” and in-
2 serting “, or the Clean Air Act (42 U.S.C. 7401 et
3 seq.), or any wildlife protection offense, as defined in
4 section 49,” after “the Resources Conservation and
5 Recovery Act (42 U.S.C. 6901 et seq.)”.

6 (4) by inserting the following after paragraph
7 (F):

8 “(G) any violation of the Archeological Re-
9 sources Protection Act (16 U.S.C. 470aa, et
10 seq.), or the Native American Graves Protection
11 and Repatriation Act (25 U.S.C. 3001, et seq.).

12 (b)(1) BURGLARY AND EMBEZZLEMENT.—Section
13 1961(1)(A) of title 18, United States Code, is amended
14 by inserting “burglary, embezzlement,” after “robbery,”.

15 (2) ALIEN SMUGGLING.—Section 1961(1)(F) of title
16 18, United States Code, is amended by inserting “and
17 274A” after “274”.

18 (c) WILDLIFE PROTECTION OFFENSE.—

19 (1) Chapter 3 of title 18, United States Code,
20 is amended by inserting the following after section
21 48:

22 **“SEC. 49. DEFINITION OF WILDLIFE PROTECTION OFFENSE.**

23 “(a) As used in this title, the term ‘wildlife protection
24 offense’ means any violation of a provision of this chapter
25 or of any Act listed in subsection (b), or any regulation

1 promulgated thereunder, that may be prosecuted as a
2 criminal offense.

3 “(b) The statutes referred to in subsection (a) include
4 the following:

5 “(1) the Lacey Act (16 U.S.C. 3371–78 and 18
6 U.S.C. 42;

7 “(2) the Endangered Species Act (16 U.S.C.
8 1538);

9 “(3) the Marine Mammal Protection Act (16
10 U.S.C. 1372);

11 “(4) the African Elephant Conservation Act (16
12 U.S.C. 4222–23);

13 “(5) the Wild Exotic Bird Conservation Act (16
14 U.S.C. 4910);

15 “(6) the Eagle Protection Act (16 U.S.C. 668);

16 “(7) the Migratory Bird Treaty Act (16 U.S.C.
17 703);

18 “(8) the Migratory Bird Conservation Stamp
19 Act (16 U.S.C. 718f);

20 “(9) the Airborne Hunting Act (16 U.S.C.
21 742j–1);

22 “(10) the Antarctic Conservation Act (16
23 U.S.C. 2403);

24 “(11) the National Wildlife Refuge System Ad-
25 ministration Act (16 U.S.C. 668dd);

1 “(12) the Rhinoceros and Tiger Conservation
2 Act (16 U.S.C. 5305a);

3 “(13) the Federal Cave Resources Protection
4 Act (16 U.S.C. 4306); or

5 “(14) the Antarctic Marine Living Resources
6 Convention (16 U.S.C. 2435).”.

7 (2) The Chapter Analysis for Chapter 3 of title
8 18, United States Code, is amended by inserting
9 “49. Definition of wildlife protection offense” after
10 the analysis for section 48.

11 **SEC. 7. CRIMINAL FORFEITURE FOR MONEY LAUNDERING**

12 **CONSPIRACIES.**

13 Section 982(a)(1) of title 18, United States Code, is
14 amended by inserting “, or a conspiracy to commit any
15 such offense” after “of this title”.

16 **SEC. 8. SUBPOENAS FOR BANK RECORDS.**

17 Section 986 of title 18, United States Code, is
18 amended—

19 (1) in subsection (a)—

20 (A) by inserting “(1)” before “At any
21 time”;

22 (B) by striking “section 1956, 1957, or
23 1960 of this title, section 5322 or 5324 of title
24 31, United States Code” and inserting “section
25 981 or 982 of this title”;

1 (C) by striking “in rem”; and

2 (D) by striking the last sentence and in-
3 serting the following:

4 “(2) The United States may request the Clerk
5 of the Court in any district where a civil forfeiture
6 action may be filed pursuant to 28 U.S.C. 1355(b)
7 to issue a subpoena duces tecum under paragraph
8 (1) before the filing of the verified complaint.”.

9 (2) in subsection (c), by inserting “or the Fed-
10 eral Rules of Criminal Procedure” after “Proce-
11 dure”.

12 **SEC. 9. CHARGING MONEY LAUNDERING AS A COURSE OF**
13 **CONDUCT.**

14 Section 1956(h) of title 18, United States Code, is
15 amended—

16 (1) by inserting “(1)” before “Any person”;
17 and

18 (2) by adding at the end the following new
19 paragraph:

20 “(2) Any person who commits multiple viola-
21 tions of this section or Section 1957 that are part
22 of the same scheme or continuing course of conduct
23 may be charged, at the election of the Government,
24 in a single count in an indictment or information.”.

1 **SEC. 10. VENUE IN MONEY LAUNDERING CASES.**

2 Section 1956 of title 18, United States Code, is
3 amended by adding at the end the following:

4 “(i) VENUE.—

5 “(1) Except as provided in paragraph (2), a
6 prosecution for an offense under this section or sec-
7 tion 1957 may be brought in—

8 “(A) any district in which the financial or
9 monetary transaction is conducted, or

10 “(B) any district where a prosecution for
11 the underlying specified unlawful activity could
12 be brought, if the defendant participated in the
13 transfer of the proceeds of the specified unlaw-
14 ful activity from that district to the district
15 where the financial or monetary transaction is
16 conducted.

17 “(2) A prosecution for an attempt or conspiracy
18 offense under this section or section 1957 may be
19 brought in the district where venue would lie for the
20 completed offense under paragraph (1), or in any
21 other district where an act in furtherance of the at-
22 tempt or conspiracy took place.

23 “(3) For purposes of this section, a transfer of
24 funds from one place to another, by wire or any
25 other means, shall constitute a single, continuing
26 transaction. Any person who conducts (as that term

1 is defined in subsection (c)(2)) any portion of the
2 transaction may be charged in any district in which
3 the transaction takes place.”.

4 **SEC. 11. TECHNICAL AMENDMENT TO RESTORE WIRETAP**
5 **AUTHORITY FOR CERTAIN MONEY LAUN-**
6 **DERING OFFENSES.**

7 Section 2516(1)(g) of title 18, United States Code,
8 is amended by striking “a violation of section 5322 of title
9 31, United States Code (dealing with the reporting of cur-
10 rency transactions)” and inserting “a violation of section
11 5322 or 5324 of title 31, United States Code (dealing with
12 the reporting and illegal structuring of currency trans-
13 actions)”.

14 **SEC. 12. KNOWLEDGE THAT THE PROPERTY IS THE PRO-**
15 **CEEDS OF A SPECIFIC FELONY.**

16 (a) PROCEEDS OF A FELONY.—Section 1956(c)(1) of
17 title 18, United States Code, is amended by inserting “,
18 and regardless of whether or not the person knew that
19 the activity constituted a felony” before the semicolon at
20 the end.

21 (b) INTENT TO CONCEAL OR DISGUISE.—Sections
22 1956(a)(1)(B)(i) and 1956(a)(2)(B)(i) are amended by
23 striking “specified unlawful activity” and inserting “some
24 form of unlawful activity”.

1 **SEC. 13. MONEY PURCHASED ON THE BLACK MARKET.**

2 (a) IN GENERAL.—Section 981(a) of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 “(3) A person asserting an innocent owner de-
6 fense under section 983(d) to the forfeiture of cur-
7 rency, monetary instruments or funds purchased or
8 received from a money broker must be a bona fide
9 purchaser for value without reason to know that the
10 currency, monetary instruments or funds were sub-
11 ject to forfeiture, and must establish that such per-
12 son took all reasonable affirmative steps to deter-
13 mine the source of the currency, monetary instru-
14 ments or funds, or to verify that the currency, mone-
15 tary instruments or funds were not derived from ille-
16 gal activity.

17 “(4) For purposes of paragraph (3)—

18 “(A) the term ‘money broker’ means any
19 person who sells or exchanges currency, mone-
20 tary instruments or funds, either in the United
21 States or in a foreign country, either independ-
22 ently, or through any parallel market, black
23 market, casa de cambio, or other currency ex-
24 change business;

25 “(B) a person receives money from a
26 money broker if the person provides goods or

1 services to a customer and receives payment for
2 such goods or services from a money broker or
3 a person acting on behalf of a money broker;

4 “(C) what constitutes ‘all reasonable af-
5 firmative steps’ depends on the facts and cir-
6 cumstances surrounding the transaction, but if
7 the money broker is a financial institution, as
8 defined in section 20 of this title, the purchaser
9 takes ‘all reasonable affirmative steps’ if the
10 purchaser conducts the transaction at the fi-
11 nancial institution during normal business
12 hours in an arms-length transaction and has no
13 reason to know that the currency, monetary in-
14 struments, or funds were derived from or used
15 to commit any unlawful activity.”.

16 (b) APPLICATION.—The amendments made by this
17 section shall apply to any case pending on the effective
18 date of this Act.

19 **SEC. 14. MONEY LAUNDERING TRANSACTIONS; COMMUN-**
20 **ICATED ACCOUNTS.**

21 (a) SECTION 1956.—Section 1956 of title 18, United
22 States Code, is amended by adding at the end the fol-
23 lowing new subsection:

24 “(j) A transaction, transportation, transmission, or
25 transfer of funds shall be considered for the purposes of

1 this section to be one involving the proceeds of specified
2 unlawful activity, or property represented to be the pro-
3 ceeds of specified unlawful activity, if the transaction,
4 transportation, transmission, or transfer involves—

5 “(1) funds directly traceable to the specified
6 unlawful activity, or represented to be directly trace-
7 able to the specified unlawful activity;

8 “(2) a bank account in which the proceeds of
9 specified unlawful activity, or property represented
10 to be the proceeds of specified unlawful activity,
11 have been commingled with other funds; or

12 “(3) 2 or more bank accounts, where the pro-
13 ceeds of specified unlawful activity, or property rep-
14 resented to be the proceeds of specified unlawful ac-
15 tivity, are deposited into 1 bank account and there
16 is a related contemporaneous or subsequent with-
17 drawal from, or debit to, another bank account con-
18 trolled by the same person, or by a person acting in
19 concert with that person.”.

20 (b) SECTION 1957.—Section 1957(f) of title 18,
21 United States Code, is amended by inserting after para-
22 graph (3) the following new paragraph:

23 “(4) the term ‘monetary transaction in crimi-
24 nally derived property that is of a value greater than
25 \$10,000’ includes—

1 “(A) a monetary transaction involving the
2 transfer, withdrawal, encumbrance or other dis-
3 position of more than \$10,000 from a bank ac-
4 count in which more than \$10,000 in proceeds
5 of specified unlawful activity have been commin-
6 gled with other funds;

7 “(B) a series of monetary transactions in
8 amounts under \$10,000 that exceed \$10,000 in
9 the aggregate and that are closely related to
10 each other in terms of such factors as time, the
11 identity of the parties involved, the nature and
12 purpose of the transactions and the manner in
13 which they are conducted; and

14 “(C) any financial transaction described in
15 Section 1956(j)(3) that involves more than
16 \$10,000 in proceeds of specified unlawful activ-
17 ity.”.

18 (c) TECHNICAL AMENDMENTS.—

19 (1) Section 1956(c)(7)(F) of title 18, United
20 States Code, is amended by inserting “, as defined
21 in section 24” before the period.

22 (2) Section 1957 of title 18, United States
23 Code, is amended—

1 (A) in subsection (a), by striking “engages
2 or attempts to engage in” and inserting “con-
3 ducts or attempts to conduct”, and

4 (B) in subsection (f), by inserting after
5 paragraph (3) the following new paragraph:

6 “(4) the term ‘conducts’ has the same meaning
7 as it does for purposes of Section 1956 of this
8 title.”.

9 **SEC. 15. FUNGIBLE PROPERTY IN BANK ACCOUNTS.**

10 (a) IN GENERAL.—Section 984 of title 18, United
11 States Code, is amended by striking subsection (b) and
12 inserting the following new subsection:

13 “(b) The provisions of this section may be invoked
14 only if the action for forfeiture was commenced by the sei-
15 zure or restraint of the property, or by the filing of a com-
16 plaint, within 2 years of the completion of the offense that
17 is the basis for the forfeiture.”.

18 (b) APPLICATION.—The amendments made by this
19 section shall apply to any offense whether or not com-
20 mitted before the effective date of the Act.

21 **SEC. 16. DISCOVERY PROCEDURE FOR LOCATING**
22 **LAUNDERED MONEY.**

23 Section 413(m) of the Controlled Substances Act (21
24 U.S.C. 853(m)) is amended by inserting before the period
25 at the end the following: “to the extent that the provisions

1 of the Rule are consistent with the purposes for which dis-
2 covery is conducted under this subsection. Because this
3 subsection applies only to matters occurring after the de-
4 fendant has been convicted and the property of the defend-
5 ant has been declared forfeited, the provisions of Rule 15
6 requiring the presence of the defendant at the deposition
7 or a waiver by the defendant of a right to be present shall
8 not apply”.

9 **SEC. 17. REPATRIATION OF PROPERTY PLACED BEYOND**
10 **THE JURISDICTION OF THE COURT.**

11 (a) **CRIMINAL FORFEITURE.**—Section 413(p) of the
12 Controlled Substances Act (21 U.S.C. 853(p)) is amended
13 by adding at the end the following: “In the case of prop-
14 erty described in paragraph (3), the court may, in addi-
15 tion, order the defendant to return the property to the
16 jurisdiction of the court so that it may be seized and for-
17 feited.”.

18 (b) **PRETRIAL RESTRAINING ORDER.**—Section
19 413(e) of the Controlled Substances Act (21 U.S.C.
20 853(e)) is amended by adding at the end the following:

21 “(4) Pursuant to its authority to enter a pre-
22 trial restraining order under this section, including
23 its authority to restrain any property forfeitable as
24 substitute assets, the court may also order the de-
25 fendant to repatriate any property subject to for-

1 feiture pending trial, and to deposit that property in
2 the registry of the court, or with the United States
3 Marshals Service or the Secretary of the Treasury,
4 in an interest-bearing account. Failure to comply
5 with an order under this subsection, or an order to
6 repatriate property under subsection (p), shall be
7 punishable as a civil or criminal contempt of court,
8 and may also result in an enhancement of the sen-
9 tence for the offense giving rise to the forfeiture
10 under the obstruction of justice provision of section
11 3C1.1 of the Federal Sentencing Guidelines.”.

12 **SEC. 18. LAUNDERING THE PROCEEDS OF TERRORISM.**

13 Section 1956(c)(7)(D) of title 18, United States
14 Code, is amended by inserting “or 2339B” after “2339A”.

15 **SEC. 19. BULK CASH SMUGGLING.**

16 (a) FINDINGS.—The Congress hereby finds the fol-
17 lowing:

18 (1) Effective enforcement of the currency re-
19 porting requirements of subchapter II of chapter 53
20 of title 31, United States Code, and the regulations
21 prescribed under such subchapter, has forced drug
22 dealers and other criminals engaged in cash-based
23 businesses to avoid using traditional financial insti-
24 tutions.

1 (2) In their effort to avoid using traditional fi-
2 nancial institutions, drug dealers and other criminals
3 are forced to move large quantities of currency in
4 bulk form to and through the airports, border cross-
5 ings and other ports of entry where it can be smug-
6 gled out of the United States and placed in a foreign
7 financial institution or sold on the Black Market.

8 (3) The transportation and smuggling of cash
9 in bulk form may now be the most common form of
10 money laundering, and the movement of large sums
11 of cash is one of the most reliable warning signs of
12 drug trafficking, terrorism, money laundering, rack-
13 eteering, tax evasion and similar crimes.

14 (4) The intentional transportation into or out of
15 the United States of large amounts of currency or
16 monetary instruments, in a manner designed to cir-
17 cumvent the mandatory reporting provisions of the
18 subchapter II of chapter 53 of title 31, United
19 States Code, is the equivalent of, and creates the
20 same harm as, the smuggling of goods.

21 (5) The arrest and prosecution of bulk cash
22 smugglers are important parts of law enforcement's
23 effort to stop the laundering of criminal proceeds,
24 but the couriers who attempt to smuggle the cash
25 out of the United States are typically low-level em-

1 ployees of large criminal organizations, and thus are
2 easily replaced. Accordingly, only the confiscation of
3 the smuggled bulk cash can effectively break the
4 cycle of criminal activity of which the laundering of
5 the bulk cash is a critical part.

6 (6) The current penalties for violations of the
7 currency reporting requirements of subchapter II of
8 chapter 53 of title 31, United States Code, are in-
9 sufficient to provide a deterrent to the laundering of
10 criminal proceeds. In particular, in cases where the
11 only criminal violation under current law is a report-
12 ing offense, the law does not adequately provide for
13 the confiscation of smuggled currency. In contrast,
14 if the smuggling of bulk cash were itself an offense,
15 the cash could be confiscated as the corpus delicti of
16 the smuggling offense.

17 (b) PURPOSE.—The purposes of this Section are to
18 make the act of smuggling bulk cash itself a criminal of-
19 fense, to authorize forfeiture of any smuggled cash and
20 other monetary instruments, together with any other prop-
21 erty involved in the smuggling offense, to emphasize the
22 seriousness of the act of bulk cash smuggling, and to pre-
23 scribe guidelines for determining the amount of property
24 subject to forfeiture in various situations.

1 (c) ENACTMENT OF BULK CASH SMUGGLING OF-
2 FENSE.—Subchapter II of chapter 53 of title 31, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“SEC. 5331. BULK CASH SMUGGLING.**

6 “(a) CRIMINAL OFFENSE.—Whoever, with the intent
7 to evade a currency reporting requirement under section
8 5316, knowingly conceals more than \$10,000 in currency
9 or other monetary instruments on his person or in any
10 conveyance, article of luggage, merchandise, or other con-
11 tainer, and transports or transfers or attempts to trans-
12 port or transfer such currency or monetary instruments
13 from a place within the United States to a place outside
14 of the United States, or from a place outside the United
15 States to a place within the United States, shall be guilty
16 of a currency smuggling offense and subject to punish-
17 ment pursuant to subsection (b). For purposes of this sec-
18 tion, ‘monetary instruments’ has the meaning set forth in
19 section 5312(a)(3) and the regulations prescribed under
20 such section.

21 “(b) PENALTY.—A person convicted of a currency
22 smuggling offense under subsection (a), or a conspiracy
23 to commit such offense, shall be imprisoned for not more
24 than 5 years. In addition, the court, in imposing sentence,
25 shall order that the defendant forfeit to the United States,

1 any property, real or personal, involved in the offense, and
2 any property traceable to such property, subject to sub-
3 section (d) of this section. The seizure, restraint and for-
4 feiture of property under this section shall be governed
5 by section 413 of the Controlled Substances Act. If any
6 property subject to forfeiture is unavailable, and the de-
7 fendant has insufficient substitute property that may be
8 forfeited pursuant to section 413(p) of the Controlled Sub-
9 stances Act, the court shall enter a personal money judg-
10 ment against the defendant in an amount equal to the
11 value of the unavailable property.

12 “(c) SEIZURE OF SMUGGLING CASH.—Any property
13 involved in a violation of subsection (a), or a conspiracy
14 to commit such violation, and any property traceable
15 thereto, may be seized and, subject to subsection (d) of
16 this section, forfeited to the United States. The seizure
17 and forfeiture shall be governed by the procedures gov-
18 erning civil forfeitures in money laundering cases pursuant
19 to Section 981(a)(1)(A) of title 18, United States Code.
20 For purposes of this subsection and subsection (b), any
21 currency or other monetary instrument that is concealed
22 or intended to be concealed in violation of subsection (a)
23 or a conspiracy to commit such violation, any article, con-
24 tainer or conveyance used or intended to be used to con-
25 ceal or transport the currency or other monetary instru-

1 ment, and any other property used or intended to be used
2 to facilitate the offense, shall be considered property in-
3 volved in the offense.

4 “(d) PROPORTIONALITY OF FORFEITURE.—Upon a
5 showing by the property owner by a preponderance of the
6 evidence that the currency or monetary instruments in-
7 volved in the offense giving rise to the forfeiture were de-
8 rived from a legitimate source, and were intended for a
9 lawful purpose, the court shall reduce the forfeiture to the
10 maximum amount that is not grossly disproportional to
11 the gravity of the offense. In determining the amount of
12 the forfeiture, the court shall consider all aggravating and
13 mitigating facts and circumstances that have a bearing on
14 the gravity of the offense. Such circumstances include, but
15 are not limited to, the following: the value of the currency
16 or other monetary instruments involved in the offense; ef-
17 forts by the person committing the offense to structure
18 currency transactions, conceal property, or otherwise ob-
19 struct justice; and whether the offense is part of a pattern
20 of repeated violations of Federal law.”.

21 (d) CHAPTER ANALYSIS.—The table of sections for
22 subchapter II of chapter 53 of title 31, United States
23 Code, is amended by inserting after the item relating to
24 section 5330 the following new item:

“5331. Bulk Cash Smuggling.”.

1 (e) CURRENCY REPORTING VIOLATIONS.—Section
2 5317(c) of title 31, United States Code, is amended to
3 read as follows:

4 “(c) FORFEITURE OF PROPERTY INVOLVED IN CER-
5 TAIN OFFENSES.—

6 “(1) IN GENERAL.— The court in imposing
7 sentence for any violation of section 5313, 5316, or
8 5324, or any conspiracy to commit such violation,
9 shall order the defendant to forfeit all property, real
10 or personal, involved in the offense and any property
11 traceable thereto. Forfeitures under this paragraph
12 shall be governed by the procedures set forth in sec-
13 tion 413 of the Controlled Substances Act, and the
14 guidelines set forth in paragraph (3).

15 “(2) SEIZURE OF PROPERTY.—Any property in-
16 volved in a violation of section 5313, 5316, or 5324,
17 or any conspiracy to commit such violation, and any
18 property traceable thereto, may be seized and, sub-
19 ject to paragraph (3), forfeited to the United States
20 in accordance with the procedures governing civil
21 forfeitures in money laundering cases pursuant to
22 section 981(a)(1)(A) of title 18, United States Code.

23 “(3) SHOWING OF LEGITIMATE SOURCE.—Upon
24 a showing by the property owner by a preponderance
25 of the evidence that the currency or monetary in-

1 struments involved in the offense giving rise to the
2 forfeiture were derived from a legitimate source, and
3 were intended for a lawful purpose, the court shall
4 reduce the forfeiture to the maximum amount that
5 is not grossly disproportional to the gravity of the
6 offense.

7 “(4) FACTORS CONSIDERED BY THE COURT.—

8 “(A) IN GENERAL.—In determining the
9 amount of the forfeiture, the court shall con-
10 sider all aggravating and mitigating facts and
11 circumstances that have a bearing on the grav-
12 ity of the offense.

13 “(B) CERTAIN FACTORS SPECIFICALLY IN-
14 CLUDED.—The facts and circumstances consid-
15 ered under subparagraph (A) shall include the
16 following:

17 “(i) The value of the currency or
18 other monetary instruments involved in the
19 offense.

20 “(ii) Efforts by the person committing
21 the offense to structure currency trans-
22 actions, conceal property, or otherwise ob-
23 struct justice.

1 “(iii) Whether the offense is part of a
2 pattern of repeated violations of Federal
3 law.”.

4 (f) CONFORMING AMENDMENTS.—

5 (1) Section 981(a)(1)(A) of title 18, United
6 States Code, is amended by striking “of section
7 5313(a) or 5324(a) of title 31, or”.

8 (2) Section 982(a)(1) of title 18, United States
9 Code, is amended by striking “of 5313(a), 5316, or
10 5324 of title 31, or”.—

11 **SEC. 20. CURRENCY COURIERS.**

12 Section 1957 of title 18, United States Code, is
13 amended by adding the following new subsection at the
14 end:

15 “(g) Any person who conceals more than \$10,000 in
16 currency on his person or in any vehicle, in any compart-
17 ment or container within any vehicle, or in any container
18 placed in a common carrier, and transports, attempts to
19 transport, or conspires to transport such currency in inter-
20 state commerce on any public road or highway, or on any
21 bus, train, airplane, vessel or other common carrier, know-
22 ing that the currency was derived from some form of un-
23 lawful activity, or knowing that the currency was intended
24 to be used to promote some form of unlawful activity, shall
25 be punished as provided in subsection (b). The defendant’s

1 knowledge may be established by proof that the defendant
2 was willfully blind to the source or intended use of the
3 currency. For purposes of this subsection, a person con-
4 ceals currency “on his person” if he conceals it in any
5 article of clothing, luggage, backpack, or other container
6 that he carries with him.”.

7 **SEC. 21. VIOLATIONS OF SECTION 6050I OF THE INTERNAL**
8 **REVENUE CODE OF 1986.**

9 Sections 981(a)(1)(A) and 982(a)(1) of title 18,
10 United States Code, are amended by inserting “section
11 6050I of the Internal Revenue Code of 1986 (26 U.S.C.
12 6050I), or” after “in violation of”.

13 **SEC. 22. PROCEEDS OF FOREIGN CRIMES.**

14 Section 981(a)(1)(B) of title 18, United States Code,
15 is amended to read as follows:

16 “(B) Any property, real or personal, within
17 the jurisdiction of the United States, consti-
18 tuting, derived from, or traceable to, any pro-
19 ceeds obtained directly or indirectly from an of-
20 fense against a foreign nation, or any property
21 used to facilitate such offense, if—

22 “(i) the offense involves the manufac-
23 ture, importation, sale, or distribution of a
24 controlled substance (as such term is de-
25 fined for the purposes of the Controlled

1 Substances Act), or any other conduct de-
2 scribed in section 1956(c)(7)(B),

3 “(ii) the offense would be punishable
4 within the jurisdiction of the foreign nation
5 by death or imprisonment for a term ex-
6 ceeding one year, and

7 “(iii) the offense would be punishable
8 under the laws of the United States by im-
9 prisonment for a term exceeding one year
10 if the act or activity constituting the of-
11 fense had occurred within the jurisdiction
12 of the United States.”.

13 **SEC. 23. AUTHORIZATION TO SHARE RECOVERED PROP-**
14 **ERTY WITH COOPERATING FOREIGN GOV-**
15 **ERNMENTS.**

16 (a) IN GENERAL.—Section 981(i)(1) of title 18,
17 United States Code, is amended by striking “this chapter”
18 and inserting “any provision of Federal law”.

19 (b) CONFORMING AMENDMENT.—Section 511(e)(1)
20 of the Controlled Substances Act is amended by striking
21 “; or” and all of subparagraph (E) and inserting a period.

1 **SEC. 24. RECOVERY OF CRIMINAL PROCEEDS FROM THIRD**
2 **PARTIES.**

3 Section 1956(b) of title 18, United States Code, as
4 amended by this Act, is further amended by adding the
5 following at the end:

6 “(4) If property involved in a violation of sub-
7 section (a) is transferred to a third party who is not
8 a bona fide purchaser for value, the United States
9 may file a civil action against the transferee to re-
10 cover the property, or a sum of money equal to the
11 value of the property immediately before the trans-
12 fer, plus interest from the time of the transfer.
13 Venue for such action shall lie in any district in
14 which the violation of subsection (a) took place.”. –

15 **SEC. 25. CRIMINAL FORFEITURE OF PROPERTY IN GOVERN-**
16 **MENT CUSTODY.**

17 Section 413(f) of the Controlled Substances Act (21
18 U.S.C. 853(f)) is amended by designating the present
19 matter as paragraph (1) and adding the following at the
20 end:

21 “(2) If property subject to criminal forfeiture
22 under this section is already in the custody of the
23 United States or any agency thereof, it shall not be
24 necessary to seize or restrain the property for the
25 purpose of criminal forfeiture.

1 “(3) If the seizure warrant is obtained after the
2 property to be seized has been listed in an indict-
3 ment or criminal information or related bill of par-
4 ticulars, the requirement that the warrant be exe-
5 cuted within 10 days under Rule 41, Federal Rules
6 of Criminal Procedure, shall not apply.”

7 **SEC. 26. RESTRAINT OF PROPERTY SUBJECT TO CRIMINAL**
8 **FORFEITURE.**

9 Section 413(e)(1) of the Controlled Substances Act
10 (21 U.S.C. 853(e)(1)) is amended by striking “(a)” and
11 inserting “(a) or (p)”.

12 **SEC. 27. NON-ABATEMENT OF FORFEITURE WHEN DEFEND-**
13 **ANT DIES PENDING APPEAL.**

14 Section 413 of the Controlled Substances Act (21
15 U.S.C. 853) is amended by adding at the end the following
16 new subsection:

17 “(s) NON-ABATEMENT OF FORFEITURE ORDER.

18 “An order of forfeiture that has been made part of
19 a criminal sentence under this section shall not abate by
20 reason of the death thereafter of any or all of the defend-
21 ants or petitioners or potential petitioners, regardless of
22 any appeal that may be pending at the time of death.”.

1 **SEC. 28. TRANSFER OF REPORTING REQUIREMENTS FROM**
2 **SECTION 6050I OF THE INTERNAL REVENUE**
3 **CODE OF 1986 TO TITLE 31, UNITED STATES**
4 **CODE.**

5 (a) REENACTMENT OF SECTION 6050I.—Subchapter
6 II of chapter 53 of title 31, United States Code, is amend-
7 ed by inserting after section 5331 (as added by this Act)
8 the following new section:

9 **“SEC. 5332. REPORTS RELATING TO COINS AND CURRENCY**
10 **RECEIVED IN NONFINANCIAL TRADE OR**
11 **BUSINESS.**

12 “(a) COIN AND CURRENCY RECEIPTS OF MORE
13 THAN \$10,000.—Any person—

14 “(1) who is engaged in a trade or business; and

15 “(2) who, in the course of such trade or busi-
16 ness, receives more than \$10,000 in coins or cur-
17 rency in 1 transaction (or 2 or more related trans-
18 actions),

19 shall file a report described in subsection (b) with respect
20 to such transaction (or related transactions) at such time
21 as the Secretary may by regulations prescribe.

22 “(b) FORM AND MANNER OF REPORTS.—A report is
23 described in this subsection if such report—

24 “(1) is in such form as the Secretary may pre-
25 scribe;

26 “(2) contains—

1 “(A) the name, address, and taxpayer
2 identification number of the person from whom
3 the coins or currency was received;

4 “(B) the amount of coins or currency re-
5 ceived;

6 “(C) the date and nature of the trans-
7 action; and

8 “(D) such other information as the Sec-
9 retary may prescribe.

10 “(c) EXCEPTIONS.—

11 “(1) AMOUNTS RECEIVED BY FINANCIAL INSTI-
12 TUTIONS.—Subsection (a) shall not apply to
13 amounts received in a transaction reported under
14 section 5313 and regulations prescribed under such
15 section.

16 “(2) TRANSACTIONS OCCURRING OUTSIDE THE
17 UNITED STATES.—Except to the extent provided in
18 regulations prescribed by the Secretary, subsection
19 (a) shall not apply to any transaction if the entire
20 transaction occurs outside the United States.

21 “(d) CURRENCY INCLUDES FOREIGN CURRENCY AND
22 CERTAIN MONETARY INSTRUMENTS.—

23 “(1) IN GENERAL.—For purposes of this sec-
24 tion, the term ‘currency’ includes—

25 “(A) foreign currency; and

1 “(B) to the extent provided in regulations
2 prescribed by the Secretary, any monetary in-
3 strument (whether or not in bearer form) with
4 a face amount of not more than \$10,000.

5 “(2) SCOPE OF APPLICATION.—Paragraph
6 (1)(B) shall not apply to any check drawn on the ac-
7 count of the writer in a financial institution referred
8 to in subparagraph (A), (B), (C), (D), (E), (F), (G),
9 (J), (K), (R), or (S) of section 5312(a)(2).

10 “(e) COINS OR CURRENCY RECEIVED BY CRIMINAL
11 COURT CLERKS.—

12 “(1) IN GENERAL.—Every clerk of a Federal or
13 State criminal court who receives more than \$10,000
14 in coins or currency as bail for any individual
15 charged with a specified criminal offense shall file a
16 report described in paragraph (2) (at such time as
17 the Secretary may by regulations prescribe) with re-
18 spect to the receipt of such bail.

19 “(2) REPORT.—A report is described in this
20 paragraph if such report—

21 “(A) is in such form as the Secretary may
22 prescribe; and

23 “(B) contains—

24 “(i) the name, address, and taxpayer
25 identification number of—

1 “(I) the individual charged with
2 the specified criminal offense; and

3 “(II) each person posting the bail
4 (other than a person licensed as a bail
5 bondsman);

6 “(ii) the amount of coins or currency
7 received;

8 “(iii) the date the coins or currency
9 was received; and

10 “(iv) such other information as the
11 Secretary may prescribe.

12 “(3) SPECIFIED CRIMINAL OFFENSE.—For pur-
13 poses of this subsection, the term ‘specified criminal
14 offense’ means—‘(A) any Federal criminal offense
15 involving a controlled substance; ‘(B) racketeering
16 (as defined in section 1951, 1952, or 1955 of title
17 18, United States Code); ‘(C) money laundering (as
18 defined in section 1956, 1957 or 1960 of such title);
19 and ‘(D) any State criminal offense substantially
20 similar to an offense described in subparagraph (A),
21 (B), or (C).

22 “(4) INFORMATION TO FEDERAL PROSECU-
23 TORS.—Each clerk required to include in a report
24 under paragraph (1) the information described in
25 paragraph (2)(B) with respect to an individual de-

1 scribed in paragraph (2)(B)(i)(I) shall furnish (at
2 such time as the Secretary may by regulations pre-
3 scribe) a written statement showing such informa-
4 tion to the United States Attorney for the jurisdic-
5 tion in which such individual resides and the jurisdic-
6 tion in which the specified criminal offense oc-
7 curred.

8 “(5) INFORMATION TO PAYORS OF BAIL.—Each
9 clerk required to file a report under paragraph (1)
10 shall furnish (at such time as the Secretary may by
11 regulations prescribe) to each person whose name is
12 required to be set forth in such report by reason of
13 paragraph (2)(B)(i)(II) a written statement
14 showing—

15 “(A) the name and address of the clerk’s
16 office required to file the report; and

17 “(B) the aggregate amount of coins and
18 currency described in paragraph (1) received by
19 such clerk.”.

20 (b) PROHIBITION ON STRUCTURING TRANS-
21 ACTIONS.—

22 (1) IN GENERAL.—Section 5324 of title 31,
23 United States Code, is amended—

24 (A) by redesignating subsections (b) and

25 (c) as subsections (c) and (d), respectively; and

1 (B) by inserting after subsection (a) the
2 following new subsection:

3 “(b) DOMESTIC COIN AND CURRENCY TRANS-
4 ACTIONS INVOLVING NONFINANCIAL TRADES OR BUSI-
5 NESSES.—No person shall for the purpose of evading the
6 report requirements of section 5332 or any regulation pre-
7 scribed under such section—

8 “(1) cause or attempt to cause a nonfinancial
9 trade or business to fail to file a report required
10 under section 5332 or any regulation prescribed
11 under such section;

12 “(2) cause or attempt to cause a nonfinancial
13 trade or business to file a report required under sec-
14 tion 5332 or any regulation prescribed under such
15 section that contains a material omission or
16 misstatement of fact; or

17 “(3) structure or assist in structuring, or at-
18 tempt to structure or assist in structuring, any
19 transaction with 1 or more nonfinancial trades or
20 businesses.”.

21 (2) TECHNICAL AND CONFORMING AMEND-
22 MENTS.—

23 (A) The heading for subsection (a) of sec-
24 tion 5324 of title 31, United States Code, is

1 amended by inserting “INVOLVING FINANCIAL
2 INSTITUTIONS” after “TRANSACTIONS”.

3 (B) Section 5317(c) of title 31, United
4 States Code, is amended by striking “5324(b)”
5 and inserting “5324(c)”.

6 (c) DEFINITION OF NONFINANCIAL TRADE OR BUSI-
7 NESS.—

8 (1) IN GENERAL.—Section 5312(a) of title 31,
9 United States Code, is amended—

10 (A) by redesignating paragraphs (4) and
11 (5) as paragraphs (5) and (6), respectively; and

12 (B) by inserting after paragraph (3) the
13 following new paragraph:

14 “(4) NONFINANCIAL TRADE OR BUSINESS.—

15 The term ‘nonfinancial trade or business’ means any
16 trade or business other than a financial institution
17 that is subject to the reporting requirements of sec-
18 tion 5313 and regulations prescribed under such sec-
19 tion.”.

20 (2) TECHNICAL AND CONFORMING AMEND-
21 MENTS.—

22 (A) Section 5312(a)(3)(C) of title 31,
23 United States Code, is amended by striking
24 “section 5316,” and inserting “sections 5332
25 and 5316.”.

1 (B) Subsections (a) through (f) of section
2 5318 of title 31, United States Code, and sec-
3 tions 5321, 5326, and 5328 of such title are
4 each amended—

5 (i) by inserting ‘or nonfinancial trade
6 or business’ after ‘financial institution’
7 each place such term appears; and

8 (ii) by inserting ‘or nonfinancial
9 trades or businesses’ after ‘financial insti-
10 tutions’ each place such term appears.

11 (C) Section 981(a)(1)(A) of title 18,
12 United States Code, is amended by striking
13 ‘5313(a) or 5324(a) of title 31,’ and inserting
14 ‘5313(a) or 5332 of title 31, or subsection (a)
15 or (b) of section 5324 of such title,’.

16 (D) Section 982(a)(1) of title 18, United
17 States Code, is amended by inserting ‘5332,’
18 after ‘5313(a),’.

19 (d) REPEAL OF DUPLICATE PROVISION.—Section
20 6050I of the Internal Revenue Code of 1986 is repealed.

21 (e) CLERICAL AMENDMENTS.—The tables of sections
22 for chapter 53 of title 31, United States Code, is amended
23 by inserting after the item relating to section 5331 the
24 following new item:

“5332. Reports relating to coins and currency received in nonfinancial trade or
business.”.

1 (2) INTERNAL REVENUE CODE OF 1986.—

2 (A) The table of sections for subpart B of
3 part III of subchapter A of chapter 61 of the
4 Internal Revenue Code of 1986 is amended by
5 striking the item relating to section 6050I.

6 (B)(i) Subsection (l) of section 6103 of
7 such Code is amended by striking paragraph
8 (15).

9 (ii) Subparagraph (A) of section
10 6103(p)(3) of such Code is amended by striking
11 “(15),”.

12 (iii) Paragraph (4) of section 6103(p) of
13 such Code is amended by striking in the mate-
14 rial preceding subparagraph (A) “(12)” and all
15 that follows through “(16)” and inserting
16 “(12), or (16)”.

17 (iv) Clause (ii) of section 6103(p)(4)(F) of
18 such Code is amended by striking “(14), or
19 (15)” and inserting “or (14)”.

20 (C) Paragraph (2) of section 6721(e) of
21 such Code is amended—

22 (i) in subparagraph (A) by striking
23 “6050I,” and by adding “or” at the end,

24 (ii) by striking “or” at the end of sub-
25 paragraph (B) and inserting “and”, and

1 (iii) by striking subparagraph (C).

2 (D) Subparagraph (B) of section
3 6724(d)(1) of such Code is amended by striking
4 clause (iv) and by redesignating the succeeding
5 clauses accordingly.

6 (E) Paragraph (2) of section 6724(d) of
7 such Code is amended by striking subparagraph
8 (K) and by redesignating the succeeding sub-
9 paragraphs accordingly.

10 (F) Section 7203 of such Code is amended
11 by striking the last sentence.

12 (f) REGULATIONS; EFFECTIVE DATE.—

13 (1) REGULATIONS.—Regulations which the Sec-
14 retary of the Treasury determines are necessary to
15 implement this section shall be published in final
16 form before the end of the 6-month period beginning
17 on the date of the enactment of this Act.

18 (2) EFFECTIVE DATE.—The amendments made
19 by this section shall take effect immediately upon
20 enactment, except that the reporting obligations
21 mandated by section 6050I of the Internal Revenue
22 Code of 1986 shall not be repealed until the regula-
23 tions required under section 5332 of title 31, United
24 States Code, become effective.

1 **SEC. 29. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC**
2 **TARGETING ORDERS AND CERTAIN RECORD**
3 **KEEPING REQUIREMENTS.**

4 (a) CIVIL PENALTY FOR VIOLATION OF TARGETING
5 ORDER.—Section 5321(a)(1) of title 31, United States
6 Code, is amended—

7 (1) by inserting “or order issued” after “sub-
8 chapter or a regulation prescribed”; and

9 (2) by inserting “, or willfully violating a regu-
10 lation prescribed under section 21 of the Federal
11 Deposit Insurance Act or section 123 of Public Law
12 91–508,” after “section 5314 and 5315”).

13 (b) CRIMINAL PENALTIES FOR VIOLATION OF TAR-
14 GETING ORDER.—

15 Section 5322 of title 31, United States Code, is
16 amended—

17 (1) in subsection (a)—

18 (A) by inserting “or order issued” after
19 “willfully violating this subchapter or a regula-
20 tion prescribed”; and

21 (B) by inserting “or willfully violating a
22 regulation prescribed under section 21 of the
23 Federal Deposit Insurance Act or section 123
24 of Public Law 91–508,” after “under section
25 5315 or 5324),”;

26 (2) in subsection (b)—

1 (A) by inserting “or order issued” after
2 “willfully violating this subchapter or a regula-
3 tion prescribed”; and

4 (B) by inserting “willfully violating a regu-
5 lation prescribed under section 21 of the Fed-
6 eral Deposit Insurance Act or section 123 of
7 Public Law 91–508,” after “under section 5315
8 or 5324),”;

9 (c) STRUCTURING TRANSACTIONS TO EVADE TAR-
10 GETING ORDER OR CERTAIN RECORD KEEPING REQUIRE-
11 MENTS.—Section 5324(a) of title 31, United States Code,
12 is amended—

13 (1) by inserting a comma after “shall”;

14 (2) by striking “section—” and inserting “sec-
15 tion, the reporting requirements imposed by any
16 order issued under section 5326, or the record keep-
17 ing requirements imposed by any regulation pre-
18 scribed under section 21 of the Federal Deposit In-
19 surance Act or section 123 of Public Law 91–508—
20 ”; and

21 (3) in paragraphs (1) and (2), by inserting
22 “, to file a report required by any order issued under
23 section 5326, or to maintain a record required pur-
24 suant to any regulation prescribed under section 21
25 of the Federal Deposit Insurance Act or section 123

1 of Public Law 91–508” after “regulation prescribed
2 under any such section” each place that term ap-
3 pears.

4 (d) INCREASE IN CIVIL PENALTIES FOR VIOLATION
5 OF CERTAIN RECORD KEEPING REQUIREMENTS.—

6 (1) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
7 tion 21(j)(1) of the Federal Deposit Insurance Act
8 (12 U.S.C. 1829b(j)(1)) is amended by striking
9 “\$10,000” and inserting “the greater of—

10 “(A) the amount (not to exceed \$100,000)
11 involved in the transaction (if any) with respect
12 to which the violation occurred; or

13 “(B) \$25,000”.

14 (2) PUBLIC LAW 91–508.—Section 125(a) of
15 Public Law 91–508 (12 U.S.C. 1955(a)) is amended
16 by striking “\$10,000” and inserting “the greater
17 of—

18 “(1) the amount (not to exceed \$100,000) in-
19 volved in the transaction (if any) with respect to
20 which the violation occurred; or

21 “(2) \$25,000.”.

22 (e) CRIMINAL PENALTIES FOR VIOLATION OF CER-
23 TAIN RECORD KEEPING REQUIREMENTS.—

1 **SEC. 30. EXCLUSION OF ALIENS INVOLVED IN MONEY**
2 **LAUNDERING.**

3 (a) IN GENERAL.—Section 212 of the Immigration
4 and Nationality Act of 1952, as amended (8 U.S.C. 1182),
5 is amended in subsection (a)(2)—

6 (1) by redesignating subparagraphs (D), (E)
7 and (F) as subparagraphs (F), (G) and (I), respec-
8 tively; and

9 (2) by inserting after subparagraph (C) the fol-
10 lowing new subparagraphs:

11 “(D) MONEY LAUNDERING ACTIVITIES.—
12 Any alien who the consular officer or the Attor-
13 ney General knows or has reason to believe—

14 “(i) is or has been engaged in activi-
15 ties which if engaged in within the United
16 States would constitute a violation of the
17 money laundering provisions of title 18,
18 United States Code, Section 1956 or 1957,
19 or has been a knowing assister, abettor,
20 conspirator, or colluder with others in any
21 such illicit activity; or

22 “(ii) is the spouse, son or daughter of
23 an alien inadmissible under clause (i), has,
24 within the previous five years, obtained any
25 financial or other benefit from such illicit
26 activity of that alien, and knew or reason-

1 ably should have known that the financial
2 or other benefit was the product of such il-
3 licit activity, is inadmissible.

4 (b) CONFORMING AMENDMENT.—Section
5 212(h)(1)(A)(i) of the Immigration and Nationality Act
6 of 1952, as amended (8 U.S.C. 1182), is amended by
7 striking “(D)(i) or (D)(ii)” and inserting “(E)(i) or
8 (E)(ii)”.

9 **SEC. 31. MISCELLANEOUS MINOR AND TECHNICAL AMEND-**
10 **MENTS.**

11 (a) CRIMINAL FORFEITURE.—Section 982(b) of title
12 18, United States Code, is amended in subsection (b)(2),
13 by striking “The substitution” and inserting “With re-
14 spect to a forfeiture under subsection (a)(1), the substi-
15 tution”.

16 (b) DEFINITION OF FINANCIAL INSTITUTION.—Sec-
17 tion 5312(a)(2) of title 31, United States Code, is amend-
18 ed by redesignating subparagraphs (Y) and (Z) as (Z) and
19 (AA), respectively, and by inserting the following new sub-
20 paragraph after subparagraph (X):

21 “(Y) a bail bondsman;”.

22 (c) TECHNICAL AMENDMENT.—Section 981(d) of
23 title 18, United States Code, is amended by striking “sale
24 of this section” and inserting “sale of such property”.

1 (d) OBSTRUCTION OF JUSTICE.—Section
2 1510(b)(3)(B) of title 18, United States Code, is amended
3 by striking “or” the first time it appears and inserting
4 “, a subpoena issued pursuant to 28 U.S.C. 1782, or”.

5 (e) SUSPICIOUS ACTIVITY REPORTS.—Section 5319
6 of title 31, United States Code, is amended by striking
7 “or 5316” and inserting “5316, or 5318”.

8 **SEC. 32. ADDITIONAL MINOR AMENDMENTS.**

9 (a) RESTRAINT OF PROCEEDS OF FOREIGN
10 CRIME.—Section 981(b)(4) of title 18, United States
11 Code, is amended—

12 (1) by adding the following after subparagraph
13 (B):

14 “(C) If property subject to restraint under
15 subparagraph (A) is located in more than one
16 district, a court in any district in which the
17 property is located may enter an order under
18 subparagraph (A) regarding property located in
19 that district and any other district.”; and

20 (2) in subparagraph (A), by striking “an of-
21 fense that would give rise to the forfeiture of prop-
22 erty in the United States under this section or under
23 the Controlled Substances Act” and inserting “con-
24 duct that may be the basis for a forfeiture action
25 filed in a Federal court under this section or under

1 the Controlled Substances Act or that would be the
2 basis for a foreign forfeiture judgment enforceable in
3 the United States under 28 U.S.C. Section 2467.”.

4 (b) VENUE FOR PRISONER CHALLENGES TO SEIZURE
5 OF CRIME PROCEEDS.—Section 983(e) of title 18, United
6 States Code, is amended—

7 (1) in paragraph (3), by adding the following at
8 the end: “If the person filing the motion was a de-
9 fendant in a criminal prosecution related to the sei-
10 zure of the property, the motion must be filed in the
11 district where such prosecution took place, or in the
12 district where the property was seized.”; and

13 (2) by adding the following new paragraph at
14 the end:

15 “(6) Any person entitled to written notice in an
16 judicial forfeiture proceeding under a civil forfeiture
17 statute who does not receive such notice may file a
18 motion to set aside the judgment of forfeiture with
19 respect to that person’s interest in the property in
20 accordance with the procedures for setting aside a
21 non-judicial forfeiture, as set forth in paragraphs (1)
22 through (5).”.

23 (c) EFFECTIVE DATES.—

24 (1) The provisions of Section 983(e), United
25 States Code, shall apply to any motion to set aside

1 a declaration or judgment of forfeiture where such
2 motion is filed on or after August 23, 2000.

3 (2) The amendments to Section 981(e)(6) of
4 title 18, United States Code, made by Pub. L. 106–
5 185, 114 Stat. 202 (2000), relating to the restora-
6 tion of criminally derived property to crime victims,
7 shall apply to all cases pending on August 23, 2000,
8 or commenced thereafter, regardless of the date of
9 the offense or the date when the criminally derived
10 property was recovered.

11 (d) REAL PROPERTY.—Section 985(e) of title 18,
12 United States Code, is amended by striking “shall conduct
13 a prompt post-seizure hearing during which the property
14 owner shall have an opportunity to contest the basis for
15 the seizure” and inserting “shall afford the property
16 owner an opportunity for a prompt post-seizure hearing
17 to determine whether there was probable cause for the sei-
18 zure”.

19 (e) JURISDICTION OF MAGISTRATES.—Section
20 636(a) of title 28, United States Code, is amended—

21 (1) in paragraph (4), by striking “and” after
22 the semicolon;

23 (2) in paragraph (5), by striking the period and
24 inserting “; and”; and

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

1 “(6) all powers and duties conferred or imposed
2 upon the courts by sections 983 and 985 of title 18,
3 United States Code, in connection with civil for-
4 feiture proceedings, but not including the conduct of
5 the trial.”

6 (f) RULE 32.2.—Section 2461(c) of title 28, United
7 States Code, is amended by striking “ in accordance with
8 the procedures set forth in section 413 of the Controlled
9 Substances Act (21 U.S.C. 853), other than subsection (d)
10 of that section.” and inserting “in accordance with those
11 Rules. The procedures set forth in section 413 of the Con-
12 trolled Substances Act (21 U.S.C. 853), other than sub-
13 section (d) of that section, shall apply to all stages of the
14 criminal forfeiture proceeding.”

15 (g) SECTION 3322.—Section 3322(a) of title 18,
16 United States Code, is amended by inserting the following
17 before the period: “, including, but not limited to, dis-
18 closing such information in a complaint, or in an applica-
19 tion for a seizure warrant or restraining order, or for use
20 at any trial or hearing.”.

21 (h) CRIMINAL INFORMATION.—Sections
22 983(a)(3)(B)(ii) and 983(a)(3)(C) are amended by strik-
23 ing “criminal indictment” each time it appears and insert-
24 ing “criminal indictment or information”.

1 (i) SECTION 981.—Section 981 of title 18, United
2 States Code, is amended by adding the following after sub-
3 section (j):

4 “(k) The procedural provisions of this section shall
5 apply to any civil forfeiture statute, as that term is defined
6 in Section 983(i).”

7 (j) INCARCERATED PERSONS.—Section 983(a)(1)(F)
8 is amended by inserting the following before the period
9 at the end of the last sentence: “; nor shall the Govern-
10 ment be required to return property to a person who is
11 incarcerated”.

12 **SEC. 33. AVAILABILITY OF TAX RECORDS.**

13 Section 6103(i)(1) of the Internal Revenue Code (26
14 U.S.C. 6103(i)(1)) is amended—

15 (1) in subparagraph (A)(i) by inserting “or re-
16 lated civil forfeiture” after “enforcement of a specifi-
17 cally designated Federal criminal statute”; and

18 (2) in subparagraph (B)(iii) by inserting “or
19 civil forfeiture investigation or proceeding” after
20 “Federal criminal investigation or proceeding”.

21 **SEC. 34. INVESTIGATIVE SUBPOENAS.**

22 (a) IN GENERAL.—Chapter 46 of title 18, United
23 States Code, is amended by adding the following section
24 after section 986:

1 **“SEC. 987. INVESTIGATIVE SUBPOENAS.**

2 “(a) At any time before commencement of an action
3 brought under any civil forfeiture statute for the civil for-
4 feiture of any property, an attorney for the Government
5 may apply to a court of competent jurisdiction for an
6 order authorizing the issuance of a subpoena duces tecum
7 to produce books, records, and any other documents at
8 any place designated by the attorney for the Government.

9 “(b) An application under this section shall include
10 a certification by the attorney for the Government that—

11 “(1) the books, records, or other documents
12 sought are relevant to a legitimate civil forfeiture in-
13 vestigation being conducted by a Federal law en-
14 forcement agency; and

15 “(2) the Government cannot obtain a grand
16 jury subpoena for such books, records, or other doc-
17 uments, and the reasons therefore.

18 “(c) If the court finds that the requirements of sub-
19 section (b) are met, it shall issue a subpoena duces tecum
20 as provided in subsection (a).

21 “(d) Any books, records, or other information ob-
22 tained pursuant to a subpoena issued under this section
23 shall be subject to the same conditions as govern matters
24 occurring before a grand jury under rule 6(e) of the Fed-
25 eral Rules of Criminal Procedure, and section 3322 of this
26 title.

1 “(e) Upon commencement of an action for civil for-
2 feiture arising out of or relating to the investigation identi-
3 fied in subsection (b)(1), all parties to the proceeding shall
4 be notified of the issuance of any subpoena under this sec-
5 tion.

6 “(f) Service of a subpoena under this section shall
7 be by certified mail. Records produced in response to such
8 a subpoena may be produced in person or by mail, com-
9 mon carrier, or such other method as may be agreed upon
10 by the attorney for the Government requesting the sub-
11 poena and the custodian of records. The attorney for the
12 Government may require the custodian of records to sub-
13 mit an affidavit certifying the authenticity and complete-
14 ness of the records and explaining the omission of any
15 record called for in the subpoena.”.

16 (b) TECHNICAL AND CONFORMING AMENDMENT.—
17 The table of sections for chapter 46 of title 18, United
18 States Code, is amended by adding at the end the fol-
19 lowing new item:

“987. Investigative subpoenas.”.

20 (c) FAIR CREDIT REPORTING ACT AMENDMENT.—
21 Section 604(a)(1) of the Fair Credit Reporting Act (15
22 U.S.C. 1681b(a)(1)) is amended by inserting before the
23 period at the end “, or an investigative subpoena issued
24 in connection with a civil forfeiture investigation”.

1 “(d) OBSTRUCTION OF JUSTICE.—Section 1510(b) of
2 title 18, United States Code, is amended—

3 (1) in paragraph (b)(2), by inserting “or an in-
4 vestigative subpoena issued pursuant to section 987
5 of this title” after “grand jury subpoena”; and

6 (2) in paragraph (b)(3)(C), by inserting “, an
7 investigative subpoena issued pursuant to section
8 987 of this title,” after “grand jury subpoena”.

9 (e) RIGHT TO FINANCIAL PRIVACY ACT.—Section
10 3420(b)(1) of title 12, United States Code, is amended
11 by—

12 (1) inserting “, or an investigative subpoena
13 issued pursuant to section 987 of title 18,” after
14 “grand jury subpoena”; and

15 (2) inserting “or to the Government” after “to
16 the grand jury”.

17 **SEC. 35. COLLECTION OF CRIMINAL FORFEITURE JUDG-**
18 **MENT.**

19 Section 413 of the Controlled Substances Act (21
20 U.S.C. 853) is amended by added the following subsection
21 after subsection (q):

22 “(r) COLLECTION OF CRIMINAL FORFEITURE JUDG-
23 MENT.

24 “In addition to the authority otherwise provided in
25 this section, an order of forfeiture may be enforced—

1 “(1) in the manner provided for the collection
2 and payment of fines in subchapter B of chapter
3 229 of title 18, United States Code; or

4 “(2) in the same manner as a judgment in a
5 civil action.”.

6 **SEC. 36. STANDING TO CONTEST FORFEITURE OF FUNDS**
7 **DEPOSITED INTO FOREIGN BANK THAT HAS A**
8 **CORRESPONDENT ACCOUNT IN THE UNITED**
9 **STATES.**

10 Section 981 of title 18, United States Code, is
11 amended by adding the following after the last subsection:

12 “(k) CORRESPONDENT BANK ACCOUNTS.—

13 “(1) For the purpose of a forfeiture under this
14 section or under the Controlled Substances Act, if
15 funds are deposited into a dollar-denominated bank
16 account in a foreign financial institution, and that
17 foreign financial institution has a correspondent ac-
18 count with a financial institution in the United
19 States, the funds deposited into the foreign financial
20 institution (the respondent bank) shall be deemed to
21 have been deposited into the correspondent account
22 in the United States, and any restraining order, sei-
23 zure warrant, or arrest warrant in rem regarding
24 such funds may be served on the correspondent
25 bank, and funds in the correspondent account up to

1 the value of the funds deposited into the dollar-de-
2 nominated account in the foreign financial institu-
3 tion may be seized, arrested or restrained.

4 “(2) In the circumstances where paragraph (1)
5 applies, if a forfeiture action is brought against the
6 funds that are seized, arrested, or restrained, it shall
7 not be necessary for the government to establish
8 that such funds are directly traceable to the funds
9 that were deposited into the respondent bank, nor
10 shall it be necessary for the Government to rely on
11 the application of section 984 of this title.

12 “(3) If a forfeiture action is instituted against
13 funds seized, arrested or restrained pursuant to
14 paragraph (1), the owner of the funds, as that term
15 is defined in paragraph (4), may contest the for-
16 feiture by filing a claim pursuant to section 983 of
17 this title.

18 “(4) For purposes of this subsection—

19 “(A) except as provided in (C), the ‘owner
20 of the funds’ is the ‘owner,’ as that term is de-
21 fined in section 983(d)(6), whose funds were
22 deposited into the respondent bank;

23 “(B) If the respondent bank received the
24 funds that are subject to forfeiture from an-
25 other respondent bank, the ‘owner of the funds’

1 is the ‘owner’ whose funds were deposited into
2 the first respondent bank, and each inter-
3 mediary financial institution shall be deemed a
4 respondent bank;

5 “(C) the respondent bank may be consid-
6 ered the ‘owner of the funds’ only if—

7 “(i) the basis for the forfeiture action
8 is wrongdoing committed by the respond-
9 ent bank, or

10 “(ii) the respondent bank establishes,
11 by a preponderance of the evidence, that
12 prior to the seizure or arrest of the funds,
13 the respondent bank discharged all or part
14 its obligation to the owner of the funds, in
15 which case the respondent bank will be
16 deemed the owner of the funds to the ex-
17 tent that such obligation was satisfied.

18 “(D) In cases where (C) applies, only the
19 respondent bank may be considered to be the
20 ‘owner of the funds’.

21 “(5) In this section, ‘correspondent account’
22 has the same meaning as the term ‘interbank ac-
23 count’ as defined in 18 U.S.C. “984(c)(2)(B).”.

1 **SEC. 37. SUBPOENAS FOR RECORDS REGARDING FUNDS IN**
2 **CORRESPONDENT BANK ACCOUNTS.**

3 (a) IN GENERAL.—Chapter 53 of title 31, United
4 States Code, is amended by inserting after section 5332
5 (as added by this Act) the following new section:

6 **“SEC. 5333. SUBPOENAS FOR RECORDS.**

7 “(a) CORRESPONDENT BANKS.—Any foreign finan-
8 cial institution that has a correspondent bank account at
9 a financial institution in the United States must designate
10 a person residing in the United States as a person author-
11 ized to accept a subpoena for bank records or other legal
12 process served on the foreign financial institution.

13 “(b) DOMESTIC FINANCIAL INSTITUTIONS WITH
14 CORRESPONDENT BANKING RELATIONSHIPS.—Any finan-
15 cial institution in the United States that maintains a cor-
16 respondent bank account for a foreign financial institution
17 shall maintain records regarding the names and addresses
18 of the owners of the foreign financial institution, and the
19 name and address of the person who may be served with
20 a subpoena for records regarding any funds transferred
21 to or from the correspondent account. The U.S. financial
22 institution shall provide such names and addresses to a
23 Federal law enforcement officer within 7 days of the re-
24 ceipt of a request, in writing, for such records.

25 “(c) SUBPOENA.—The Attorney General may issue
26 an administrative subpoena for records relating to the de-

1 posit of any funds into a dollar-denominated account in
2 a foreign financial institution that maintains a cor-
3 respondent account at a financial institution in the United
4 States. Such subpoena shall be issued in the manner de-
5 scribed in section 3486 of this title, and may be served
6 on the representative designated by the foreign financial
7 institution pursuant to subsection (a) to accept legal proc-
8 ess in the United States, or in a foreign country pursuant
9 to any mutual legal assistance treaty, multilateral agree-
10 ment, or other request for international law enforcement
11 assistance.

12 “(d) In this section, ‘correspondent account’ has the
13 same meaning as the term ‘interbank account’ as defined
14 in section 984(c)(2)(B) of title 18, United States Code.”.

15 (b) CLERICAL AMENDMENTS.—The table of sections
16 for chapter 53 of title 31, United States Code, is amended
17 by inserting after the item relating to section 5332 (as
18 added by this Act) the following new item:

“5333. Subpoenas for records.”.

19 (c) GRACE PERIOD.—Financial institutions affected
20 by 31 U.S.C. 5333(a) shall have 30 days from the date
21 of enactment of this Act to comply with the provisions of
22 that Section.

23 (d) REQUESTS FOR RECORDS.—Section 3486(a)(1)
24 of title 18, United States Code, is amended by striking
25 “, or (II) a Federal offense involving the sexual exploi-

1 tation or abuse of children” and inserting “, (II) a Federal
2 offense involving the sexual exploitation or abuse of chil-
3 dren, or (III) money laundering in violation of sections
4 1956, 1957 or 1960 of this title”.

5 **SEC. 38. CORPORATION REPRESENTED BY A FUGITIVE.**

6 Section 2466 of title 28, United States Code, is
7 amended—

8 (1) by striking “A judicial officer” and insert-
9 ing “(a) IN GENERAL.—A judicial officer”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(b) APPLICABILITY TO CORPORATIONS.—Subsection
13 (a) may be applied to a claim filed by a corporation if
14 any director of the corporation, majority shareholder, or
15 individual filing the claim on behalf of the corporation is
16 a person to whom subsection (a) applies.”.

17 **SEC. 39. ENFORCEMENT OF FOREIGN JUDGMENT.**

18 Section 2467 of title 28, United States Code, is
19 amended—

20 (1) in subsection (d), by inserting after para-
21 graph (2) the following new paragraph:

22 “(3) PRESERVATION OF PROPERTY.—To pre-
23 serve the availability of property subject to a foreign
24 forfeiture or confiscation judgment, the Government
25 may apply for, and the court may issue, a restrain-

1 ing order pursuant to section 983(j) of title 18,
2 United States Code, at any time before or after an
3 application is filed pursuant to subsection (c)(1).

4 The court, in issuing the restraining order—

5 “(A) may rely on information set forth in
6 an affidavit describing the nature of the pro-
7 ceeding or investigation underway in the foreign
8 country, and setting forth a reasonable basis to
9 believe that the property to be restrained will be
10 named in a judgment of forfeiture at the con-
11 clusion of such proceeding, or

12 “(B) may register and enforce restraining
13 order that has been issued by a court of com-
14 petent jurisdiction in the foreign country and
15 certified by the Attorney General pursuant to
16 subsection (b)(2).

17 No person may object to the restraining order on any
18 ground that is the subject of parallel litigation involving
19 the same property that is pending in a foreign court.”.

20 (2) in subsection (b)(1)(C), by striking “estab-
21 lishing that the defendant received notice of the pro-
22 ceedings in sufficient time to enable the defendant”
23 and inserting “establishing that the foreign nation
24 took steps, in accordance with the principles of due
25 process, to give notice of the proceedings to all per-

1 sons with an interest in the property in sufficient
2 time to enable such persons”.

3 (3) in subsection (d)(1)(D), by striking “the de-
4 fendant in the proceedings in the foreign court did
5 not receive notice” and inserting “the foreign nation
6 did not take steps, in accordance with the principles
7 of due process, to give notice of the proceedings to
8 a person with an interest in the property”.

9 (4) in subsection (a)(2)(A), by inserting “, any
10 violation of foreign law that would constitute a viola-
11 tion of an offense for which property could be for-
12 feited under Federal law if the offense were com-
13 mitted in the United States” after “United Nations
14 Convention”.

○