

109TH CONGRESS
1ST SESSION

S. 1322

To allow for the prosecution of members of criminal street gangs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2005

Mr. DURBIN (for himself, Mr. LEAHY, Mr. KENNEDY, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To allow for the prosecution of members of criminal street gangs, 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 “American Neighborhoods Taking the Initiative—Guard-
6 ing Against Neighborhood Gangs Act of 2005” or the
7 “ANTI-GANG Act”.

8 (b) **TABLE OF CONTENTS.**—The table of contents of
9 this Act is as follows:

TITLE I—CRIMINAL STREET GANGS

1 being distributed in rural and urban communities
2 throughout the United States;

3 (4) gangs commit acts of violence or drug of-
4 fenses for numerous motives, such as membership in
5 or loyalty to the gang, for protecting gang territory,
6 and for profit;

7 (5) gang presence has a pernicious effect on the
8 free flow of commerce in local businesses and di-
9 rectly affects the freedom and security of commu-
10 nities plagued by gang activity;

11 (6) gangs often recruit and utilize minors to en-
12 gage in acts of violence and other serious offenses
13 out of a belief that the criminal justice systems are
14 more lenient on juvenile offenders;

15 (7) gangs often intimidate and threaten wit-
16 nesses to prevent successful prosecutions;

17 (8) gang recruitment can be deterred both
18 through increased vigilance, strong criminal pen-
19 alties, equal partnerships with State and local law
20 enforcement, and proactive intervention efforts, par-
21 ticularly targeted at juveniles, prior to gang involve-
22 ment; and

23 (9) State and local prosecutors, in hearings be-
24 fore the Committee on the Judiciary of the Senate,
25 enlisted Congress's help in the prevention, investiga-

1 tion, and prosecution of gang crimes and in the pro-
 2 tection of witnesses and victims of gang crimes.

3 **SEC. 101. CRIMINAL STREET GANGS; DEFINITIONS.**

4 Section 521 of title 18, United States Code, is
 5 amended to read as follows:

6 **“§ 521. Criminal street gang; definitions**

7 “As used in this chapter:

8 “(1) CRIMINAL STREET GANG.—

9 “(A) IN GENERAL.—The term ‘criminal
 10 street gang’ means an ongoing formal or infor-
 11 mal group, club, organization, or association of
 12 3 or more persons through or for which they in-
 13 dividually, jointly, or in combination, have com-
 14 mitted or attempted to commit, for the direct or
 15 indirect benefit of, at the direction of, or in as-
 16 sociation with the group, club, organization, or
 17 association, 3 or more unrelated predicate gang
 18 crimes, provided that—

19 “(i) one of the predicate gang crimes
 20 is a violent gang crime;

21 “(ii) one predicate gang crime must
 22 occur after the date of enactment of the
 23 ANTI-GANG Act, and the last of which
 24 must occur not later than 10 years (ex-
 25 cluding any period of imprisonment) after

1 the commission of a prior predicate gang
2 crime; and

3 “(iii) the activities of the criminal
4 street gang must substantially affect inter-
5 state or foreign commerce.

6 “(B) ONGOING.—

7 “(i) IN GENERAL.—As used in this
8 paragraph, the term ‘ongoing’, means that
9 the criminal street gang has an inde-
10 pendent identity and existence extending
11 beyond the planning or carrying out of any
12 offense or series of offenses which happen
13 to be predicate gang crimes.

14 “(ii) FACTORS.—The presence or ab-
15 sence of any of the following evidentiary
16 factors is relevant to show the existence or
17 nonexistence of an ongoing criminal street
18 gang, or to show that any predicate gang
19 crime was committed through or for a
20 criminal street gang:

21 “(I) A common name, insignia,
22 flag, means of recognition, secret sig-
23 nal or code.

24 “(II) A common creed, belief,
25 structure, leadership or command

1 structure, method of operation or
2 criminal enterprise, concentration or
3 specialty.

4 “(III) Membership, age or other
5 qualifications, initiation rites, geo-
6 graphical or territorial situs, bound-
7 ary, or location, or other unifying
8 mark, manner, protocol, or method of
9 expressing or indicating membership.

10 “(C) THREE OR MORE PERSONS.—As used
11 in this paragraph, the term ‘3 or more persons’,
12 shall not require that the same 3 or more per-
13 sons be involved in 2 or more predicate gang
14 crimes.

15 “(D) UNRELATED.—As used in this para-
16 graph, the term ‘unrelated’, means that the
17 predicate gang crimes are not part of a single
18 course of conduct with a single criminal objec-
19 tive, and do not represent essentially 1 com-
20 posite harm even if such gang crimes constitute
21 legally distinct offenses occurring at different
22 times. Violent gang crimes committed on dif-
23 ferent days shall always be considered to be un-
24 related.

1 “(2) PREDICATE GANG CRIME.—The term
2 ‘predicate gang crime’, means any act or threat, or
3 attempted act or threat, which is chargeable under
4 Federal or State law, and punishable by imprison-
5 ment for more than 1 year, involving—

6 “(A) a violent gang crime, which in-
7 cludes—

8 “(i) murder;

9 “(ii) attempted murder;

10 “(iii) manslaughter;

11 “(iv) kidnapping;

12 “(v) robbery;

13 “(vi) assault;

14 “(vii) extortion;

15 “(viii) arson;

16 “(ix) burglary;

17 “(x) sexual assault;

18 “(xi) carjacking; and

19 “(xii) explosive materials under sub-
20 section (d), (e), (f), or (i) of section 844;

21 “(B) a ‘serious drug offense’, as that term
22 is defined under section 924(e)(2)(A);

23 “(C) obstruction of justice (including of-
24 fenses under sections 1503 and 1510);

1 “(D) tampering with or retaliating against
2 a witness, victim, or informant (including of-
3 fenses under sections 1512 and 1513);

4 “(E) fraud and related activity in connec-
5 tion with identification documents or access de-
6 vices under sections 1028 and 1029;

7 “(F) interference with commerce by
8 threats of violence under section 1951;

9 “(G) money laundering under section
10 1956;

11 “(H) engaging in monetary transactions in
12 property derived from specified unlawful activ-
13 ity under section 1957;

14 “(I) the use of interstate commerce facili-
15 ties in the commission of murder-for-hire;

16 “(J) the interstate transportation, sale, or
17 receipt of stolen goods under sections 2312
18 through 2315;

19 “(K) the receipt, possession, and transfer
20 of firearms, except for violations of section
21 922(g); or

22 “(L) any act involving the Immigration
23 and Nationality Act, section 274 (relating to
24 bringing in and harboring certain aliens), sec-
25 tion 277 (relating to aiding or assisting certain

1 aliens to enter the United States), or section
 2 278 (relating to importation of aliens for im-
 3 moral purposes).

4 “(3) STATE.—The term ‘State’ means each of
 5 the several States of the United States, the District
 6 of Columbia, and any commonwealth, territory, or
 7 possession of the United States.”.

8 **SEC. 102. CRIMINAL STREET GANGS—PROHIBITED ACTS,**
 9 **PENALTIES, AND FORFEITURE.**

10 Chapter 26 of title 18, United States Code, is amend-
 11 ed by adding at the end the following:

12 **“§ 522. Prohibited acts; penalties and forfeiture**

13 “(a) RECRUITMENT AND RETENTION IN CRIMINAL
 14 STREET GANGS.—It shall be unlawful for any person—

15 “(1) to recruit, solicit, command, employ, per-
 16 suade, induce, entice, or coerce any person to be-
 17 come a member of or participate in, any criminal
 18 street gang with the intent that the person recruited
 19 will do any act to effect the criminal activities of a
 20 criminal street gang; or

21 “(2) by use of force, threat, or intimidation di-
 22 rected at any person, or by the infliction of bodily
 23 injury upon any person, to knowingly prevent a per-
 24 son from leaving a criminal street gang.

1 “(b) PARTICIPATION IN A CRIMINAL STREET
2 GANG.—It shall be unlawful for any person—

3 “(1) to do any act with the intent to effect the
4 criminal activities of a criminal street gang;

5 “(2) to commit, attempt to commit, aid or abet
6 the commission of, or conspire to commit any predi-
7 cate gang crime—

8 “(A) in furtherance or in aid of the activi-
9 ties of the criminal street gang;

10 “(B) for the direct or indirect benefit of
11 the criminal street gang, or in association with
12 the criminal street gang; or

13 “(C) for the purpose of gaining entrance
14 to, or maintaining or increasing position in, the
15 criminal street gang;

16 while knowingly being a member of or participating
17 in a criminal street gang; or

18 “(3) to employ, use, command, counsel, per-
19 suade, induce, entice, or coerce any individual to
20 commit any predicate gang crime—

21 “(A) in furtherance or in aid of the activi-
22 ties of the criminal street gang;

23 “(B) for the direct or indirect benefit of
24 the criminal street gang, or in association with
25 the criminal street gang; or

1 “(C) for the purpose of gaining entrance to
2 or maintaining or increasing position in the
3 criminal street gang;
4 while knowingly being a member of or participating
5 in a criminal street gang.

6 “(c) WITNESS INTIMIDATION.—It shall be unlawful
7 for any person to travel in interstate or foreign commerce,
8 or use the mail or any facility in interstate or foreign com-
9 merce, or to employ, use, command, counsel, persuade, in-
10 duce, entice, or coerce any individual to do the same, to
11 threaten, influence, or prevent from testifying any witness
12 in a Federal or State criminal proceeding—

13 “(1) in furtherance or in aid of the activities of
14 a criminal street gang;

15 “(2) for the direct or indirect benefit of, at the
16 direction of, or in association with a criminal street
17 gang; or

18 “(3) for the purpose of gaining entrance to or
19 maintaining or increasing position in a criminal
20 street gang.

21 “(d) UNDERLYING OFFENSES.—

22 “(1) NO LIMITATION ON UNDERLYING OF-
23 FENSES.—Nothing in this section shall be construed
24 to prohibit the conviction or sentencing of any per-

1 son for an underlying offense that is included in the
2 definition of ‘predicate gang crimes’.

3 “(2) VENUE FOR UNDERLYING OFFENSES.—

4 Notwithstanding any other provision of law, venue
5 for any Federal underlying offense charged as a
6 predicate gang crime in a prosecution under this sec-
7 tion shall lie in the same district as a prosecution
8 under this section.

9 “(e) PENALTIES.—

10 “(1) RECRUITING.—Whoever violates sub-
11 section (a)(1) or (b)(1) of this section shall be fined
12 under this title, or imprisoned not more than 3
13 years, or both; provided that if the person recruited
14 under subsection (a)(1) is a minor and the violator
15 is 18 years of age or older, then the violator shall
16 be fined under this title, imprisoned not more than
17 10 years, or both.

18 “(2) PREVENTING FROM LEAVING.—Whoever
19 violates subsection (a)(2) or (c) shall be fined under
20 this title, or imprisoned not more than 10 years, or
21 both; provided that if the person prevented from
22 leaving under subsection (a)(2) is a minor and the
23 violator is 18 years of age or older, then the violator
24 shall be fined under this title, imprisoned not more
25 than 15 years, or both.

1 “(3) GANG CRIMES.—Whoever violates sub-
2 section (b)(2) or (b)(3) shall be fined under this
3 title, imprisoned not more than 20 years, or both;
4 except—

5 “(A) where the predicate gang crime is a
6 serious drug offense, then whoever violates
7 these subsections shall be fined under this title,
8 imprisoned not more than 30 years, or both; or

9 “(B) where the predicate gang crime is a
10 violent gang crime, whoever violates these sub-
11 sections shall be fined under this title, impris-
12 oned for any term of years or for life, or both.

13 “(f) FORFEITURE.—

14 “(1) IN GENERAL.—A person who violates any
15 provision of this section shall, in addition to any
16 other penalty and irrespective of any provision of
17 State law, forfeit to the United States—

18 “(A) any property constituting, or derived
19 from, any proceeds the person obtained, directly
20 or indirectly, as a result of the violation; and

21 “(B) any property used, or intended to be
22 used, in any manner or part, to commit, or to
23 facilitate the commission of the violation.

24 “(2) APPLICATION OF CONTROLLED SUB-
25 STANCES ACT.—Subsections (b), (c), (e), (f), (g),

1 (h), (i), (j), (k), (l), (m), (n), (o), and (p) of section
2 413 of the Controlled Substances Act (21 U.S.C.
3 853) shall apply to a forfeiture under this section.

4 “(g) CERTIFICATION BY THE UNITED STATES AT-
5 TORNEY.—No prosecution of any offense described under
6 this section involving a predicate gang crime that is other-
7 wise exclusively chargeable under State law shall be under-
8 taken by the United States except upon the certification
9 in writing of the Attorney General, the Deputy Attorney
10 General, the Associate Attorney General, any Assistant
11 Attorney General specially designated by the Attorney
12 General, or the United States attorney for the district in
13 which the offense will be prosecuted, after consultation
14 with State and local prosecutors, that in his judgment a
15 prosecution by the United States is in the public interest
16 and necessary to secure substantial justice, which function
17 of certification may not be delegated.”.

18 **SEC. 103. CLERICAL AMENDMENTS.**

19 The table of sections at the beginning of chapter 26
20 of title 18, United States Code, is amended to read as
21 follows:

“521. Criminal street gangs; definitions.

“522. Prohibited acts; penalties and forfeiture.”.

1 **SEC. 104. CONFORMING AMENDMENTS.**

2 (a) AUTHORIZATION OF INTERCEPTION OF WIRE,
3 ORAL, AND ELECTRONIC COMMUNICATIONS.—Section
4 2516(1) of title 18, United States Code, is amended—

5 (1) in paragraph (q), by striking “or”;

6 (2) by redesignating paragraph (r) as para-
7 graph (s); and

8 (3) by inserting after paragraph (q) the fol-
9 lowing:

10 “(r) any violation of section 522 (relating to
11 criminal street gangs); or”.

12 (b) ORDERS FOR RESTITUTION.—Section 3663(e)(4)
13 of title 18, United States Code, is amended by striking
14 “chapter 46 or chapter 96” and inserting “chapters 26,
15 46, or 96”.

16 (c) AMENDMENT OF SPECIAL SENTENCING PROVI-
17 SION PROHIBITING PRISONER COMMUNICATIONS.—Sec-
18 tion 3582(d) of title 18, United States Code, is amended—

19 (1) by inserting “chapter 26 (criminal street
20 gangs),” before “chapter 95”; and

21 (2) by inserting “a criminal street gang or” be-
22 fore “an illegal enterprise”.

23 **SEC. 105. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-**
24 **TENSITY” INTERSTATE GANG ACTIVITY**
25 **AREAS.**

26 (a) DEFINITIONS.—In this section:

1 (1) GOVERNOR.—The term “Governor” means
2 a Governor of a State or the mayor of the District
3 of Columbia.

4 (2) HIGH INTENSITY INTERSTATE GANG ACTIV-
5 ITY AREA.—The term “high intensity interstate
6 gang activity area” means an area within a State
7 that is designated as a high intensity interstate gang
8 activity area under subsection (b)(1).

9 (3) HIGH INTENSITY INTERSTATE GANG AND
10 DRUG TRAFFICKING AREA.—The term “high inten-
11 sity interstate gang and drug trafficking area”
12 means an area within a State that is cross-des-
13 igned as a high intensity interstate gang and drug
14 trafficking area under subsection (b)(2).

15 (4) STATE.—The term “State” means a State
16 of the United States, the District of Columbia, and
17 any commonwealth, territory, or possession of the
18 United States. The term “State” shall include an
19 “Indian tribe”, as defined under section 102 of the
20 Federally Recognized Indian Tribe List Act of 1994
21 (25 U.S.C. 479a).

22 (b) HIGH INTENSITY INTERSTATE GANG ACTIVITY
23 AREAS.—

24 (1) DESIGNATION.—The Attorney General,
25 after consultation with the Governors of appropriate

1 States, may designate specific areas that are located
2 within 1 or more States as high intensity interstate
3 gang activity areas.

4 (2) CROSS-DESIGNATION.—The Attorney Gen-
5 eral, after consultation with the Governors of appro-
6 priate States and the Director of the Office of Na-
7 tional Drug Control Policy, may cross-designate spe-
8 cific areas already designated as high intensity inter-
9 state drug trafficking areas under section 707 of the
10 Office of National Drug Control Policy Reauthoriza-
11 tion Act of 1998 (21 U.S.C. 1706) as high intensity
12 interstate gang and drug trafficking areas.

13 (3) ASSISTANCE.—In order to provide Federal
14 assistance to high intensity interstate gang activity
15 areas or high intensity interstate gang and drug
16 trafficking areas, the Attorney General shall—

17 (A) establish criminal street gang enforce-
18 ment teams, consisting of Federal, State, and
19 local law enforcement authorities, for the co-
20 ordinated investigation, disruption, apprehen-
21 sion, and prosecution of criminal street gangs
22 and offenders in each high intensity interstate
23 gang activity area or high intensity interstate
24 gang and drug trafficking area;

1 (B) direct the reassignment or detailing
2 from any Federal department or agency (sub-
3 ject to the approval of the head of that depart-
4 ment or agency, in the case of a department or
5 agency other than the Department of Justice)
6 of personnel to each criminal street gang en-
7 forcement team; and

8 (C) provide all necessary funding for the
9 operation of the criminal street gang enforce-
10 ment team in each high intensity interstate
11 gang activity area or high intensity interstate
12 gang and drug trafficking area.

13 (4) COMPOSITION OF CRIMINAL STREET GANG
14 ENFORCEMENT TEAM.—The team established under
15 paragraph (2)(A) shall consist of agents and offi-
16 cers, where feasible, from—

17 (A) the Bureau of Alcohol, Tobacco, Fire-
18 arms, and Explosives;

19 (B) the Department of Homeland Security;

20 (C) the Department of Housing and Urban
21 Development;

22 (D) the Drug Enforcement Administration;

23 (E) the Internal Revenue Service;

24 (F) the Federal Bureau of Investigation;

25 (G) the United States Marshal's Service;

- 1 (H) the United States Postal Service;
2 (I) State and local law enforcement; and
3 (J) Federal, State, and local prosecutors.

4 (5) COORDINATION.—In each area cross-des-
5 igned as a high intensity interstate gang and drug
6 trafficking area, the team established under para-
7 graph (2)(A) shall fully coordinate its antigang ac-
8 tivities with antidrug trafficking activities under-
9 taken by Federal, State, and local officials under
10 section 707 of the Office of National Drug Control
11 Policy Reauthorization Act of 1998 (21 U.S.C.
12 1706).

13 (6) CRITERIA FOR DESIGNATION.—In consid-
14 ering an area for designation as a high intensity
15 interstate gang activity area or high intensity inter-
16 state gang and drug trafficking area under this sec-
17 tion, the Attorney General shall consider—

18 (A) the current and predicted levels of
19 gang crime activity in the area;

20 (B) the extent to which violent crime in
21 the area appears to be related to criminal street
22 gang activity, such as drug trafficking, murder,
23 robbery, assaults, carjacking, arson, kidnap-
24 ping, extortion, and other criminal activity;

1 (C) the extent to which State and local law
2 enforcement agencies have committed resources
3 to—

4 (i) respond to the gang crime prob-
5 lem; and

6 (ii) participate in a gang enforcement
7 team;

8 (D) the extent to which a significant in-
9 crease in the allocation of Federal resources
10 would enhance local response to the gang crime
11 activities in the area; and

12 (E) any other criteria that the Attorney
13 General considers to be appropriate.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated \$40,000,000 for each
16 of fiscal years 2006 through 2010 to carry out this sec-
17 tion.

18 **SEC. 106. GANG PREVENTION GRANTS.**

19 (a) AUTHORITY TO MAKE GRANTS.—The Office of
20 Justice Programs of the Department of Justice shall make
21 grants, in accordance with such regulations as the Attor-
22 ney General may prescribe, to States, units of local gov-
23 ernment, tribal governments, and qualified private enti-
24 ties, to develop community-based programs that provide

1 crime prevention, research, and intervention services that
2 are designed for gang members and at-risk youth.

3 (b) USE OF GRANT AMOUNTS.—Amounts received by
4 a grantee under this section may be used by the grantee,
5 directly or through subgrants, only for 1 or more of the
6 following activities:

7 (1) Preventing initial gang recruitment and in-
8 volvement among younger teenagers.

9 (2) Reducing gang involvement through non-
10 violent and constructive activities, such as commu-
11 nity service programs, development of nonviolent
12 conflict resolution skills, employment and legal as-
13 sistance, family counseling, and other safe, commu-
14 nity-based alternatives for high-risk youth.

15 (3) Developing in-school and after-school gang
16 safety, control, education, and resistance procedures
17 and programs.

18 (4) Identifying and addressing early childhood
19 risk factors for gang involvement, including parent
20 training and childhood skills development.

21 (5) Identifying and fostering protective factors
22 that buffer children and adolescents from gang in-
23 volvement.

24 (c) GRANT REQUIREMENTS.—

1 (1) PERIOD.—A grant under this section shall
2 be made for a period of not more than 2 years.

3 (2) MAXIMUM.—The amount of a grant under
4 this section may not exceed \$1,000,000.

5 (d) ANNUAL REPORT.—Each recipient of a grant
6 under this section shall submit to the Attorney General,
7 for each year in which funds from a grant received under
8 this section are expended, a report containing—

9 (1) a summary of the activities carried out with
10 grant funds during that year;

11 (2) an assessment of the effectiveness of the
12 crime prevention, research, and intervention activi-
13 ties of the recipient;

14 (3) a strategic plan for the year following the
15 year covered under paragraph (1); and

16 (4) such other information as the Attorney
17 General may require.

18 (e) MINIMUM ALLOCATION.—Unless all eligible appli-
19 cations submitted by any State or unit of local government
20 within such State for a planning or implementation grant
21 under this section have been funded, such State, together
22 with grantees within the State (other than Indian tribes),
23 shall be allocated in each fiscal year under this section
24 not less than 0.75 percent of the total amount appro-

1 priated in the fiscal year for planning or implementation
2 grants under this section.

3 (f) DEFINITION.—In this section, the term “units of
4 local government” includes sheriffs, police agencies, and
5 local prosecutor offices.

6 (g) AUTHORIZATION OF APPROPRIATIONS.—

7 (1) IN GENERAL.—There are authorized to be
8 appropriated for grants under this section
9 \$50,000,000 for each of the fiscal years 2006
10 through 2010.

11 (2) LIMITATION.—Of amounts made available
12 for grants under this section, not less than 50 per-
13 cent shall be available only for areas designated pur-
14 suant to section 105 as high intensity interstate
15 gang activity areas or high intensity interstate gang
16 and drug trafficking areas.

17 **SEC. 107. GANG PREVENTION INFORMATION GRANTS.**

18 (a) AUTHORITY TO MAKE GRANTS.—The Office of
19 Justice Programs of the Department of Justice shall make
20 grants, in accordance with such regulations as the Attor-
21 ney General may prescribe, to States, units of local gov-
22 ernment, and tribal governments to fund technology,
23 equipment, and training for State and local sheriffs, police
24 agencies, and prosecutor offices in order to—

1 (1) increase accurate identification of gang
2 members and violent offenders;

3 (2) maintain databases with such information
4 to facilitate coordination among law enforcement
5 and prosecutors; and

6 (3) otherwise improve the investigation and
7 prosecution of criminal street gangs.

8 (b) GRANT REQUIREMENTS.—

9 (1) PERIOD.—A grant under this section shall
10 be made for a period of not more than 2 years.

11 (2) MAXIMUM.—The amount of a grant under
12 this section may not exceed \$1,000,000.

13 (c) ANNUAL REPORT.—Each recipient of a grant
14 under this section shall submit to the Attorney General,
15 for each year in which funds from a grant received under
16 this section are expended, a report containing—

17 (1) a summary of the activities carried out with
18 grant funds during that year;

19 (2) an assessment of the effectiveness of the
20 crime prevention, research, and intervention activi-
21 ties of the recipient;

22 (3) a strategic plan for the year following the
23 year covered under paragraph (1); and

24 (4) such other information as the Attorney
25 General may require.

1 (d) MINIMUM ALLOCATION.—Unless all eligible appli-
2 cations submitted by any State or unit of local government
3 within such State for a planning or implementation grant
4 under this section have been funded, such State, together
5 with grantees within the State (other than Indian tribes),
6 shall be allocated in each fiscal year under this section
7 not less than 0.75 percent of the total amount appro-
8 priated in the fiscal year for planning or implementation
9 grants under this section.

10 (e) DEFINITION.—In this section, the term “units of
11 local government” includes sheriffs, police agencies, and
12 local prosecutor offices.

13 (f) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated for grants under this
15 section \$10,000,000 for each of the fiscal years 2006
16 through 2010.

17 **SEC. 108. ENHANCEMENT OF PROJECT SAFE NEIGHBOR-**
18 **HOODS INITIATIVE TO IMPROVE ENFORCE-**
19 **MENT OF CRIMINAL LAWS AGAINST VIOLENT**
20 **GANGS.**

21 (a) IN GENERAL.—The Attorney General shall ex-
22 pand the Project Safe Neighborhoods program to require
23 each United States attorney to—

1 (1) identify, investigate, and prosecute signifi-
2 cant criminal street gangs operating within their dis-
3 trict;

4 (2) coordinate the identification, investigation,
5 and prosecution of criminal street gangs among Fed-
6 eral, State, and local law enforcement agencies;

7 (3) consult with State and local prosecutors to
8 determine how Federal, State, and local law enforce-
9 ment resources can best be used to serve the public
10 interest and secure substantial justice; and

11 (4) coordinate and establish criminal street
12 gang enforcement teams, established under section
13 105(b), in high intensity interstate gang activity
14 areas within the district of the United States attor-
15 ney.

16 (b) ADDITIONAL ASSISTANT UNITED STATES ATTOR-
17 NEYS FOR PROJECT SAFE NEIGHBORHOODS.—

18 (1) IN GENERAL.—The Attorney General may
19 hire 94 additional Assistant United States attorneys
20 to carry out the provisions of this section.

21 (2) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated \$7,500,000
23 for each of the fiscal years 2006 through 2010 to
24 carry out this section.

1 **SEC. 109. ADDITIONAL RESOURCES NEEDED BY THE FED-**
2 **ERAL BUREAU OF INVESTIGATION TO INVES-**
3 **TIGATE AND PROSECUTE VIOLENT CRIMINAL**
4 **STREET GANGS.**

5 (a) RESPONSIBILITIES OF ATTORNEY GENERAL.—

6 The Attorney General shall require the Federal Bureau
7 of Investigation to—

8 (1) increase funding for the Safe Streets Pro-
9 gram;

10 (2) support the criminal street gang enforce-
11 ment teams, established under section 105(b), in
12 designated high intensity interstate gang activity
13 areas; and

14 (3) consult with State and local prosecutors to
15 determine how Federal, State, and local law enforce-
16 ment resources can best be used to serve the public
17 interest and secure substantial justice.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—

19 (1) IN GENERAL.—In addition to amounts oth-
20 erwise authorized, there are authorized to be appro-
21 priated to the Federal Bureau of Investigation
22 \$5,000,000 for each of the fiscal years 2006 through
23 2010 to carry out the Safe Streets Program.

24 (2) AVAILABILITY.—Any amounts appropriated
25 under paragraph (1) shall remain available until ex-
26 pended.

1 **SEC. 110. EXPANSION OF FEDERAL WITNESS RELOCATION**
 2 **AND PROTECTION PROGRAM.**

3 Section 3521(a)(1) of title 18 is amended by inserting
 4 “, criminal street gang, serious drug offense, homicide,”
 5 after “organized criminal activity”.

6 **SEC. 111. GRANTS TO STATE AND LOCAL PROSECUTORS TO**
 7 **PROTECT WITNESSES AND VICTIMS OF**
 8 **CRIME.**

9 (a) GRANTS AUTHORIZED.—

10 (1) IN GENERAL.—The Attorney General is au-
 11 thORIZED to make grants to State and local prosecu-
 12 tors and the United States attorney for the District
 13 of Columbia for the purpose of providing short-term
 14 protection to witnesses in trials involving an orga-
 15 nized criminal activity, criminal street gang, serious
 16 drug offense, homicide, or other serious offense.

17 (2) ALLOCATION.—Each prosecutor receiving a
 18 grant under this section may either—

19 (A) use the grant to provide witness relo-
 20 cation and protection; or

21 (B) pursuant to a cooperative agreement
 22 with the Attorney General, credit the grant to
 23 the United States Marshal’s Service to cover
 24 the costs of providing witness relocation and
 25 protection on behalf of the prosecutor.

26 (b) APPLICATION.—

1 (1) IN GENERAL.—Each prosecutor desiring a
2 grant under this section shall submit an application
3 to the Attorney General at such time, in such man-
4 ner, and accompanied by such information as the
5 Attorney General may reasonably require.

6 (2) CONTENTS.—Each application submitted
7 pursuant to paragraph (1) shall—

8 (A) describe the activities for which assist-
9 ance under this section is sought; and

10 (B) provide such additional assurances as
11 the Attorney General determines to be essential
12 to ensure compliance with the requirements of
13 this section.

14 (c) MINIMUM ALLOCATION.—Unless all eligible appli-
15 cations submitted by State and local prosecutors within
16 a State for planning or implementation grants under this
17 section have been funded, the grantees within the State
18 shall be allocated in each fiscal year under this section
19 not less than 0.75 percent of the total amount appro-
20 priated in the fiscal year for planning or implementation
21 grants pursuant to this section.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to carry out this section
24 \$60,000,000 for each of the fiscal years 2006 through
25 2010.

1 **SEC. 112. WITNESS PROTECTION SERVICES.**

2 Section 3526 of title 18, United States Code (Co-
3 operation of other Federal agencies and State govern-
4 ments; reimbursement of expenses) is amended by adding
5 at the end the following:

6 “(c) In any case in which a State government re-
7 quests the Attorney General to provide temporary protec-
8 tion under section 3521(e) of this title, the costs of pro-
9 viding temporary protection are not reimbursable if the
10 investigation or prosecution in any way relates to crimes
11 of violence committed by a gang, as defined under the laws
12 of the relevant State seeking assistance under this title.”.

13 **TITLE II—RELATED MATTERS IN-**
14 **VOLVING VIOLENT CRIME**
15 **PROSECUTION**

16 **SEC. 201. STUDY ON EXPANDING FEDERAL AUTHORITY FOR**
17 **JUVENILE OFFENDERS.**

18 (a) IN GENERAL.—Not later than 9 months after the
19 date of enactment of this Act, the Comptroller General
20 of the United States shall submit to the Committees on
21 the Judiciary of the Senate and the House of Representa-
22 tives a report on the costs and benefits associated with
23 expanding Federal authority to prosecute offenders under
24 the age of 18 who are gang members who commit criminal
25 offenses.

1 (b) CONTENTS.—The report submitted under sub-
2 section (a) shall—

3 (1) examine the ability of the judicial systems
4 of the States to respond effectively to juveniles who
5 are members of “criminal street gangs”, as defined
6 under section 521 of title 18, United States Code;

7 (2) examine the extent to which offenders who
8 are 16 and 17 years old are members of criminal
9 street gangs, and are accused of committing violent
10 crimes and prosecuted in the adult criminal justice
11 systems of the individual States;

12 (3) determine the percentage of crimes com-
13 mitted by members of “criminal street gangs” that
14 are committed by offenders who are 16 and 17 years
15 old;

16 (4) examine the extent to which United States
17 attorneys currently bring criminal indictments and
18 prosecute offenders under the age of 18, and the ex-
19 tent to which United States attorneys’ offices in-
20 clude prosecutors with experience prosecuting juve-
21 niles for adult criminal violations;

22 (5) examine the extent to which the Bureau of
23 Prisons houses offenders under the age of 18, and
24 has the ability and experience to meet the needs of
25 young offenders;

1 (6) estimate the cost to the Federal Govern-
 2 ment of prosecuting and incarcerating 16 and 17
 3 year olds who are members of criminal street gangs
 4 and are accused of violent crimes; and

5 (7) detail any benefits for Federal prosecutions
 6 that would be realized by expanding Federal author-
 7 ity to bring charges against 16 and 17 year olds who
 8 are members of criminal street gangs and are ac-
 9 cused of violent crimes.

10 **SEC. 202. PROSECUTORS AND DEFENDERS INCENTIVE ACT.**

11 (a) **SHORT TITLE.**—This section may be cited as the
 12 “Prosecutors and Defenders Incentive Act”.

13 (b) **LOAN REPAYMENT FOR PROSECUTORS AND PUB-**
 14 **LIC DEFENDERS.**—Title I of the Omnibus Crime Control
 15 and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.)
 16 is amended by adding at the end the following:

17 **“PART HH—LOAN REPAYMENT FOR**
 18 **PROSECUTORS AND PUBLIC DEFENDERS**

19 **“SEC. 2901. GRANT AUTHORIZATION.**

20 “(a) **PURPOSE.**—The purpose of this section is to en-
 21 courage qualified individuals to enter and continue em-
 22 ployment as prosecutors and public defenders.

23 “(b) **DEFINITIONS.**—In this section:

1 “(1) PROSECUTOR.—The term ‘prosecutor’
2 means a full-time employee of a State or local agen-
3 cy who—

4 “(A) is continually licensed to practice law;
5 and

6 “(B) prosecutes criminal cases at the State
7 or local level.

8 “(2) PUBLIC DEFENDER.—The term ‘public de-
9 fender’ means an attorney who—

10 “(A) is continually licensed to practice law;
11 and

12 “(B) is—

13 “(i) a full-time employee of a State or
14 local agency or a nonprofit organization
15 operating under a contract with a State or
16 unit of local government, that provides
17 legal representation to indigent persons in
18 criminal cases; or

19 “(ii) employed as a full-time Federal
20 defender attorney in a defender organiza-
21 tion established pursuant to subsection (g)
22 of section 3006A of title 18, United States
23 Code, that provides legal representation to
24 indigent persons in criminal cases.

1 “(3) STUDENT LOAN.—The term ‘student loan’
2 means—

3 “(A) a loan made, insured, or guaranteed
4 under part B of title IV of the Higher Edu-
5 cation Act of 1965 (20 U.S.C. 1071 et seq.);

6 “(B) a loan made under part D or E of
7 title IV of the Higher Education Act of 1965
8 (20 U.S.C. 1087a et seq. and 1087aa et seq.);
9 and

10 “(C) a loan made under section 428C or
11 455(g) of the Higher Education Act of 1965
12 (20 U.S.C. 1078–3 and 1087e(g)) to the extent
13 that such loan was used to repay a Federal Di-
14 rect Stafford Loan, a Federal Direct Unsub-
15 sidized Stafford Loan, or a loan made under
16 section 428 or 428H of such Act.

17 “(c) PROGRAM AUTHORIZED.—The Attorney General
18 shall establish a program by which the Department of Jus-
19 tice shall assume the obligation to repay a student loan,
20 by direct payments on behalf of a borrower to the holder
21 of such loan, in accordance with subsection (d), for any
22 borrower who—

23 “(1) is employed as a prosecutor or public de-
24 fender; and

1 “(2) is not in default on a loan for which the
2 borrower seeks forgiveness.

3 “(d) TERMS OF AGREEMENT.—

4 “(1) IN GENERAL.—To be eligible to receive re-
5 payment benefits under subsection (c), a borrower
6 shall enter into a written agreement that specifies
7 that—

8 “(A) the borrower will remain employed as
9 a prosecutor or public defender for a required
10 period of service of not less than 3 years, unless
11 involuntarily separated from that employment;

12 “(B) if the borrower is involuntarily sepa-
13 rated from employment on account of mis-
14 conduct, or voluntarily separates from employ-
15 ment, before the end of the period specified in
16 the agreement, the borrower will repay the At-
17 torney General the amount of any benefits re-
18 ceived by such employee under this section;

19 “(C) if the borrower is required to repay
20 an amount to the Attorney General under sub-
21 paragraph (B) and fails to repay such amount,
22 a sum equal to that amount shall be recoverable
23 by the Federal Government from the employee
24 (or such employee’s estate, if applicable) by
25 such methods as are provided by law for the re-

1 recovery of amounts owed to the Federal Govern-
2 ment;

3 “(D) the Attorney General may waive, in
4 whole or in part, a right of recovery under this
5 subsection if it is shown that recovery would be
6 against equity and good conscience or against
7 the public interest; and

8 “(E) the Attorney General shall make stu-
9 dent loan payments under this section for the
10 period of the agreement, subject to the avail-
11 ability of appropriations.

12 “(2) REPAYMENTS.—

13 “(A) IN GENERAL.—Any amount repaid
14 by, or recovered from, an individual or the es-
15 tate of an individual under this subsection shall
16 be credited to the appropriation account from
17 which the amount involved was originally paid.

18 “(B) MERGER.—Any amount credited
19 under subparagraph (A) shall be merged with
20 other sums in such account and shall be avail-
21 able for the same purposes and period, and sub-
22 ject to the same limitations, if any, as the sums
23 with which the amount was merged.

24 “(3) LIMITATIONS.—

1 “(A) STUDENT LOAN PAYMENT
2 AMOUNT.—Student loan repayments made by
3 the Attorney General under this section shall be
4 made subject to such terms, limitations, or con-
5 ditions as may be mutually agreed upon by the
6 borrower and the Attorney General in an agree-
7 ment under paragraph (1), except that the
8 amount paid by the Attorney General under
9 this section shall not exceed—

10 “(i) \$10,000 for any borrower in any
11 calendar year; or

12 “(ii) an aggregate total of \$60,000 in
13 the case of any borrower.

14 “(B) BEGINNING OF PAYMENTS.—Nothing
15 in this section shall authorize the Attorney Gen-
16 eral to pay any amount to reimburse a borrower
17 for any repayments made by such borrower
18 prior to the date on which the Attorney General
19 entered into an agreement with the borrower
20 under this subsection.

21 “(e) ADDITIONAL AGREEMENTS.—

22 “(1) IN GENERAL.—On completion of the re-
23 quired period of service under an agreement under
24 subsection (d), the borrower and the Attorney Gen-
25 eral may, subject to paragraph (2), enter into an ad-

1 ditional agreement in accordance with subsection
2 (d).

3 “(2) TERM.—An agreement entered into under
4 paragraph (1) may require the borrower remain em-
5 ployed as a prosecutor or public defender for less
6 than 3 years.

7 “(f) AWARD BASIS; PRIORITY.—

8 “(1) AWARD BASIS.—Subject to paragraph (2),
9 the Attorney General shall provide repayment bene-
10 fits under this section on a first-come, first-served
11 basis, and subject to the availability of appropria-
12 tions.

13 “(2) PRIORITY.—The Attorney General shall
14 give priority in providing repayment benefits under
15 this section in any fiscal year to a borrower who—

16 “(A) received repayment benefits under
17 this section during the preceding fiscal year;
18 and

19 “(B) has completed less than 3 years of
20 the first required period of service specified for
21 the borrower in an agreement entered into
22 under subsection (d).

23 “(g) REGULATIONS.—The Attorney General is au-
24 thorized to issue such regulations as may be necessary to
25 carry out the provisions of this section.

1 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this section
3 \$25,000,000 for fiscal year 2006 and such sums as may
4 be necessary for each succeeding fiscal year.”.

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