

103D CONGRESS
1ST SESSION

H. R. 2321

To provide comprehensive crime control measures.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 1993

Mr. SANGMEISTER introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To provide comprehensive crime control measures.

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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Comprehensive Violent Crime Control Act of 1993”.

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

TITLE I—DEATH PENALTY

Sec. 101. Short title.

Sec. 102. Death penalty procedures.

Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft
facilities.

Sec. 104. Conforming amendment relating to espionage.

Sec. 105. Conforming amendment relating to transporting explosives.

Sec. 106. Conforming amendment relating to malicious destruction of Federal
property by explosives.

- Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
- Sec. 108. Conforming amendment relating to murder.
- Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
- Sec. 110. Murder by Federal prisoner.
- Sec. 111. Conforming amendment relating to kidnapping.
- Sec. 112. Conforming amendment relating to hostage taking.
- Sec. 113. Conforming amendment relating to mailability of injurious articles.
- Sec. 114. Conforming amendment relating to Presidential assassination.
- Sec. 115. Conforming amendment relating to murder for hire.
- Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering.
- Sec. 117. Conforming amendment relating to wrecking trains.
- Sec. 118. Conforming amendment relating to bank robbery.
- Sec. 119. Conforming amendment relating to terrorist acts.
- Sec. 120. Conforming amendment relating to aircraft hijacking.
- Sec. 121. Conforming amendment relating to Controlled Substances Act.
- Sec. 122. Conforming amendment relating to genocide.
- Sec. 123. Inapplicability to Uniform Code of Military Justice.

TITLE II—HABEAS CORPUS

Subtitle A—General Habeas Corpus Reform

- Sec. 201. Short title for subtitle A.
- Sec. 202. Period of limitation.
- Sec. 203. Appeal.
- Sec. 204. Amendment to rules of appellate procedure.
- Sec. 205. Section 2254 amendments.
- Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

- Sec. 210. Short title for subtitle B.
- Sec. 211. Death penalty litigation procedures.

TITLE III—EXCLUSIONARY RULE

- Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS

Subtitle A—Firearms and Related Amendments

- Sec. 401. Enhanced penalty for use of semiautomatic firearm during a crime of violence or drug trafficking crime.
- Sec. 402. Possession of a firearm or an explosive during certain felonies.
- Sec. 403. Increased penalty for second offense of using an explosive to commit certain felonies.
- Sec. 404. Clarification of definition of conviction.
- Sec. 405. Authority to consider pretrial detention for certain firearms and explosives offenses.
- Sec. 406. Smuggling firearms in aid of drug trafficking.
- Sec. 407. Theft of firearms and explosives.
- Sec. 408. Mandatory revocation of supervised release for possession of a firearm.

- Sec. 409. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
- Sec. 410. Statute of limitations for certain gangster weapon offenses.
- Sec. 411. Possession of explosives by felons and others.
- Sec. 412. Summary destruction of explosives subject to forfeiture.
- Sec. 413. Summary forfeiture of unregistered National Firearms Act weapons.
- Sec. 414. Disposition of forfeited firearms.
- Sec. 415. Elimination of outmoded language relating to parole.
- Sec. 416. Possession of stolen firearms.
- Sec. 417. Enhanced penalties for using a firearm during counterfeiting or forgery.
- Sec. 418. Mandatory penalty for firearms possession by violent felons and serious drug offenders.
- Sec. 419. Reporting of multiple firearms sales.
- Sec. 420. Possession of stolen firearms and explosives.
- Sec. 421. Receipt of firearms by nonresidents.
- Sec. 422. Firearms and explosives conspiracy.
- Sec. 423. Theft of firearms or explosives from licensee.
- Sec. 424. Disposition of explosives to prohibited persons.

Subtitle B—Prohibited Gun Clips and Magazines

- Sec. 431. Findings.
- Sec. 432. Certain ammunition clips and magazines defined as firearms.
- Sec. 433. Definition of ammunition feeding device.
- Sec. 434. Prohibitions applicable to ammunition feeding devices.
- Sec. 435. Identification markings for ammunition feeding devices.
- Sec. 436. Criminal penalties.
- Sec. 437. Noninterruption of business for persons in the business of importing or manufacturing ammunition feeding devices.

TITLE V—OBSTRUCTION OF JUSTICE

- Sec. 501. Protection of court officers and jurors.
- Sec. 502. Prohibition of retaliatory killings of witnesses, victims, and informants.
- Sec. 503. Protection of State or local law enforcement officers providing assistance to Federal law enforcement officers.

TITLE VI—GANGS AND JUVENILE OFFENDERS

- Sec. 601. Amendments concerning records of crimes committed by juveniles.
- Sec. 602. Adult prosecution of serious juvenile offenders.
- Sec. 603. Serious drug offenses by juveniles as Armed Career Criminal Act Predicates.
- Sec. 604. Increased penalty for travel act crimes involving violence.
- Sec. 605. Increased penalty for conspiracy to commit murder for hire.

TITLE VII—TERRORISM

Subtitle A—Aviation Terrorism

- Sec. 701. Implementation of the 1988 protocol for the suppression of unlawful acts of violence at airports serving international civil aviation.
- Sec. 702. Amendment to Federal Aviation Act.

Subtitle B—Maritime Terrorism

- Sec. 711. Short title for subtitle B.
- Sec. 712. Findings.
- Sec. 713. Statement of purpose.
- Sec. 714. Offenses of violence against maritime navigation or fixed platforms.
- Sec. 715. Clerical amendments.
- Sec. 716. Effective dates.
- Sec. 717. Territorial sea extending to twelve miles included in special maritime and territorial jurisdiction.
- Sec. 718. Assimilated crimes in extended territorial sea.
- Sec. 719. Jurisdiction over crimes against United States nationals on certain foreign ships.

Subtitle C—Terrorist Alien Removal

- Sec. 721. Short title for subtitle C.
- Sec. 722. Findings.
- Sec. 723. Terrorist activities defined.
- Sec. 724. Procedures for removal of alien terrorists.
- Sec. 725. Conforming amendments.
- Sec. 726. Effective date.

Subtitle D—Terrorism Offenses and Sanctions

- Sec. 731. Torture.
- Sec. 732. Use of weapons of mass destruction.
- Sec. 733. Homicides and attempted homicides involving firearms in Federal facilities.
- Sec. 734. Providing material support to terrorists.
- Sec. 735. Addition of terrorist offenses to the RICO statute.
- Sec. 736. Forfeiture for terrorist and other violent acts.
- Sec. 737. Enhanced penalties for certain offenses.
- Sec. 738. Sentencing guidelines increase for terrorist crimes.

Subtitle E—Antiterrorism Enforcement Provisions

- Sec. 741. Aliens cooperating in terrorist or other investigations.
- Sec. 742. Amendment to the alien enemy act.
- Sec. 743. Counterintelligence access to telephone records.
- Sec. 744. Counterintelligence access to credit records.
- Sec. 745. Authorization for interceptions of communications.
- Sec. 746. Participation of foreign and state government personnel in interceptions of communications.
- Sec. 747. Disclosure of intercepted communications to foreign law enforcement agencies.
- Sec. 748. Extension of the statute of limitations for certain terrorism offenses.

TITLE VIII—EQUAL JUSTICE ACT

- Sec. 801. Short title.
- Sec. 802. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
- Sec. 803. General safeguards against racial prejudice or bias in the tribunal.
- Sec. 804. Federal capital cases.
- Sec. 805. Funding objective.
- Sec. 806. Extension of protection of civil rights statutes.

TITLE IX—VICTIMS' RIGHTS

Sec. 901. Restitution amendments.

Sec. 902. Victim's right of allocution in sentencing.

1 **TITLE I—DEATH PENALTY**

2 **SEC. 101. SHORT TITLE.**

3 This title may be cited as the “Capital Punishment
4 Procedures Act of 1993”.

5 **SEC. 102. DEATH PENALTY PROCEDURES.**

6 TITLE 18 OF THE UNITED STATES CODE IS AMEND-
7 ED.—

8 (1) by adding the following new chapter after
9 chapter 227:

10 **“CHAPTER 228—DEATH PENALTY PROCEDURES**

“Sec.

“3591. Sentence of death.

“3592. Factors to be considered in determining whether a sentence of death is
justified.

“3593. Special hearing to determine whether a sentence of death is justified.

“3594. Imposition of a sentence of death.

“3595. Review of a sentence of death.

“3596. Implementation of a sentence of death.

“3597. Use of State facilities.

“3598. Appointment of counsel.

“3599. Collateral Attack on Judgment Imposing Sentence of Death.

11 **“§ 3591. Sentence of death**

12 “A defendant who has been found guilty of—

13 “(1) an offense described in section 794 or sec-
14 tion 2381 of this title;

15 “(2) an offense described in section 1751(c) of
16 this title if the offense, as determined beyond a rea-
17 sonable doubt at a hearing under section 3593, con-
18 stitutes an attempt to murder the President of the
19 United States and results in bodily injury to the

1 President or comes dangerously close to causing the
2 death of the President;

3 “(3) an offense referred to in section 408(c)(1)
4 of the Controlled Substances Act (21 U.S.C.
5 848(c)(1)), committed as part of a continuing crimi-
6 nal enterprise offense under the conditions described
7 in subsection (b) of that section;

8 “(4) an offense referred to in section 408(c)(1)
9 of the Controlled Substances Act (21 U.S.C.
10 848(c)(1)), committed as part of a continuing crimi-
11 nal enterprise offense under that section, where the
12 defendant is a principal administrator, organizer or
13 leader of such an enterprise, and the defendant, in
14 order to obstruct the investigation or prosecution of
15 the enterprise or an offense involved in the enter-
16 prise, attempts to kill or knowingly directs, advises,
17 authorizes, or assists another to attempt to kill any
18 public officer, juror, witness, or member of the fam-
19 ily or household of such a person;

20 “(5) an offense constituting a felony violation of
21 the Controlled Substances Act (21 U.S.C. 801 et
22 seq.), the Controlled Substances Import and Export
23 Act (21 U.S.C. 951 et seq.), or the Maritime Drug
24 Law Enforcement Act (46 U.S.C. App. 1901 et
25 seq.), where the defendant, acting with a state of

1 mind described in paragraph (6), engages in such a
2 violation, and the death of another person results in
3 the course of the violation or from the use of the
4 controlled substance involved in the violation; or

5 “(6) any other offense for which a sentence of
6 death is provided, if the defendant, as determined
7 beyond a reasonable doubt at a hearing under sec-
8 tion 3593, caused the death of a person inten-
9 tionally, knowingly, or through recklessness mani-
10 festing extreme indifference to human life, or caused
11 the death of a person through the intentional inflic-
12 tion of serious bodily injury;

13 shall be sentenced to death if, after consideration of the
14 factors set forth in section 3592 in the course of a hearing
15 held pursuant to section 3593, it is determined that impo-
16 sition of a sentence of death is justified. No person may
17 be sentenced to death who was less than eighteen years
18 of age at the time of the offense.

19 **“§ 3592. Factors to be considered in determining**
20 **whether a sentence of death is justified**

21 “(a) MITIGATING FACTORS.—In determining wheth-
22 er a sentence of death is justified for any offense, the jury,
23 or if there is no jury, the court, shall consider each of
24 the following mitigating factors and determine which, if
25 any, exist:

1 “(1) MENTAL CAPACITY.—The defendant’s
2 mental capacity to appreciate the wrongfulness of
3 his conduct or to conform his conduct to the require-
4 ments of law was significantly impaired, regardless
5 of whether the capacity was so impaired as to con-
6 stitute a defense to the charge.

7 “(2) DURESS.—The defendant was under un-
8 usual and substantial duress, regardless of whether
9 the duress was of such a degree as to constitute a
10 defense to the charge.

11 “(3) PARTICIPATION IN OFFENSE MINOR.—The
12 defendant’s participation in the offense, which was
13 committed by another, was relatively minor, regard-
14 less of whether the participation was so minor as to
15 constitute a defense to the charge.

16 The jury, or if there is no jury, the court, shall consider
17 whether any other aspect of the defendant’s background,
18 character or record or any other circumstance of the of-
19 fense that the defendant may proffer as a mitigating fac-
20 tor exists.

21 “(b) AGGRAVATING FACTORS FOR ESPIONAGE AND
22 TREASON.—In determining whether a sentence of death
23 is justified for an offense described in section 3591(1), the
24 jury, or if there is no jury, the court, shall consider each

1 of the following aggravating factors and determine which,
2 if any, exist:

3 “(1) PREVIOUS ESPIONAGE OR TREASON CON-
4 VICTION.—The defendant has previously been con-
5 victed of another offense involving espionage or trea-
6 son for which a sentence of life imprisonment or
7 death was authorized by statute.

8 “(2) RISK OF SUBSTANTIAL DANGER TO NA-
9 TIONAL SECURITY.—In the commission of the of-
10 fense the defendant knowingly created a grave risk
11 to the national security.

12 “(3) RISK OF DEATH TO ANOTHER.—In the
13 commission of the offense the defendant knowingly
14 created a grave risk of death to another person.

15 The jury, or if there is no jury, the court, may consider
16 whether any other aggravating factor exists.

17 “(c) AGGRAVATING FACTORS FOR HOMICIDE AND
18 FOR ATTEMPTED MURDER OF THE PRESIDENT.—In de-
19 termining whether a sentence of death is justified for an
20 offense described in section 3519 (2) or (6), the jury, or
21 if there is no jury, the court, shall consider each of the
22 following aggravating factors and determine which, if any,
23 exist:

24 “(1) CONDUCT OCCURRED DURING COMMISSION
25 OF SPECIFIED CRIMES.—The conduct resulting in

1 death occurred during the commission or attempted
2 commission of, or during the immediate flight from
3 the commission of, an offense under section 32 (de-
4 struction of aircraft or aircraft facilities), section 33
5 (destruction of motor vehicles or motor vehicle facili-
6 ties), section 36 (violence at international airports),
7 section 351 (violence against Members of Congress,
8 Cabinet officers, or Supreme Court Justices), section
9 751 (prisoners in custody of institution or officer),
10 section 794 (gathering or delivering defense informa-
11 tion to aid foreign government), section 844(d)
12 (transportation of explosives in interstate commerce
13 for certain purposes), section 844(f) (destruction of
14 Government property by explosives), section 844(i)
15 (destruction of property affecting interstate com-
16 merce by explosives), section 1116 (killing or at-
17 tempted killing of diplomats), section 1118 (pris-
18 oners serving life term), section 1201 (kidnapping),
19 section 1203 (hostage taking), section 1751 (violence
20 against the President or Presidential staff), section
21 1992 (wrecking trains), section 2280 (maritime vio-
22 lence), section 2281 (maritime platform violence),
23 section 2332 (terrorist acts abroad against United
24 States nationals), section 2339 (use of weapons of
25 mass destruction), or section 2381 (treason) of this

1 title, section 1826 of title 28 (persons in custody as
2 recalcitrant witnesses or hospitalized following insan-
3 ity acquittal), or section 902 (i) or (n) of the Fed-
4 eral Aviation Act of 1958, as amended (49 U.S.C.
5 1472 (i) or (n) (aircraft piracy)).

6 “(2) INVOLVEMENT OF FIREARM OR PREVIOUS
7 CONVICTION OF VIOLENT FELONY INVOLVING FIRE-
8 ARM.—The defendant—

9 “(A) during and in relation to the commis-
10 sion of the offense or in escaping or attempting
11 to escape apprehension used or possessed a fire-
12 arm as defined in section 921 of this title; or

13 “(B) has previously been convicted of a
14 Federal or State offense punishable by a term
15 of imprisonment of more than one year, involv-
16 ing the use of attempted or threatened use of
17 a firearm, as defined in section 921 of this title,
18 against another person.

19 “(3) PREVIOUS CONVICTION OF OFFENSE FOR
20 WHICH A SENTENCE OF DEATH OR LIFE IMPRISON-
21 MENT WAS AUTHORIZED.—The defendant has pre-
22 viously been convicted of another Federal or State
23 offense resulting in the death of a person, for which
24 a sentence of life imprisonment or death was author-
25 ized by statute.

1 “(4) PREVIOUS CONVICTION OF OTHER SERI-
2 OUS OFFENSES.—The defendant has previously been
3 convicted of two or more Federal or State offenses,
4 each punishable by a term of imprisonment of more
5 than one year, committed on different occasions, in-
6 volving the importation, manufacture, or distribution
7 of a controlled substance (as defined in section 102
8 of the Controlled Substances Act (21 U.S.C. 802))
9 or the infliction of, or attempted infliction of, serious
10 bodily injury or death upon another person.

11 “(5) GRAVE RISK OF DEATH TO ADDITIONAL
12 PERSONS.—The defendant, in the commission of the
13 offense or in escaping or attempting to escape ap-
14 prehension, knowingly created a grave risk of death
15 to one or more persons in addition to the victim of
16 the offense.

17 “(6) HEINOUS, CRUEL, OR DEPRAVED MANNER
18 OF COMMISSION.—The defendant committed the of-
19 fense in an especially heinous, cruel, or depraved
20 manner in that it involved torture or serious physical
21 abuse to the victim.

22 “(7) PROCUREMENT OF OFFENSE BY PAY-
23 MENT.—The defendant procured the commission of
24 the offense by payment, or promise of payment, of
25 anything of pecuniary value.

1 “(8) COMMISSION OF THE OFFENSE FOR PECU-
2 NIARY GAIN.—The defendant committed the offense
3 as consideration for the receipt, or in the expectation
4 of the receipt, of anything of pecuniary value.

5 “(9) SUBSTANTIAL PLANNING AND
6 PREMEDITATION.—The defendant committed the of-
7 fense after substantial planning and premeditation.

8 “(10) VULNERABILITY OF VICTIM.—The victim
9 was particularly vulnerable due to old age, youth, or
10 infirmity.

11 “(11) TYPE OF VICTIM.—The defendant com-
12 mitted the offense against—

13 “(A) the President of the United States,
14 the President-elect, the Vice President, the Vice
15 President-elect, the Vice President-designate,
16 or, if there was no Vice President, the officer
17 next in order of succession to the office of the
18 President of the United States, or any person
19 acting as President under the Constitution and
20 laws of the United States;

21 “(B) a chief of state, head of government,
22 or the political equivalent, of a foreign nation;

23 “(C) a foreign official listed in section
24 1116(b)(3)(A) of this title, if that official was
25 in the United States on official business; or

1 “(D) a Federal public servant who was
2 outside of the United States or who was a Fed-
3 eral judge, a Federal law enforcement officer,
4 an employee (including a volunteer or contract
5 employee) of a Federal prison, or an official of
6 the Federal Bureau of Prisons—

7 “(i) while such public servant was en-
8 gaged in the performance of his official
9 duties;

10 “(ii) because of the performance of
11 such public servant’s official duties; or

12 “(iii) because of such public servant’s
13 status as a public servant.

14 For purposes of this paragraph, the terms
15 ‘President-elect’ and ‘Vice President-elect’ mean
16 such persons as are the apparent successful
17 candidates for the offices of President and Vice
18 President, respectively, as ascertained from the
19 results of the general elections held to deter-
20 mine the electors of President and Vice Presi-
21 dent in accordance with title 3, United States
22 Code, sections 1 and 2; a ‘Federal law enforce-
23 ment officer’ is a public servant authorized by
24 law or by a Government agency or Congress to
25 conduct or engage in the prevention, investiga-

1 tion, or prosecution of an offense; ‘Federal pris-
2 on’ means a Federal correctional, detention, or
3 penal facility, Federal community treatment
4 center, or Federal halfway house, or any such
5 prison operated under contract with the Federal
6 Government; and ‘Federal judge’ means any ju-
7 dicial officer of the United States, and includes
8 a justice of the Supreme Court and a United
9 States magistrate judge. The jury, or if there is
10 no jury, the court, may consider whether any
11 other aggravating factor exists.

12 “(d) AGGRAVATING FACTORS FOR DRUG OFFENSE
13 DEATH PENALTY.—In determining whether a sentence of
14 death is justified for an offense described in section 3591
15 (3)–(5), the jury, or if there is no jury, the court, shall
16 consider each of the following aggravating factors and de-
17 termine which, if any, exist—

18 “(1) PREVIOUS CONVICTION OF OFFENSE FOR
19 WHICH A SENTENCE OF DEATH OR LIFE IMPRISON-
20 MENT WAS AUTHORIZED.—The defendant has pre-
21 viously been convicted of another Federal or State
22 offense resulting in the death of a person, for which
23 a sentence of life imprisonment or death was author-
24 ized by statute.

1 “(2) PREVIOUS CONVICTION OF OTHER SERI-
2 OUS OFFENSES.—The defendant has previously been
3 convicted of two or more Federal or State offenses,
4 each punishable by a term of imprisonment of more
5 than one year, committed on different occasions, in-
6 volving the importation, manufacture, or distribution
7 of a controlled substance (as defined in section 102
8 of the Controlled Substances Act (21 U.S.C. 802))
9 or the infliction of, or attempted infliction of, serious
10 bodily injury or death upon another person.

11 “(3) PREVIOUS SERIOUS DRUG FELONY CONVICT-
12 TION.—The defendant has previously been convicted
13 of another Federal or State offense involving the
14 manufacture, distribution, importation, or possession
15 of a controlled substance (as defined in section 102
16 of the Controlled Substances Act (21 U.S.C. 802))
17 for which a sentence of five or more years of impris-
18 onment was authorized by statute.

19 “(4) USE OF FIREARM.—In committing the of-
20 fense, or in furtherance of a continuing criminal en-
21 terprise of which the offense was a part, the defend-
22 ant used a firearm or knowingly directed, advised,
23 authorized, or assisted another to use a firearm, as
24 defined in section 921 of this title, to threaten, in-
25 timidate, assault, or injure a person.

1 “(5) DISTRIBUTION TO PERSONS UNDER TWEN-
2 TY-ONE.—The offense, or a continuing criminal en-
3 terprise of which the offense was a part, involved
4 conduct proscribed by section 418 of the Controlled
5 Substances Act which was committed directly by the
6 defendant or for which the defendant would be liable
7 under section 2 of this title.

8 “(6) DISTRIBUTION NEAR SCHOOLS.—The of-
9 fense, or a continuing criminal enterprise of which
10 the offense was a part, involved conduct proscribed
11 by section 419 of the Controlled Substances Act
12 which was committed directly by the defendant or
13 for which the defendant would be liable under sec-
14 tion 2 of this title.

15 “(7) USING MINORS IN TRAFFICKING.—The of-
16 fense, or a continuing criminal enterprise of which
17 the offense was a part, involved conduct proscribed
18 by section 420 of the Controlled Substances Act
19 which was committed directly by the defendant or
20 for which the defendant would be liable under sec-
21 tion 2 of this title.

22 “(8) LETHAL ADULTERANT.—The offense in-
23 volved the importation, manufacture, or distribution
24 of a controlled substance (as defined in section 102
25 of the Controlled Substances Act (21 U.S.C. 802)),

1 mixed with a potentially lethal adulterant, and the
2 defendant was aware of the presence of the
3 adulterant. The jury, or if there is no jury, the
4 court, may consider whether any other aggravating
5 factor exists.

6 **“§ 3593. Special hearing to determine whether a sen-**
7 **tence of death is justified**

8 “(a) NOTICE BY THE GOVERNMENT.—Whenever the
9 Government intends to seek the death penalty for an of-
10 fense described in section 3591, the attorney for the Gov-
11 ernment, a reasonable time before the trial, or before ac-
12 ceptance by the court of a plea of guilty, or at such time
13 thereafter as the court may permit upon a showing of good
14 cause, shall sign and file with the court, and serve on the
15 defendant, a notice that the Government in the event of
16 conviction will seek the sentence of death. The notice shall
17 set forth the aggravating factor or factors enumerated in
18 section 3592, and any other aggravating factor not specifi-
19 cally enumerated in section 3592, that the Government,
20 if the defendant is convicted, will seek to prove as the basis
21 for the death penalty. The factors for which notice is pro-
22 vided under this subsection may include factors concerning
23 the effect of the offense on the victim and the victim’s
24 family. The court may permit the attorney for the Govern-
25 ment to amend the notice upon a showing of good cause.

1 “(b) HEARING BEFORE A COURT OR JURY.—When
2 the attorney for the Government has filed a notice as re-
3 quired under subsection (a) and the defendant is found
4 guilty of an offense described in section 3591, the judge
5 who presided at the trial or before whom the guilty plea
6 was entered, or another judge if that judge is unavailable,
7 shall conduct a separate sentencing hearing to determine
8 the punishment to be imposed. Prior to such a hearing,
9 no presentence report shall be prepared by the United
10 States Probation Service, notwithstanding the provisions
11 of the Federal Rules of Criminal Procedure. The hearing
12 shall be conducted—

13 “(1) before the jury that determined the de-
14 fendant’s guilt;

15 “(2) before a jury impaneled for the purpose of
16 the hearing if—

17 “(A) the defendant was convicted upon a
18 plea of guilty;

19 “(B) the defendant was convicted after a
20 trial before the court sitting without a jury;

21 “(C) the jury that determined the defend-
22 ant’s guilt was discharged for good cause; or

23 “(D) after initial imposition of a sentence
24 under this section, reconsideration of the sen-
25 tence under the section is necessary; or

1 “(3) before the court alone, upon motion of the
2 defendant and with the approval of the attorney for
3 the Government.

4 A jury impaneled pursuant to paragraph (2) shall consist
5 of twelve members, unless, at any time before the conclu-
6 sion of the hearing, the parties stipulate, with the approval
7 of the court, that it shall consist of a lesser number.

8 “(c) PROOF OF MITIGATING AND AGGRAVATING FAC-
9 TORS.—At the hearing, information may be presented as
10 to—

11 “(1) any matter relating to any mitigating fac-
12 tor listed in section 3592 and any other mitigating
13 factor; and

14 “(2) any matter relating to any aggravating
15 factor listed in section 3592 for which notice has
16 been provided under subsection (a) and (if informa-
17 tion is presented relating to such a listed factor) any
18 other aggravating factor for which notice has been
19 so provided.

20 The information presented may include the trial transcript
21 and exhibits. Any other information relevant to such miti-
22 gating or aggravating factors may be presented by either
23 the Government or the defendant, regardless of its admis-
24 sibility under the rules governing admission of evidence
25 at criminal trials, except that information may be excluded

1 if its probative value is outweighed by the danger of creat-
2 ing unfair prejudice, confusing the issues, or misleading
3 the jury. The attorney for the Government and for the
4 defendant shall be permitted to rebut any information re-
5 ceived at the hearing, and shall be given fair opportunity
6 to present argument as to the adequacy of the information
7 to establish the existence of any aggravating or mitigating
8 factor, and as to the appropriateness in that case of im-
9 posing a sentence of death. The attorney for the Govern-
10 ment shall open the argument. The defendant shall be per-
11 mitted to reply. The Government shall then be permitted
12 to reply in rebuttal. The burden of establishing the exist-
13 ence of an aggravating factor is on the Government, and
14 is not satisfied unless the existence of such a factor is es-
15 tablished beyond a reasonable doubt. The burden of estab-
16 lishing the existence of any mitigating factor is on the de-
17 fendant, and is not satisfied unless the existence of such
18 a factor is established by a preponderance of the evidence.

19 “(d) RETURN OF SPECIAL FINDINGS.—The jury, or
20 if there is no jury, the court, shall consider all the informa-
21 tion received during the hearing. It shall return special
22 findings identifying any aggravating factor or factors set
23 forth in section 3592 found to exist and any other aggra-
24 vating factor for which notice has been provided under
25 subsection (a) found to exist. A finding with respect to

1 a mitigating factor may be made by one or more members
2 of the jury, and any member of the jury who finds the
3 existence of a mitigating factor may consider such factor
4 established for purposes of this section regardless of the
5 number of jurors who concur that the factor has been es-
6 tablished. A finding with respect to any aggravating factor
7 must be unanimous. If no aggravating factor set forth in
8 section 3592 is found to exist, the court shall impose a
9 sentence other than death authorized by law.

10 “(e) RETURN OF A FINDING CONCERNING A SEN-
11 TENCE OF DEATH.—If, in the case of—

12 “(1) an offense described in section 3591(1), an
13 aggravating factor required to be considered under
14 section 3592(b) is found to exist;

15 “(2) an offense described in section 3591(2) or
16 (6), an aggravating factor required to be considered
17 under section 3592(c) is found to exist; or

18 “(3) an offense described in section 3591(3)–
19 (5), an aggravating factor required to be considered
20 under section 3592(d) is found to exist;

21 the jury, or if there is no jury, the court, shall then con-
22 sider whether the aggravating factor or factors found to
23 exist under subsection (d) outweigh any mitigating factor
24 or factors. The jury, or if there is no jury, the court, shall
25 recommend a sentence of death if it unanimously finds at

1 least one aggravating factor and no mitigating factor or
2 if it finds one or more aggravating factors which outweigh
3 any mitigating factors. In any other case, it shall not rec-
4 ommend a sentence of death. The jury shall be instructed
5 that it must avoid any influence of sympathy, sentiment,
6 passion, prejudice, or other arbitrary factors in its deci-
7 sion, and should make such a recommendation as the in-
8 formation warrants.

9 “(f) SPECIAL PRECAUTION TO ASSURE AGAINST DIS-
10 CRIMINATION.—In a hearing held before a jury, the court,
11 prior to the return of a finding under subsection (e), shall
12 instruct the jury that, in considering whether a sentence
13 of death is justified, it shall not be influenced by prejudice
14 or bias relating to the race, color, religion, national origin,
15 or sex of the defendant or of any victim and that the jury
16 is not to recommend a sentence of death unless it has con-
17 cluded that it would recommend a sentence of death for
18 the crime in question no matter what the race, color, reli-
19 gion, national origin, or sex of the defendant or of any
20 victim may be. The jury, upon return of a finding under
21 subsection (e), shall also return to the court a certificate,
22 signed by each juror, that prejudice or bias relating to the
23 race, color, religion, national origin, or sex of the defend-
24 ant or any victim was not involved in reaching his or her
25 individual decision and that the individual juror would

1 have made the same recommendation regarding a sentence
2 for the crime in question no matter what the race, color,
3 religion, national origin, or sex of the defendant or any
4 victim may be.

5 **“§ 3594. Imposition of a sentence of death**

6 “Upon the recommendation under section 3593(e)
7 that a sentence of death be imposed, the court shall sen-
8 tence the defendant to death. Otherwise the court shall
9 impose a sentence, other than death, authorized by law.
10 Notwithstanding any other provision of law, if the maxi-
11 mum term of imprisonment for the offense is life imprison-
12 ment, the court may impose a sentence of life imprison-
13 ment without the possibility of release.

14 **“§ 3595. Review of a sentence of death**

15 “(a) APPEAL.—In a case in which a sentence of death
16 is imposed, the sentence shall be subject to review by the
17 court of appeals upon appeal by the defendant. Notice of
18 appeal of the sentence must be filed within the time speci-
19 fied for the filing of a notice of appeal of the judgment
20 of conviction. An appeal of the sentence under this section
21 may be consolidated with an appeal of the judgment of
22 conviction and shall have priority over all other cases.

23 “(b) REVIEW.—The court of appeals shall review the
24 entire record in the case, including—

25 “(1) the evidence submitted during the trial;

1 “(2) the information submitted during the sen-
2 tencing hearing;

3 “(3) the procedures employed in the sentencing
4 hearing; and

5 “(4) the special findings returned under section
6 3593(d).

7 “(c) DECISION AND DISPOSITION.—

8 “(1) If the court of appeals determines that—

9 “(A) the sentence of death was not im-
10 posed under the influence of passion, prejudice,
11 or any other arbitrary factor;

12 “(B) the evidence and information support
13 the special findings of the existence of an ag-
14 gravating factor or factors; and

15 “(C) the proceedings did not involve any
16 other prejudicial error requiring reversal of the
17 sentence that was properly preserved for and
18 raised on appeal;

19 it shall affirm the sentence.

20 “(2) In any other case, the court of appeals
21 shall remand the case for reconsideration under sec-
22 tion 3593 or for imposition of another authorized
23 sentence as appropriate.

1 “(3) The court of appeals shall state in writing
2 the reasons for its disposition of an appeal of a sen-
3 tence of death under this section.

4 **“§ 3596. Implementation of a sentence of death**

5 “(a) IN GENERAL.—A person who has been sen-
6 tenced to death pursuant to the provisions of this chapter
7 shall be committed to the custody of the Attorney General
8 until exhaustion of the procedures for appeal of the judg-
9 ment of conviction and for review of the sentence. When
10 the sentence is to be implemented, the Attorney General
11 shall release the person sentenced to death to the custody
12 of a United States Marshal, who shall supervise implemen-
13 tation of the sentence in the manner prescribed by the law
14 of the State in which the sentence is imposed. If the law
15 of such State does not provide for implementation of a
16 sentence of death, the court shall designate another State,
17 the law of which does so provide, and the sentence shall
18 be implemented in the manner prescribed by such law.

19 “(b) SPECIAL BARS TO EXECUTION.—A sentence of
20 death shall not be carried out upon a person who lacks
21 the mental capacity to understand the death penalty and
22 why it was imposed on that person, or upon a woman while
23 she is pregnant.

24 “(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—
25 No employee of any State department of corrections, the

1 Federal Bureau of Prisons, or the United States Marshals
2 Service, and no employee providing services to that depart-
3 ment, bureau, or service under contract shall be required,
4 as a condition of that employment or contractual obliga-
5 tion, to be in attendance at or to participate in any execu-
6 tion carried out under this section if such participation
7 is contrary to the moral or religious convictions of the em-
8 ployee. For purposes of this subsection, the term ‘partici-
9 pate in any execution’ includes personal preparation of the
10 condemned individual and the apparatus used for the exe-
11 cution, and supervision of the activities of other personnel
12 in carrying out such activities.

13 **“§ 3597. Use of State facilities**

14 “A United States Marshal charged with supervising
15 the implementation of a sentence of death may use appro-
16 priate State or local facilities for the purpose, may use
17 the services of an appropriate State or local official or of
18 a person such an official employs for the purpose, and
19 shall pay the costs thereof in an amount approved by the
20 Attorney General.

21 **“§ 3598. Appointment of counsel**

22 “(a) REPRESENTATION OF INDIGENT DEFEND-
23 ANTS.—Notwithstanding any other provision of law, this
24 section shall govern the appointment of counsel for any
25 defendant against whom a sentence of death is sought,

1 or on whom a sentence of death has been imposed, for
2 an offense against the United States, where the defendant
3 is or becomes financially unable to obtain adequate rep-
4 resentation. Such a defendant shall be entitled to appoint-
5 ment of counsel from the commencement of trial proceed-
6 ings until one of the conditions specified in section
7 3599(b) of this title has occurred.

8 “(b) REPRESENTATION BEFORE FINALITY OF JUDG-
9 MENT.—A defendant within the scope of this section shall
10 have counsel appointed for trial representation as provided
11 in section 3005 of this title. At least one counsel so ap-
12 pointed shall continue to represent the defendant until the
13 conclusion of direct review of the judgment, unless re-
14 placed by the court with other qualified counsel.

15 “(c) REPRESENTATION AFTER FINALITY OF JUDG-
16 MENT.—When a judgment imposing a sentence of death
17 has become final through affirmance by the Supreme
18 Court on direct review, denial of certiorari by the Supreme
19 Court on direct review, or expiration of the time for seek-
20 ing direct review in the court of appeals or the Supreme
21 Court, the Government shall promptly notify the district
22 court that imposed the sentence. Within ten days of re-
23 ceipt of such notice, the district court shall proceed to
24 make a determination whether the defendant is eligible
25 under this section for appointment of counsel for subse-

1 quent proceedings. On the basis of the determination, the
2 court shall issue an order—

3 “(1) appointing one or more counsel to rep-
4 resent the defendant upon a finding that the defend-
5 ant is financially unable to obtain adequate rep-
6 resentation and wishes to have counsel appointed or
7 is unable competently to decide whether to accept or
8 reject appointment of counsel;

9 “(2) finding, after a hearing if necessary, that
10 the defendant rejected appointment of counsel and
11 made the decision with an understanding of its legal
12 consequences; or

13 “(3) denying the appointment of counsel upon
14 a finding that the defendant is financially able to ob-
15 tain adequate representation.

16 Counsel appointed pursuant to this subsection shall be dif-
17 ferent from the counsel who represented the defendant at
18 trial and on direct review unless the defendant and counsel
19 request a continuation or renewal of the earlier represen-
20 tation.

21 “(d) STANDARDS FOR COMPETENCE OF COUNSEL.—
22 In relation to a defendant who is entitled to appointment
23 of counsel under this section, at least one counsel ap-
24 pointed for trial representation must have been admitted
25 to the bar for at least five years and have at least three

1 years of experience in the trial of felony cases in the fed-
2 eral district courts. If new counsel is appointed after judg-
3 ment, at least one counsel so appointed must have been
4 admitted to the bar for at least five years and have at
5 least three years of experience in the litigation of felony
6 cases in the Federal courts of appeals or the Supreme
7 Court. The court, for good cause, may appoint counsel
8 who does not meet these standards, but whose back-
9 ground, knowledge, or experience would otherwise enable
10 him or her to properly represent the defendant, with due
11 consideration of the seriousness of the penalty and the na-
12 ture of the litigation.

13 “(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—
14 Except as otherwise provided in this section, the provisions
15 of section 3006A of this title shall apply to appointments
16 under this section.

17 “(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—
18 The ineffectiveness or incompetence of counsel during pro-
19 ceedings on a motion under section 2255 of title 28 in
20 a capital case shall not be a ground for relief from the
21 judgment or sentence in any proceeding. This limitation
22 shall not preclude the appointment of different counsel at
23 any stage of the proceedings.

1 **“§ 3599. Collateral Attack on Judgment Imposing Sen-**
2 **tence of Death**

3 “(a) TIME FOR MAKING SECTION 2255 MOTION.—
4 In a case in which sentence of death has been imposed,
5 and the judgment has become final as described in section
6 3598(c) of this title, a motion in the case under section
7 2255 of title 28, United States Code, must be filed within
8 ninety days of the issuance of the order relating to ap-
9 pointment of counsel under section 3598(c) of this title.
10 The court in which the motion is filed, for good cause
11 shown, may extend the time for filing for a period not
12 exceeding sixty days. A motion described in this section
13 shall have priority over all noncapital matters in the dis-
14 trict court, and in the court of appeals on review of the
15 district court’s decision.

16 “(b) STAY OF EXECUTION.—The execution of a sen-
17 tence of death shall be stayed in the course of direct review
18 of the judgment and during the litigation of an initial mo-
19 tion in the case under section 2255 of title 28, United
20 States Code. The stay shall run continuously following im-
21 position of the sentence, and shall expire if—

22 “(1) the defendant fails to file a motion under
23 section 2255 of title 28, United States Code, within
24 the time specified in subsection (a), or fails to make
25 a timely application for court of appeals review fol-

1 lowing the denial of such motion by a district court;
2 or

3 “(2) upon completion of district court and court
4 of appeals review under section 2255 of title 28,
5 United States Code, the motion under that section
6 is denied and (A) the time for filing a petition for
7 certiorari has expired and no petition has been filed;
8 (B) a timely petition for certiorari was filed and the
9 Supreme Court denied the petition; or (C) a timely
10 petition for certiorari was filed and upon consider-
11 ation of the case, the Supreme Court disposed of it
12 in a manner that left the capital sentence undis-
13 turbed; or

14 “(3) before a district court, in the presence of
15 counsel and after having been advised of the con-
16 sequences of his decision, the defendant waives the
17 right to file a motion under section 2255 of title 28,
18 United States Code.

19 “(c) FINALITY OF THE DECISION ON REVIEW.—If
20 one of the conditions specified in subsection (b) has oc-
21 curred, no court thereafter shall have the authority to
22 enter a stay of execution or grant relief in the case un-
23 less—

24 “(1) the basis for the stay and request for relief
25 is a claim not presented in earlier proceedings;

1 “(2) the failure to raise the claim was (A) the
 2 result of governmental action in violation of the Con-
 3 stitution or laws of the United States; (B) the result
 4 of the Supreme Court recognition of a new Federal
 5 right that is retroactively applicable; or (C) based on
 6 a factual predicate that could not have been discov-
 7 ered through the exercise of reasonable diligence in
 8 time to present the claim in earlier proceedings; and

9 “(3) the facts underlying the claim would be
 10 sufficient, if proven, to undermine the court’s con-
 11 fidence in the determination of guilt on the offense
 12 or offenses for which the death penalty was im-
 13 posed.”; and

14 (2) in the table of chapters at the beginning of
 15 part II, by adding the following new item after the
 16 item relating to chapter 227:

“228. Death penalty procedures 3591”.

17 **SEC. 103. CONFORMING AMENDMENT RELATING TO DE-**
 18 **STRUCTION OF AIRCRAFT OR AIRCRAFT FA-**
 19 **CILITIES.**

20 Section 34 of title 18 of the United States Code is
 21 amended by changing the comma after the words “impris-
 22 onment for life” to a period and deleting the remainder
 23 of the section.

1 **SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIO-**
2 **NAGE.**

3 Section 794(a) of title 18 of the United States Code
4 is amended by changing the period at the end of the sec-
5 tion to a comma and by adding immediately thereafter the
6 words “except that the sentence of death shall not be im-
7 posed unless the jury or, if there is no jury, the court,
8 further finds beyond a reasonable doubt at a hearing
9 under section 3593 of this title that the offense directly
10 concerned nuclear weaponry, military spacecraft and sat-
11 ellites, early warning systems, or other means of defense
12 or retaliation against large-scale attack; war plans; com-
13 munications intelligence or cryptographic information;
14 sources or methods of intelligence or counterintelligence
15 operations; or any other major weapons system or major
16 element of defense strategy.”.

17 **SEC. 105. CONFORMING AMENDMENT RELATING TO TRANS-**
18 **PORTING EXPLOSIVES.**

19 Section 844(d) of title 18 of the United States Code
20 is amended by striking the words “as provided in section
21 34 of this title”.

1 **SEC. 106. CONFORMING AMENDMENT RELATING TO MALI-**
2 **CIIOUS DESTRUCTION OF FEDERAL PROP-**
3 **ERTY BY EXPLOSIVES.**

4 Section 844(f) of title 18 of the United States Code
5 is amended by striking the words “as provided in section
6 34 of this title”.

7 **SEC. 107. CONFORMING AMENDMENT RELATING TO MALI-**
8 **CIIOUS DESTRUCTION OF INTERSTATE PROP-**
9 **ERTY BY EXPLOSIVES.**

10 Section 844(i) of title 18 of the United States Code
11 is amended by striking the words “as provided in section
12 34 of this title”.

13 **SEC. 108. CONFORMING AMENDMENT RELATING TO MUR-**
14 **DER.**

15 The second paragraph of section 1111(b) of title 18
16 of the United States Code is amended to read as follows:
17 “Whoever is guilty of murder in the first degree shall
18 be punished by death or by imprisonment for life;”.

19 **SEC. 109. CONFORMING AMENDMENT RELATING TO KILL-**
20 **ING OFFICIAL GUESTS OR INTERNATIONALLY**
21 **PROTECTED PERSONS.**

22 Section 1116(a) of title 18 of the United States Code
23 is amended by striking the words “any such person who
24 is found guilty of murder in the first degree shall be sen-
25 tenced to imprisonment for life, and”.

1 **SEC. 110. MURDER BY FEDERAL PRISONER.**

2 Chapter 51 of title 18 of the United States Code is
3 amended—

4 (a) by adding at the end thereof the following:

5 **“§ 1118. Murder by a Federal prisoner**

6 “(a) Whoever, while confined in a Federal prison
7 under a sentence for a term of life imprisonment, murders
8 another, shall be punished by death or by life imprison-
9 ment without the possibility of release.

10 “(b) For purposes of this section—

11 “(1) ‘Federal prison’ means any Federal correc-
12 tional, detention, or penal facility, Federal commu-
13 nity treatment center, or Federal halfway house, or
14 any such prison operated under contract with the
15 Federal Government;

16 “(2) ‘term of life imprisonment’ means a sen-
17 tence for the term of natural life, a sentence com-
18 muted to natural life, an indeterminate term of a
19 minimum of at least fifteen years and a maximum
20 of life, or an unexecuted sentence of death.”; and

21 (b) by amending the section analysis to add:

“1118. Murder by a Federal prisoner.”.

22 **SEC. 111. CONFORMING AMENDMENT RELATING TO KID-**
23 **NAPPING.**

24 Section 1201 of title 18 of the United States Code
25 is amended by inserting after the words “or for life” in

1 subsection (a) the words “and, if the death of any person
2 results, shall be punished by death or life imprisonment”.

3 **SEC. 112. CONFORMING AMENDMENT RELATING TO HOS-**
4 **TAGE TAKING.**

5 Section 1203 of title 18 of the United States Code
6 is amended by inserting after the words “or for life” in
7 subsection (a) the words “and, if the death of any person
8 results, shall be punished by death or life imprisonment”.

9 **SEC. 113. CONFORMING AMENDMENT RELATING TO MAIL-**
10 **ABILITY OF INJURIOUS ARTICLES.**

11 The last paragraph of section 1716 of title 18 of the
12 United States Code is amended by changing the comma
13 after the words “imprisonment for life” to a period and
14 deleting the remainder of the paragraph.

15 **SEC. 114. CONFORMING AMENDMENT RELATING TO PRESI-**
16 **DENTIAL ASSASSINATION.**

17 Subsection (c) of section 1751 of title 18 of the Unit-
18 ed States Code is amended to read as follows:

19 “(c) Whoever attempts to murder or kidnap any indi-
20 vidual designated in subsection (a) of this section shall be
21 punished (1) by imprisonment for any term of years or
22 for life, or (2) by death or imprisonment for any term of
23 years or for life, if the conduct constitutes an attempt to
24 murder the President of the United States and results in

1 bodily injury to the President or otherwise comes dan-
2 gerously close to causing the death of the President.”.

3 **SEC. 115. CONFORMING AMENDMENT RELATING TO MUR-**
4 **DER FOR HIRE.**

5 Subsection (a) of section 1958 of title 18 of the
6 United States Code is amended by deleting the words
7 “and if death results, shall be subject to imprisonment for
8 any term of years or for life, or shall be fined not more
9 than \$50,000, or both” and inserting in lieu thereof “and
10 if death results, shall be punished by death or life impris-
11 onment, or shall be fined in accordance with this title, or
12 both”.

13 **SEC. 116. CONFORMING AMENDMENT RELATING TO VIO-**
14 **LENT CRIMES IN AID OF RACKETEERING AC-**
15 **TIVITY.**

16 Paragraph (1) of subsection (a) of section 1959 of
17 title 18 of the United States Code is amended to read as
18 follows: “for murder, by death or life imprisonment, or a
19 fine in accordance with this title, or both; and for kidnap-
20 ping, by imprisonment for any term of years or for life,
21 or a fine in accordance with this title, or both”;

22 **SEC. 117. CONFORMING AMENDMENT RELATING TO**
23 **WRECKING TRAINS.**

24 The second to the last paragraph of section 1992 of
25 title 18 of the United States Code is amended by changing

1 the comma after the words “imprisonment for life” to a
2 period and deleting the remainder of the section.

3 **SEC. 118. CONFORMING AMENDMENT RELATING TO BANK**
4 **ROBBERY.**

5 Section 2113(e) of title 18 of the United States Code
6 is amended by striking the words “or punished by death
7 if the verdict of the jury shall so direct” and inserting
8 in lieu thereof “or if death results shall be punished by
9 death or life imprisonment”.

10 **SEC. 119. CONFORMING AMENDMENT RELATING TO TER-**
11 **RORIST ACTS.**

12 Section 2332(a)(1) of title 18 of the United States
13 Code is amended to read as follows:

14 “(1)(A) if the killing is murder as defined in
15 section 1111(a) of this title, be fined under this title,
16 punished by death or imprisonment for any term of
17 years or for life, or both;”.

18 **SEC. 120. CONFORMING AMENDMENT RELATING TO AIR-**
19 **CRAFT HIJACKING.**

20 Section 903 of the Federal Aviation Act of 1958, as
21 amended (49 U.S.C. App. 1473), is amended by striking
22 subsection (c).

1 **SEC. 121. CONFORMING AMENDMENT TO CONTROLLED**
2 **SUBSTANCES ACT.**

3 Section 408 of the Controlled Substances Act is
4 amended by striking subsections (g)–(r).

5 **SEC. 122. CONFORMING AMENDMENT RELATING TO GENO-**
6 **CIDE.**

7 Section 1091(b)(1) of title 18 of the United States
8 Code is amended by striking “a fine of not more than
9 \$1,000,000 and imprisonment for life;” and inserting in
10 lieu thereof “by death or imprisonment for life, or a fine
11 of not more than \$1,000,000, or both;

12 **SEC. 123. INAPPLICABILITY TO UNIFORM CODE OF MILI-**
13 **TARY JUSTICE.**

14 The provisions of chapter 228 of title 18 of the Unit-
15 ed States Code, as added by this Act, shall not apply to
16 prosecutions under the Uniform Code of Military Justice
17 (10 U.S.C. 801 et seq.).

18 **TITLE II—HABEAS CORPUS REFORM**

19 **Subtitle A—General Habeas Corpus Reform**

20 **SEC. 201. SHORT TITLE FOR SUBTITLE A.**

21 This subtitle may be cited as the “Habeas Corpus
22 Reform Act of 1993”.

23 **SEC. 202. PERIOD OF LIMITATION.**

24 Section 2244 of title 28, United States Code, is
25 amended by adding at the end thereof the following new
26 subsection:

1 “(d) A one-year period of limitation shall apply to an
2 application for a writ of habeas corpus by a person in cus-
3 tody pursuant to the judgment of a State court. The limi-
4 tation period shall run from the latest of the following
5 times:

6 “(1) the time at which State remedies are ex-
7 hausted;

8 “(2) the time at which the impediment to filing
9 an application created by State action in violation of
10 the Constitution or laws of the United States is re-
11 moved, where the applicant was prevented from fil-
12 ing by such State action;

13 “(3) the time at which the Federal right as-
14 serted was initially recognized by the Supreme
15 Court, where the right has been newly recognized by
16 the Court and is retroactively applicable; or

17 “(4) the time at which the factual predicate of
18 the claim or claims presented could have been dis-
19 covered through the exercise of reasonable dili-
20 gence.”.

21 **SEC. 203. APPEAL.**

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

1 **“§ 2253. Appeal**

2 “In a habeas corpus proceeding or a proceeding
3 under section 2255 of this title before a circuit or district
4 judge, the final order shall be subject to review, on appeal,
5 by the court of appeals for the circuit where the proceed-
6 ing is had.

7 “There shall be no right of appeal from such an order
8 in a proceeding to test the validity of a warrant to remove,
9 to another district or place for commitment or trial, a per-
10 son charged with a criminal offense against the United
11 States, or to test the validity of his detention pending re-
12 moval proceedings.

13 “An appeal may not be taken to the court of appeals
14 from the final order in a habeas corpus proceeding where
15 the detention complained of arises out of process issued
16 by a State court, or from the final order in a proceeding
17 under section 2255 of this title, unless a circuit justice
18 or judge issues a certificate of probable cause.”

19 **SEC. 204. AMENDMENT TO RULES OF APPELLATE PROCE-**
20 **DURE.**

21 Federal Rule of Appellate Procedure 22 is amended
22 to read as follows:

23 “RULE 22

24 “HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

25 “(a) APPLICATION FOR AN ORIGINAL WRIT OF HA-
26 BEAS CORPUS.—An application for a writ of habeas cor-

1 pus shall be made to the appropriate district court. If ap-
2 plication is made to a circuit judge, the application will
3 ordinarily be transferred to the appropriate district court.
4 If an application is made to or transferred to the district
5 court and denied, renewal of the application before a cir-
6 cuit judge is not favored; the proper remedy is by appeal
7 to the court of appeals from the order of the district court
8 denying the writ.

9 “(b) NECESSITY OF CERTIFICATE OF PROBABLE
10 CAUSE FOR APPEAL.—In a habeas corpus proceeding in
11 which the detention complained of arises out of process
12 issued by a State court, and in a motion proceeding pursu-
13 ant to section 2255 of title 28, United States Code, an
14 appeal by the applicant or movant may not proceed unless
15 a circuit judge issues a certificate of probable cause. If
16 a request for a certificate of probable cause is addressed
17 to the court of appeals, it shall be deemed addressed to
18 the judges thereof and shall be considered by a circuit
19 judge or judges as the court deems appropriate. If no ex-
20 press request for a certificate is filed, the notice of appeal
21 shall be deemed to constitute a request addressed to the
22 judges of the court of appeals. If an appeal is taken by
23 a State or the Government or its representative, a certifi-
24 cate or probable cause is not required.”.

1 **SEC. 205. SECTION 2254 AMENDMENTS.**

2 Section 2254 of title 28, United State Code, is
3 amended by redesignating subsections “(e)” and “(f)” as
4 subsections “(f)” and “(g)”, respectively, and is further
5 amended—

6 (1) by amending subsection (b) to read as fol-
7 lows:

8 “(b) An application for a writ of habeas corpus in
9 behalf of a person in custody pursuant to the judgment
10 of a State court shall not be granted unless it appears
11 that the applicant has exhausted the remedies available
12 in the courts of the State, or that there is either an ab-
13 sence of available State corrective process or the existence
14 of circumstances rendering such process ineffective to pro-
15 tect the rights of the applicant. An application may be
16 denied on the merits notwithstanding the failure of the
17 applicant to exhaust the remedies available in the courts
18 of the State.”;

19 (2) by redesignating subsection “(d)” as sub-
20 section “(e)”, and amending it to read as follows:

21 “(e) In a proceeding instituted by an application for
22 a writ of habeas corpus by a person in custody pursuant
23 to the judgment of a State court, a full and fair deter-
24 mination of a factual issue made in the case by a State
25 court shall be presumed to be correct. The applicant shall

1 have the burden of rebutting this presumption by clear
2 and convincing evidence.”;

3 (3) by adding a new subsection (d) reading as
4 follows:

5 “(d) An application for a writ of habeas corpus in
6 behalf of a person in custody pursuant to the judgment
7 of a State court shall not be granted with respect to any
8 claim that has been fully and fairly adjudicated in State
9 proceedings.”; and

10 (4) by adding a new subsection (h) reading as
11 follows:

12 “(h) In all proceedings brought under this section,
13 and any subsequent proceedings on review, appointment
14 of counsel for a petitioner who is or becomes financially
15 unable to afford counsel shall be in the discretion of the
16 court, except as provided by a rule promulgated by the
17 Supreme Court pursuant to statutory authority. Appoint-
18 ment of counsel under this section shall be governed by
19 section 3006A of title 18, United States Code.”.

20 **SEC. 206. SECTION 2255 AMENDMENTS.**

21 Section 2255 of title 28, United States Code, is
22 amended by deleting the second paragraph and the penul-
23 timate paragraph thereof, and by adding at the end there-
24 of the following new paragraphs:

1 “A two-year period of limitation shall apply to a mo-
2 tion under this section. The limitation period shall run
3 from the latest of the following times:

4 “(1) the time at which the judgment of convic-
5 tion becomes final;

6 “(2) the time at which the impediment to mak-
7 ing a motion created by governmental action in vio-
8 lation of the Constitution or laws of the United
9 States is removed, where the movant was prevented
10 from making a motion by such governmental action;

11 “(3) the time at which the right asserted was
12 initially recognized by the Supreme Court, where the
13 right has been newly recognized by the Court and is
14 retroactively applicable; or

15 “(4) the time at which the factual predicate of
16 the claim or claims presented could have been dis-
17 covered through the exercise of reasonable diligence.

18 “In all proceedings brought under this section, and
19 any subsequent proceedings on review, appointment of
20 counsel for a movant who is or becomes financially unable
21 to afford counsel shall be in the discretion of the court,
22 except as provided by a rule promulgated by the Supreme
23 Court pursuant to statutory authority. Appointment of
24 counsel under this section shall be governed by section
25 3006A of title 18, United States Code.”.

1 **Subtitle B—Death Penalty Litigation**
 2 **Procedures**

3 **SEC. 210. SHORT TITLE FOR SUBTITLE B.**

4 This subtitle may be cited as the “Death Penalty
 5 Litigation Procedures Act of 1993.”

6 **SEC. 211. DEATH PENALTY LITIGATION PROCEDURES.**

7 Title 28, United States Code, is amended by inserting
 8 the following new chapter immediately following chapter
 9 153:

10 **“CHAPTER 154—SPECIAL HABEAS CORPUS**
 11 **PROCEDURES IN CAPITAL CASES**

“Sec.

“2256. Counsel in capital cases; State court.

“2257. Mandatory stay of execution; duration; limits on stays of execution; suc-
 cessive petitions.

“2258. Filing of habeas corpus petition; time requirements; tolling rules.

“2259. Evidentiary hearings; scope of Federal review; district court adjudica-
 tion.

“2260. Certificate of probable cause inapplicable.

“2261. Application to state unitary review procedures.

“2262. Limitation periods for determining petitions.

“2263. Rule of construction.

12 **“§ 2256. Counsel in capital cases; State court**

13 “(a) A State in which capital punishment may be im-
 14 posed shall provide legal services to—

15 “(1) indigents charged with offenses for which
 16 capital punishment is sought;

17 “(2) indigents who have been sentenced to
 18 death and who seek appellate, collateral, or unitary
 19 review in State court; and

1 “(3) indigents who have been sentenced to
2 death and who seek certiorari review of State court
3 judgments in the United States Supreme Court.

4 “(b) The State shall establish an appointing author-
5 ity, which shall be—

6 “(1) a statewide defender organization;

7 “(2) a resource center; or

8 “(3) a committee appointed by the highest
9 State court, comprised of members of the bar with
10 substantial experience in, or commitment to, crimi-
11 nal justice.

12 “(c) The appointing authority shall—

13 “(1) publish a roster of attorneys qualified to
14 be appointed in capital cases, procedures by which
15 attorneys are appointed, and standards governing
16 qualifications and performance of counsel, which
17 shall include—

18 “(A) knowledge and understanding of per-
19 tinent legal authorities regarding issues in cap-
20 ital cases;

21 “(B) skills in the conduct of negotiations
22 and litigation in capital cases, the investigation
23 of capital cases and the psychiatric history and
24 current condition of capital clients, and the

1 preparation and writing of legal papers in cap-
2 ital cases;

3 “(C) in the case of counsel appointed for
4 the trial or sentencing stages, 5 years of experi-
5 ence in the representation of criminal clients in
6 felony cases and experience in at least one case
7 in which the death penalty was sought; and

8 “(D) in the case of counsel appointed for
9 the appellate, postconviction, or unitary review
10 stages, 5 years of experience in the representa-
11 tion of criminal clients in felony cases at the
12 appellate, postconviction, unitary review, or cer-
13 tiorari stages and experience in at least one
14 case in which the client had been sentenced to
15 death;

16 “(2) monitor the performance of attorneys ap-
17 pointed and delete from the roster any attorney who
18 fails to meet qualification and performance stand-
19 ards; and

20 “(3) appoint a defense team, which shall in-
21 clude at least 2 attorneys, to represent a client at
22 the relevant stage of proceedings, promptly upon re-
23 ceiving notice of the need for the appointment from
24 the relevant State court.

1 “(d) An attorney who is not listed on the roster shall
2 be appointed only on the request of the client concerned
3 and in circumstances in which the attorney requested is
4 able to provide the client with quality legal representation.

5 “(e) No counsel appointed pursuant to this section
6 to represent a prisoner in State postconviction proceedings
7 shall have previously represented the prisoner at trial or
8 on direct appeal in the case of which the appointment is
9 made, unless the prisoner and counsel expressly request
10 continued representation.

11 “(f) The ineffectiveness or incompetence of counsel
12 appointed pursuant to this section during State or Federal
13 postconviction proceedings shall not be a ground for relief
14 in a proceeding arising under section 2254 of this title.
15 The limitation shall not preclude the appointment of dif-
16 ferent counsel at any phase of State or Federal
17 postconviction proceedings.

18 “(g) Upon receipt of notice from the appointing au-
19 thority that an individual entitled to the appointment of
20 counsel under this section has declined to accept such an
21 appointment, the court requesting the appointment shall
22 conduct, or cause to be conducted, a hearing, at which
23 the individual and counsel proposed to be appointed under
24 this section shall be present, to determine the individual’s

1 competency to decline the appointment, and whether the
2 individual has knowingly and intelligently declined it.

3 “(h) Attorneys appointed from the private bar shall
4 be compensated on an hourly basis and at a reasonable
5 rate in light of the attorney’s qualifications and experience
6 and the local market for legal representation in cases re-
7 flecting the complexity and responsibility of capital cases
8 and shall be reimbursed for expenses reasonably incurred
9 in representing the client, including the costs of law clerks,
10 paralegals, investigators, experts, or other support
11 services.

12 “(i) Support services for staff attorneys of a defender
13 organization or resource center shall be equal to the serv-
14 ices listed in subsection (h).

15 “(j) If a State fails to provide counsel in a proceeding
16 specified in subsection (a), or counsel appointed for such
17 a proceeding fails substantially to meet the qualification
18 standards specified in subsections (c)(1) or (d), or the per-
19 formance standards established by the appointing author-
20 ity, the court, in an action under this chapter, shall neither
21 presume findings of fact made in such proceeding to be
22 correct nor decline to consider a claim on the ground that
23 it was not raised in such proceeding at the time or in the
24 manner prescribed by State law.

1 **“§ 2257. Mandatory stay of execution; duration; limits**
2 **on stays of execution; successive peti-**
3 **tions**

4 “(a) Upon the entry in the appropriate State court
5 of record of an order under section 2256(c), a warrant
6 or order setting an execution date for a State prisoner
7 shall be stayed upon application to any court that would
8 have jurisdiction over any proceedings filed under section
9 2254. The application must recite that the State has in-
10 voked the postconviction review procedures of this chapter
11 and that the scheduled execution is subject to stay.

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

14 “(1) a State prisoner fails to file a habeas cor-
15 pus petition under section 2254 within the time re-
16 quired in section 2258, or fails to make a timely ap-
17 plication for court of appeals review following the de-
18 nial of such a petition by a district court; or

19 “(2) upon completion of district court and court
20 of appeals review under section 2254 the petition for
21 relief is denied and (A) the time for filing a petition
22 for certiorari has expired and no petition has been
23 filed; (B) a timely petition for certiorari was filed
24 and the Supreme Court denied the petition; or (C)
25 a timely petition for certiorari was filed and upon
26 consideration of the case, the Supreme Court dis-

1 posed of it in a manner that left the capital sentence
2 undisturbed; or

3 “(3) before a court of competent jurisdiction, in
4 the presence of counsel and after having been ad-
5 vised of the consequences of his decision, a State
6 prisoner under capital sentence waives the right to
7 pursue habeas corpus review under section 2254.

8 “(c) If one of the conditions in subsection (b) has
9 occurred, no Federal court thereafter shall have the au-
10 thority to enter a stay of execution or grant relief in a
11 capital case unless:

12 “(1) the basis for the stay and request for relief
13 is a claim not previously presented in the State or
14 Federal courts;

15 “(2) the failure to raise the claim is (A) the re-
16 sult of State action in violation of the Constitution
17 or laws of the United States; (B) the result of the
18 Supreme Court recognition of a new Federal right
19 that is retroactively applicable; or (C) based on a
20 factual predicate that could not have been discovered
21 through the exercise of reasonable diligence in time
22 to present the claim for State or Federal
23 postconviction review; and

24 “(3) the facts underlying the claim would be
25 sufficient, if proven, to undermine the court’s con-

1 the State, but the time requirements established by
2 this section are not tolled during the pendency of a
3 petition for certiorari before the Supreme Court ex-
4 cept as provided in paragraph (1); and

5 “(3) during an additional period not to exceed
6 sixty days, if (A) a motion for an extension of time
7 is filed in the Federal district court that would have
8 proper jurisdiction over the case upon the filing of
9 a habeas corpus petition under section 2254; and
10 (B) a showing of good cause is made for the failure
11 to file the habeas corpus petition within the time
12 period established by this section.

13 **“§ 2259. Evidentiary hearings; scope of Federal re-**
14 **view; district court adjudication**

15 “(a) Whenever a State prisoner under a capital sen-
16 tence files a petition for habeas corpus relief to which this
17 chapter applies, the district court shall:

18 “(1) determine the sufficiency of the record for
19 habeas corpus review based on the claims actually
20 presented and litigated in the State courts except
21 when the prisoner can show that the failure to raise
22 or develop a claim in the State courts is (A) the re-
23 sult of State action in violation of the Constitution
24 or laws of the United States; (B) the result of the
25 Supreme Court recognition of a new Federal right

1 that is retroactively applicable; or (C) based on a
2 factual predicate that could not have been discovered
3 through the exercise of reasonable diligence in time
4 to present the claim for State postconviction review;
5 and

6 “(2) conduct any requested evidentiary hearing
7 necessary to complete the record for habeas corpus
8 review.

9 “(b) Upon the development of a complete evidentiary
10 record, the district court shall rule on the claims that are
11 properly before it, but the court shall not grant relief from
12 a judgment of conviction or sentence on the basis of any
13 claim that was fully and fairly adjudicated in State
14 proceedings.

15 **“§ 2260. Certificate of probable cause inapplicable**

16 “The requirement of a certificate of probable cause
17 in order to appeal from the district court to the court of
18 appeals does not apply to habeas corpus cases subject to
19 the provisions of this chapter except when a second or suc-
20 cessive petition is filed.

21 **“§ 2261. Application to state unitary review proce-
22 dure**

23 “(a) For purposes of this section, a “unitary review”
24 procedure means a State procedure that authorizes a per-
25 son under sentence of death to raise, in the course of di-

1 rect review of the judgment, such claims as could be raised
2 on collateral attack. The provisions of this chapter shall
3 apply, as provided in this section, in relation to a State
4 unitary review procedure if the State establishes by rule
5 of its court of last resort or by statute a mechanism for
6 the appointment, compensation and payment of reasonable
7 litigation expenses of competent counsel in the unitary re-
8 view proceedings, including expenses relating to the litiga-
9 tion of collateral claims in the proceedings. The rule of
10 court or statute must provide standards of competency for
11 the appointment of such counsel.

12 “(b) A unitary review procedure, to qualify under this
13 section, must include an offer of counsel following trial
14 for the purpose of representation on unitary review, and
15 the appointment of counsel under section 2256(c), or waiv-
16 er or denial of appointment of counsel for that purpose.
17 No counsel appointed to represent the prisoner in the uni-
18 tary review proceedings shall have previously represented
19 the prisoner at trial in the case for which the appointment
20 is made unless the prisoner and counsel expressly request
21 continued representation.

22 “(c) The provision of sections 2257, 2258, 2259,
23 2260, and 2262 shall apply in relation to cases involving
24 a sentence of death from any State having a unitary re-
25 view procedure that qualifies under this section. Ref-

1 references to State ‘post-conviction review’ and ‘direct review’
2 in those sections shall be understood as referring to uni-
3 tary review under the State procedure. The references in
4 sections 2257(a) and 2258 to ‘an order under section
5 2256(c)’ shall be understood as referring to the post-trial
6 order under subsection (b) concerning representation in
7 the unitary review proceedings, but if a transcript of the
8 trial proceedings is unavailable at the time of the filing
9 of such an order in the appropriate State court, then the
10 start of the one hundred and eighty day limitation period
11 under section 2258 shall be deferred until a transcript is
12 made available to the prisoner or his counsel.

13 **“§ 2262. Limitation periods for determining petitions**

14 “(a) The adjudication of any petition under section
15 2254 of title 28, United States Code, that is subject to
16 this chapter, and the adjudication of any motion under
17 section 2255 of title 28, United States Code, by a person
18 under sentence of death, shall be given priority by the dis-
19 trict court and by the court of appeals over all noncapital
20 matters. The adjudication of such a petition or motion
21 shall be subject to the following time limitations:

22 “(1) The district court shall determine such a
23 petition or motion within one hundred and eighty
24 days of the filing of the petition or motion.

1 “(2) The court of appeals shall determine an
2 appeal relating to such a petition or motion within
3 one hundred and eighty days of the filing of the
4 record in the court of appeals. If the court of ap-
5 peals grants en banc consideration, the en banc
6 court shall determine the appeal within one hundred
7 and eighty days of the decision to grant such consid-
8 eration.

9 “(b) The time limitations under subsection (a) shall
10 apply to an initial petition or motion, and to any second
11 or successive petition or motion. The same limitations
12 shall also apply to the re-determination of a petition or
13 motion or related appeal following a remand by the court
14 of appeals or the Supreme Court for further proceedings,
15 and in such a case the limitation period shall run from
16 the date of the remand.

17 “(c) The time limitations under this section shall not
18 be construed to entitle a petitioner or movant to a stay
19 of execution, to which the petitioner or movant would oth-
20 erwise not be entitled, for the purpose of litigating any
21 petition, motion, or appeal.

22 “(d) the failure of a court to meet or comply with
23 the time limitations under this section shall not be a
24 ground for granting relief from a judgment of conviction
25 or sentence. The State or Government may enforce the

1 time limitations under this section by applying to the court
2 of appeals or the Supreme Court for a writ of mandamus.

3 **“§ 2263. Rule of construction**

4 “This chapter shall be construed to promote the expeditions
5 ditious conduct and conclusion of State and Federal court
6 review in capital cases.”.

7 **TITLE III—EXCLUSIONARY RULE**

8 **SEC. 301. CODIFICATION OF EXCEPTIONS TO EXCLUSION-**
9 **ARY RULE.**

10 The Constitution of the United States does not re-
11 quire the exclusion from a criminal trial of evidence—

12 (1) obtained in reasonable reliance on a search
13 warrant issued by a detached and neutral magistrate
14 who is not misled, even though the warrant is ultimately
15 determined to be invalid;

16 (2) the legal discovery of which was inevitable,
17 even though the evidence was in fact discovered
18 through constitutionally invalid means; or

19 (3) for which a source exists that is independent
20 of the source through which the evidence was in
21 fact discovered through constitutionally invalid
22 means.

TITLE IV—FIREARMS**Subtitle A—Firearms and Related
Amendments****SEC. 401. ENHANCED PENALTY FOR USE OF SEMIAUTO-
MATIC FIREARM DURING A CRIME OF VIO-
LENCE OR DRUG TRAFFICKING CRIME.**

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended by inserting “, or semiautomatic firearm,” after “short-barreled shotgun”.

(b) SEMIAUTOMATIC FIREARM DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

“(29) The term ‘semiautomatic firearm’ means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.”.

**SEC. 402. POSSESSION OF A FIREARM OR AN EXPLOSIVE
DURING CERTAIN FELONIES.**

(a) FIREARM.—Section 924(c) of title 18, United States Code, is amended—

(1) by striking “uses or carries” and inserting “possesses”; and

1 (2) by striking “used or carried” and inserting
2 “possessed”.

3 (b) EXPLOSIVE.—Section 844(h) of such title is
4 amended—

5 (1) by striking “carries” and inserting “pos-
6 sesses”; and

7 (2) by striking “used or carried” and inserting
8 “possessed”.

9 **SEC. 403. INCREASED PENALTY FOR SECOND OFFENSE OF**
10 **POSSESSING AN EXPLOSIVE DURING CER-**
11 **TAIN FELONIES.**

12 Section 844(h) of title 18, United States Code, is
13 amended by striking “ten” and inserting “twenty”.

14 **SEC. 404. CLARIFICATION OF DEFINITION OF CONVICTION.**

15 Section 921(a)(20) of title 18, United States Code,
16 is amended by adding at the end the following:

17 “The immediately preceding sentence shall not apply
18 to a conviction for a violent felony (as defined in section
19 924(e)(2)(B)) involving the threatened or actual use of a
20 firearm or explosive, or for a serious drug offense (as de-
21 fined in section 924(e)(2)(A)).”.

1 **SEC. 405. AUTHORITY TO CONSIDER PRETRIAL DETENTION**
2 **FOR CERTAIN FIREARMS AND EXPLOSIVES**
3 **OFFENSES.**

4 Section 3142(f)(1) of title 18, United States Code,
5 is amended—

6 (1) by striking “or” at the end of subparagraph
7 (C); and

8 (2) by redesignating subparagraph (D) as sub-
9 paragraph (E); and

10 (3) by inserting after subparagraph (C) the fol-
11 lowing:

12 “(D) an offense under section 844(a) of
13 this title that is a violation of subsection (d),
14 (h), or (i) of section 842 of this title, or an of-
15 fense under section 924(a) of this title that is
16 a violation of subsection (d), (g), (h), (i), (j), or
17 (o) of section 922 of this title, or an offense
18 under section 844(d), or subsection (b), (g),
19 (h), or (i) of section 922, of this title; or”.

20 **SEC. 406. SMUGGLING FIREARMS IN AID OF DRUG TRAF-**
21 **FICKING.**

22 Section 924 of title 18, United States Code, is
23 amended by adding at the end the following:

24 “(i) Whoever, with the intent to engage in or to pro-
25 mote conduct which—

1 “(1) is punishable under the Controlled Sub-
2 stances Act (21 U.S.C. 801 et seq.), the Controlled
3 Substances Import and Export Act (21 U.S.C. 951
4 et seq.), or the Maritime Drug Law Enforcement
5 Act (46 U.S.C. App. 1901 et seq.);

6 “(2) violates any law of a State relating to any
7 controlled substance (as defined in section 102 of
8 the Controlled Substances Act, 21 U.S.C. 802); or

9 “(3) constitutes a crime of violence (as defined
10 in subsection (c)(3);

11 smuggles or knowingly brings into the United States a
12 firearm, or attempts to do so, shall be imprisoned for not
13 more than ten years, fined under this title, or both.”.

14 **SEC. 407. THEFT OF FIREARMS AND EXPLOSIVES.**

15 (a) FIREARMS.—Section 924 of title 18, United
16 States Code, as amended by section 406 of this Act, is
17 amended by adding at the end the following:

18 “(j) Whoever steals any firearm which is moving as,
19 or is a part of, or which has moved in, interstate or foreign
20 commerce shall be imprisoned for not less than two or
21 more than ten years, and may be fined under this title.”.

22 (b) EXPLOSIVES.—Section 844 of such title is
23 amended by adding at the end the following:

24 “(k) Whoever steals any explosive materials which are
25 moving as, or are a part of, or which have moved in, inter-

1 state or foreign commerce shall be imprisoned for not less
2 than two or more than ten years, and may be fined under
3 this title.”.

4 **SEC. 408. MANDATORY REVOCATION OF SUPERVISED RE-**
5 **LEASE FOR POSSESSION OF A FIREARM.**

6 Section 3583 of title 18, United States Code is
7 amended by adding at the end the following:

8 “(h) MANDATORY REVOCATION FOR POSSESSION OF
9 A FIREARM.—If the court has provided, as a condition of
10 supervised release, that the defendant refrain from pos-
11 sessed a firearm, and if the defendant is in possession
12 of a firearm (as defined in section 921) at any time before
13 the expiration or termination of the term of supervised re-
14 lease, the court shall, after a hearing pursuant to the pro-
15 visions of the Federal Rules of Criminal Procedure that
16 are applicable to probation revocation, revoke the term of
17 supervised release and, subject to subsection (e)(3) of this
18 section, require the defendant to serve in prison all or part
19 of the term of supervised release without credit for time
20 previously served on postrelease supervision.”.

1 **SEC. 409. INCREASED PENALTY FOR KNOWINGLY FALSE,**
2 **MATERIAL STATEMENT IN CONNECTION**
3 **WITH THE ACQUISITION OF A FIREARM FROM**
4 **A LICENSED DEALER.**

5 Section 924(a) of title 18, United States Code, is
6 amended—

7 (1) in paragraph (1)(B), by striking “(a)(6),”;

8 and

9 (2) in paragraph (2), by inserting “(a)(6),”
10 after “subsection”.

11 **SEC. 410. STATUTE OF LIMITATIONS FOR CERTAIN GANG-**
12 **STER WEAPON OFFENSES.**

13 Section 6531 of the Internal Revenue Code of 1986
14 (relating to periods of limitation of criminal prosecutions)
15 is amended by striking “except that the period of limita-
16 tion shall be 6 years” and inserting “except that the pe-
17 riod of limitation shall be 5 years for offenses described
18 in section 5861 (relating to firearms) and the period of
19 limitation shall be 6 years”.

20 **SEC. 411. POSSESSION OF EXPLOSIVES BY FELONS AND**
21 **OTHERS.**

22 Section 842(i) of title 18, United States Code, is
23 amended by inserting “or possess” after “to receive”.

1 **SEC. 412. SUMMARY DESTRUCTION OF EXPLOSIVES SUB-**
2 **JECT TO FORFEITURE.**

3 Section 844(c) of title 18, United States Code, is
4 amended—

5 (1) by inserting “(1)” after “(c)”; and

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

7 “(2) Notwithstanding paragraph (1), in the case of
8 the seizure of any explosive materials for any offense for
9 which the materials would be subject to forfeiture in which
10 it is impracticable or unsafe to remove the materials to
11 a place of storage, or unsafe to store the materials, the
12 seizing officer may destroy the materials forthwith. Any
13 destruction under this paragraph shall be in the presence
14 of at least one credible witness. The seizing officer shall
15 make a report of the seizure and take samples as the Sec-
16 retary may by regulation prescribe.

17 “(3) Within sixty days after any destruction pursuant
18 to paragraph (2), the owner of, including any person hav-
19 ing an interest in, the property so destroyed may make
20 application to the Secretary for reimbursement of the
21 value of the property. If the claimant establishes to the
22 satisfaction of the Secretary that—

23 “(A) the property has not been used or involved
24 in a violation of law; or

1 “(B) any unlawful involvement or use of the
2 property was without the claimant’s knowledge, con-
3 sent, or willful blindness,
4 the Secretary shall make an allowance to the claimant not
5 exceeding the value of the property destroyed.”.

6 **SEC. 413. SUMMARY FORFEITURE OF UNREGISTERED NA-**
7 **TIONAL FIREARMS ACT WEAPONS.**

8 Subsection (a) of section 5872 of the Internal Reve-
9 nue Code of 1986 is amended—

10 (1) by striking “(a) LAWS APPLICABLE.—Any
11 firearm” and inserting the following:

12 “(a) LAWS APPLICABLE.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), any firearm”,

15 (2) by moving the text thereof 2 ems to the
16 right, and

17 (3) by adding at the end thereof the following
18 new paragraphs:

19 “(2) UNREGISTERED NATIONAL FIREARMS ACT
20 WEAPONS.—Sections 7323 and 7325 shall not apply
21 to any firearm which is not registered in the Na-
22 tional Firearms Registration and Transfer Record
23 pursuant to section 5841. Except as provided in
24 paragraph (3), no property rights shall exist in any

1 such unregistered firearm and it shall be summarily
2 forfeited to the United States.

3 “(3) RIGHTS OF INNOCENT OWNERS.—The Sec-
4 retary may reimburse any person holding an interest
5 in a firearm summarily forfeited under paragraph
6 (2) for the value of such interest if—

7 “(A) such person files a claim for reim-
8 bursement within 1 year after the date of such
9 summary forfeiture, and

10 “(B) such person establishes to the satis-
11 faction of the Secretary that—

12 “(i) such firearm has not been in-
13 volved or used in a violation of law, or

14 “(ii) any unlawful involvement or use
15 of such firearm had been without the
16 claimant’s consent, knowledge, or willful
17 blindness.”

18 **SEC. 414. DISPOSITION OF FORFEITED FIREARMS.**

19 Section 5872(b) of the Internal Revenue Code of
20 1986 is amended to read as follows:

21 “(b) DISPOSAL.—If any firearm is forfeited and there
22 is no remission or mitigation of forfeiture thereof—

23 “(1) the Secretary may—

24 “(A) retain the firearm for the official use
25 of the Department of the Treasury,

1 “(B) transfer the firearm without charge
2 to any other executive department or independ-
3 ent establishment of the United States for its
4 official use, or

5 “(C) sell the firearm to any State, any pos-
6 session of the United States, or any political
7 subdivision of the foregoing for its official use,

8 “(2) in the case of a firearm which is not a ma-
9 chine gun and is not a firearm forfeited for a viola-
10 tion of this chapter, the Secretary may sell such fire-
11 arm, after public notice, at public sale to a dealer
12 licensed under chapter 44 of title 18, United States
13 Code if, in the opinion of the Secretary—

14 “(A) such firearm is not so defective that
15 its disposition pursuant to this paragraph would
16 create an unreasonable risk of a malfunction
17 likely to result in death or bodily injury, and

18 “(B) such firearm derives a substantial
19 part of its monetary value because it is novel or
20 rare or because it is associated with some his-
21 torical figure, period, or event, and

22 “(3) the Secretary may transfer the firearm to
23 the Administrator of General Services, General Serv-
24 ices Administration, who shall destroy or provide for
25 the destruction of such firearm.

1 No decision or action of the Secretary pursuant to this
2 subsection shall be subject to judicial review.”.

3 **SEC. 415. ELIMINATION OF OUTMODED LANGUAGE RELAT-**
4 **ING TO PAROLE.**

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

7 (1) in subsection (c)(1), by striking “No person
8 sentenced under this subsection shall be eligible for
9 parole during the term of imprisonment imposed
10 herein.”; and

11 (2) in subsection (e)(1), by striking “, and such
12 person shall not be eligible for parole with respect to
13 the sentence imposed under this subsection”.

14 **SEC. 416. POSSESSION OF STOLEN FIREARMS.**

15 Section 922(j) of title 18, United States Code, is
16 amended by inserting “possess,” before “receive,”.

17 **SEC. 417. ENHANCED PENALTIES FOR USE OF A FIREARM**
18 **DURING COUNTERFEITING OR FORGERY.**

19 Section 924(c)(1) of title 18, United States Code, is
20 amended by inserting “or during and in relation to any
21 felony punishable under chapter 25 (relating to counter-
22 feiting and forgery),” after “United States,”.

1 **SEC. 418. MANDATORY PENALTY FOR FIREARMS POSSES-**
2 **SION BY VIOLENT FELONS AND SERIOUS**
3 **DRUG OFFENDERS.**

4 Section 924(a)(2) of title 18, United States Code, is
5 amended by inserting “, and if the violation is of section
6 922(g)(1) by a person who has a previous conviction for
7 a violent felony (as defined in subsection (e)(2)(B) of this
8 section) or a serious drug offense (as defined in subsection
9 (e)(2)(A) of this section), a sentence imposed under this
10 paragraph shall include a term of imprisonment of not less
11 than five years” before the period.

12 **SEC. 419. REPORTING OF MULTIPLE FIREARMS SALES.**

13 Section 923(g)(3) of title 18, United States Code, is
14 amended—

15 (1) by striking “five” and inserting “thirty”;

16 and

17 (2) by adding at the end the following: “Each
18 licensee shall forward a copy of the report to the
19 chief law enforcement officer of the place of resi-
20 dence of the unlicensed person not later than the
21 close of business on the date that the multiple sale
22 or disposition occurs.”.

1 **SEC. 420. POSSESSION OF STOLEN FIREARMS AND EXPLO-**
2 **SIVES.**

3 (a) FIREARMS.—Section 922(j) of title 18, United
4 States Code, is amended by inserting “possess,” before
5 “conceal”.

6 (b) EXPLOSIVES.—Section 842(h) of title 18, United
7 States Code, is amended by inserting “possess,” before
8 “conceal”.

9 **SEC. 421. RECEIPT OF FIREARMS BY NONRESIDENT.**

10 Section 922(a) of title 18, United States Code, is
11 amended—

12 (1) in paragraph (7), by striking “and” at the
13 end;

14 (2) in paragraph (8), by striking the period at
15 the end and inserting “; and”; and

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

17 “(9) for any person (other than a person li-
18 censed under section 923) who does not reside in
19 any State to receive a firearm.”.

20 **SEC. 422. FIREARMS AND EXPLOSIVES CONSPIRACY.**

21 (a) FIREARMS.—Section 924 of title 18, United
22 States Code, as amended by sections 406 and 407(a) of
23 this Act, is amended by adding at the end the following:

24 “(j) Whoever conspires to commit any offense under
25 this chapter shall be subject to the same penalties as those

1 prescribed for the offense the commission of which was
2 the object of the conspiracy.”.

3 (b) EXPLOSIVES.—Section 844 of such title, as
4 amended by section 407(b) of this Act, is amended by add-
5 ing at the end the following:

6 “(l) Whoever conspires to commit any offense under
7 this chapter shall be subject to the same penalties as those
8 prescribed for the offense the commission of which was
9 the object of the conspiracy.”.

10 **SEC. 423. THEFT OF FIREARMS OR EXPLOSIVES FROM LI-**
11 **CENSEE.**

12 (a) FIREARMS.—Section 924 of title 18, United
13 States Code, as amended by sections 406, 407(a), and
14 422(a) of this Act, is amended by adding at the end the
15 following:

16 “(k) Whoever steals any firearm from a person li-
17 censed under section 923 shall be fined in accordance with
18 this title, imprisoned not more than ten years, or both.”.

19 (b) EXPLOSIVES.—Section 844 of title 18, United
20 States Code, as amended by sections 407(b) and 422(b)
21 of this Act, is amended by adding at the end the following:

22 “(m) Whoever steals any explosive material from a
23 licensed importer, licensed manufacturer or licensed deal-
24 er, or from any permittee, shall be fined in accordance

1 with this title, imprisoned not more than ten years, or
2 both.”.

3 **SEC. 424. DISPOSITION OF EXPLOSIVES TO PROHIBITED**
4 **PERSONS.**

5 Section 842(d) of title 18, United States Code, is
6 amended by striking “licensee” and inserting “person”.

7 **Subtitle B—Prohibited Gun Clips and**
8 **Magazines**

9 **SEC. 431. FINDINGS.**

10 The Congress finds that—

11 (1) offenses involving firearms equipped with
12 magazines, belts, drums, feed strips, and other simi-
13 lar devices that enable such firearms to fire more
14 than fifteen rounds without reloading, and particu-
15 larly drug offenses, with their attendant loss of life
16 and the generation of illegal profits, affect interstate
17 and foreign commerce; and

18 (2) such devices are themselves sold in inter-
19 state and foreign commerce, and are moved in com-
20 merce for the purpose of use in violent crimes.

21 **SEC. 432. CERTAIN AMMUNITION CLIPS AND MAGAZINES**
22 **DEFINED AS FIREARMS.**

23 Section 921(a)(3) of title 18, United States Code, is
24 amended in the 1st sentence—

1 (1) by striking “or (D)” and inserting “(D)”;

2 and

3 (2) by inserting “; or (E) any ammunition feed-
4 ing device” before the period.

5 **SEC. 433. DEFINITION OF AMMUNITION FEEDING DEVICE.**

6 Section 921(a) of title 18, United States Code, as
7 amended by section 401(b) of this Act, is amended by add-
8 ing at the end the following:

9 “(30) The term ‘ammunition feeding device’
10 means a detachable magazine, belt, drum, feed strip,
11 or similar device which has a capacity of, or which
12 can be readily restored or converted to accept, more
13 than 15 rounds of ammunition. The term also in-
14 cludes any combination of parts from which such de-
15 vice can be assembled.”.

16 **SEC. 434. PROHIBITIONS APPLICABLE TO AMMUNITION**
17 **FEEDING DEVICES.**

18 Section 922 of title 18, United States Code, is
19 amended by adding at the end the following:

20 “(t)(1) It shall be unlawful for any person to transfer
21 or possess an ammunition feeding device.

22 “(2) Paragraph (1) shall not apply to—

23 “(A) any importation or manufacture of an am-
24 munition feeding device for sale or distribution, by
25 a licensed importer or licensed manufacturer, to the

1 United States or any department or agency thereof
2 or to any State or any department, agency, or politi-
3 cal subdivision thereof;

4 “(B) any transfer or possession (in accordance
5 with subsections (u) and (v)) of such a device that
6 was lawfully possessed before the date of the enact-
7 ment of this subsection; or

8 “(C) any manufacture of an ammunition feed-
9 ing device for the purpose of exportation.

10 “(u) The Secretary shall maintain a central registry
11 of all ammunition feeding devices transferred after the
12 date of the enactment of this subsection which, after such
13 transfer, are not in the possession or under the control
14 of the United States or any department or agency thereof,
15 or any State or any department, agency, or political sub-
16 division thereof. This registry shall be known as the Na-
17 tional Ammunition Feeding Device Registry. The registry
18 shall include—

19 “(1) identification of the device;

20 “(2) date of registration;

21 “(3) identification and address of the person
22 entitled to possess the device; and

23 “(4) such other information as may be required
24 by regulations promulgated by the Secretary.

1 “(v) Each transferor of an ammunition feeding device
2 that was lawfully possessed before the date of the enact-
3 ment of this subsection shall (except in the case of a trans-
4 fer to the United States, or any department or agency
5 thereof or any State or any department, agency, or politi-
6 cal subdivision thereof) register the device to the transferee
7 in accordance with regulations promulgated by the Sec-
8 retary. Any information or evidence required to be pro-
9 vided in the course of such registration by a natural per-
10 son shall be subject to the use-restriction provisions of sec-
11 tion 5848 of the Internal Revenue Code of 1986. The
12 transferor shall, contemporaneously with the registration
13 of the device, pay a fee of \$25 to the Secretary. A trans-
14 feree of an ammunition feeding device required to be reg-
15 istered pursuant to this subsection shall retain proof of
16 such registration which shall be made available to the Sec-
17 retary upon request.”.

18 **SEC. 435. IDENTIFICATION MARKINGS FOR AMMUNITION**

19 **FEEDING DEVICES.**

20 Section 923(i) of title 18, United States Code, is
21 amended by adding at the end the following: “An ammuni-
22 tion feeding device shall be identified by a serial number
23 and such other identification as the Secretary may by reg-
24 ulations prescribe.”.

1 **SEC. 436. CRIMINAL PENALTIES.**

2 Section 924(a)(2) of title 18, United States Code, is
3 amended by striking “or (o)” and inserting “(o), or (t)”.

4 **SEC. 437. NONINTERRUPTION OF BUSINESS FOR PERSONS**
5 **IN THE BUSINESS OF IMPORTING OR MANU-**
6 **FACTURING AMMUNITION FEEDING DEVICES.**

7 Any person who, as of the date of the enactment of
8 this Act, is engaged in the business of manufacturing or
9 importing ammunition feeding devices (as defined in sec-
10 tion 921(a)(30) of title 18, United States Code), who (but
11 for this section) would be prohibited from continuing such
12 business without becoming a licensed manufacturer or li-
13 censed importer, as the case may be, under chapter 44
14 of such title, and who, within 30 days after such date,
15 applies for such a license, may continue to engage in such
16 business pending final action on the application. Chapter
17 44 of title 18, United States Code, shall apply to any such
18 applicant, during the pendency of the application, in the
19 same manner and to the same extent as if the applicant
20 were a holder of a license under chapter 44.

21 **TITLE V—OBSTRUCTION OF JUSTICE**

22 **SEC. 501. PROTECTION OF COURT OFFICERS AND JURORS.**

23 Section 1503 of title 18, United States Code, is
24 amended—

25 (1) by designating the current text as sub-
26 section (a);

1 (2) by striking “fined not more than \$5,000 or
2 imprisoned not more than five years, or both.” and
3 inserting “punished as provided in subsection (b).”;

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

5 “(b) The punishment for an offense under this sec-
6 tion is—

7 “(1) in the case of a killing, the punishment
8 provided in sections 1111 and 1112 of this title;

9 “(2) in the case of an attempted killing, or a
10 case in which the offense was committed against a
11 petit juror and in which a class A or B felony was
12 charged, imprisonment for not more than twenty
13 years; and

14 “(3) in any other case, imprisonment for not
15 more than ten years.”; and

16 “(4) in subsection (a), as designated by this
17 section, by striking “commissioner” each place it ap-
18 pears and inserting thereof “magistrate judge”.

19 **SEC. 502. PROHIBITION OF RETALIATORY KILLINGS OF**
20 **WITNESSES, VICTIMS AND INFORMANTS.**

21 Section 1513 of title 18, United States Code, is
22 amended—

23 (1) by redesignating subsections (a) and (b) as
24 subsections (b) and (c), respectively; and

25 (2) by inserting a new subsection (a) as follows:

1 “(a)(1) Whoever kills or attempts to kill another per-
2 son with intent to retaliate against any person for—

3 “(A) the attendance of a witness or party at an
4 official proceeding, or any testimony given or any
5 record, document, or other object produced by a wit-
6 ness in an official proceeding; or

7 “(B) any information relating to the commis-
8 sion or possible commission of a Federal offense or
9 a violation of conditions of probation, parole or re-
10 lease pending judicial proceedings given by a person
11 to a law enforcement officer; shall be punished as
12 provided in paragraph (2).

13 “(2) The punishment for an offense under this sub-
14 section is—

15 “(A) in the case of a killing, the punishment
16 provided in sections 1111 and 1112 of this title; and

17 “(B) in the case of an attempt, imprisonment
18 for not more than twenty years.”.

19 **SEC. 503. PROTECTION OF STATE OR LOCAL LAW ENFORCE-**
20 **MENT OFFICERS PROVIDING ASSISTANCE TO**
21 **FEDERAL LAW ENFORCEMENT OFFICERS.**

22 Section 1114 of title 18, United States Code, is
23 amended by inserting “, or any State or local law enforce-
24 ment officer while assisting, or on account of his or her
25 assistance of, any Federal officer or employee covered by

1 this section in the performance of duties,” before “shall
2 be punished”.

3 **TITLE VI—GANGS AND JUVENILE**
4 **OFFENDERS**

5 **SEC. 601. AMENDMENTS CONCERNING RECORDS OF**
6 **CRIMES COMMITTED BY JUVENILES.**

7 (a) Section 5038 of title 18, United States Code, is
8 amended—

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

10 (2) redesignating subsection (e) as subsection
11 (d), and

12 (3) adding at the end the following:

13 “(e) Whenever a juvenile has been found guilty of
14 committing an act which if committed by an adult would
15 be an offense described in clause (3) of the first paragraph
16 of section 5032 of this title, the juvenile shall be
17 fingerprinted and photographed, and the fingerprints and
18 photograph shall be sent to the Federal Bureau of Inves-
19 tigation, Identification Division. The court shall also
20 transmit to the Federal Bureau of Investigation, Identi-
21 fication Division, the information concerning the adjudica-
22 tion, including name, date of adjudication, court, offenses,
23 and sentence, along with the notation that the matter was
24 a juvenile adjudication. The fingerprints, photograph, and
25 other records and information relating to a juvenile de-

1 scribed in this subsection, or to a juvenile who is pros-
2 ecuted as an adult, shall be made available in the manner
3 applicable to adult defendants.

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

14 (b) Section 3607 of title 18, United States Code, is
15 repealed, and the corresponding reference in the table of
16 sections at the beginning of chapter 229 of title 18 is
17 deleted.

18 (c) Section 401(b)(4) of the Controlled Substances
19 Act (21 U.S.C. 841(b)(4)) is amended by striking “and
20 section 3607 of title 18”.

21 **SEC. 602. ADULT PROSECUTION OF SERIOUS JUVENILE OF-**
22 **FENDERS.**

23 Section 5032 of title 18, United States Code, is
24 amended—

25 (1) in the first undesignated paragraph—

1 (A) by striking “an offense described in
2 section 401 of the Controlled Substances Act
3 (21 U.S.C. 841), or section 1002(a), 1003,
4 1005, 1009, or 1010(b) (1), (2), or (3) of the
5 Controlled Substances Import and Export Act
6 (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1),
7 (2), (3)),” and inserting “an offense (or a con-
8 spiracy or attempt to commit an offense) de-
9 scribed in section 401, or 404 (insofar as the
10 violation involves more than 5 grams of a mix-
11 ture or substance which contains cocaine base),
12 of the Controlled Substances Act (21 U.S.C.
13 841, 844, or 846), section 1002(a), 1003, 1005,
14 1009, 1010(b) (1), (2), or (3), of the Controlled
15 Substances Import and Export Act (21 U.S.C.
16 952(a), 953, 955, 959, 960(b) (1), (2), or (3),
17 or 963),”; and

18 (B) by striking “922(p)” and inserting in
19 lieu thereof “924 (b), (g), or (h)”;
20 (2) in the fourth undesignated paragraph—

21 (A) by striking “an offense described in
22 section 401 of the Controlled Substances Act
23 (21 U.S.C. 841), or section 1002(a), 1005, or
24 1009 of the Controlled Substances Import and
25 Export Act (21 U.S.C. 952(a), 955, 959)” and

1 inserting “an offense (or a conspiracy or at-
2 tempt to commit an offense) described in sec-
3 tion 401, or 404 (insofar as the violation in-
4 volves more than 5 grams of a mixture or sub-
5 stance which contains cocaine base), of the Con-
6 trolled Substances Act (21 U.S.C. 841, 844 or
7 846), section 1002(a), 1005, 1009, 1010(b) (1),
8 (2), or (3), of the Controlled Substances Import
9 and Export Act (21 U.S.C. 952(a), 955, 959,
10 960(b) (1), (2), or (3), or 963), or section
11 924(b), (g), or (h) of this title,”; and

12 (B) by striking “subsection (b)(1) (A),
13 (B), or (C), (d), or (e) of section 401 of the
14 Controlled Substances Act, or section 1002(a),
15 1003, 1009, or 1010(b) (1), (2), or (3) of the
16 Controlled Substances Import and Export Act
17 (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2),
18 (3))” and inserting “or an offense (or conspir-
19 acy or attempt to commit an offense) described
20 in section 401(b)(1) (A), (B), or (C), (d), or
21 (e), or 404 (insofar as the violation involves
22 more than 5 grams of a mixture or substance
23 which contains cocaine base), of the Controlled
24 Substances Act (21 U.S.C. 841(b)(1) (A), (B),
25 or (C), (d), or (e), 844 or 846) or section

1 1002(a), 1003, 1009, 1010(b) (1), (2), or (3)
2 of the Controlled Substances Import and Ex-
3 port Act (21 U.S.C. 952(a), 953, 959,
4 960(b)(1), (2), or (3), or 963)’; and

5 (3) in the fifth undesignated paragraph by add-
6 ing at the end the following: “In considering the na-
7 ture of the offense, as required by this paragraph,
8 the court shall consider the extent to which the juve-
9 nile played a leadership role in an organization, or
10 otherwise influenced other persons to take part in
11 criminal activities, involving the use or distribution
12 of controlled substances or firearms. Such factor, if
13 found to exist, shall weigh heavily in favor of a
14 transfer to adult status, but the absence of this fac-
15 tor shall not preclude such a transfer.”.

16 **SEC. 603. SERIOUS DRUG OFFENSES BY JUVENILES AS**
17 **ARMED CAREER CRIMINAL ACT PREDICATES.**

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

20 (1) by striking “or” at the end of clause (i);

21 (2) by striking “or” at the end of clause (ii)

22 and inserting “and”; and

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

1 “(iii) any act of juvenile delinquency
2 that if committed by an adult would be an
3 offense described in clause (i) or (ii); and”.

4 **SEC. 604. INCREASED PENALTY FOR TRAVEL ACT CRIMES**
5 **INVOLVING VIOLENCE.**

6 Section 1952(a) of title 18, United States Code, is
7 amended by striking “and thereafter performs or attempts
8 to perform any of the acts specified in subparagraphs (1),
9 (2), and (3), shall be fined not more than \$10,000 or im-
10 prisoned for not more than five years, or both” and insert-
11 ing “and thereafter performs or attempts to perform (A)
12 any of the acts specified in subparagraphs (1) and (3)
13 shall be fined under this title or imprisoned for not more
14 than five years, or both, or (B) any of the acts specified
15 in subparagraph (2) shall be fined under this title or im-
16 prisoned for not more than twenty years, or both, and if
17 death results shall be imprisoned for any term of years
18 or for life”.

19 **SEC. 605. INCREASED PENALTY FOR CONSPIRACY TO COM-**
20 **MIT MURDER FOR HIRE.**

21 Section 1958(a) of title 18, United States Code, is
22 amended by inserting “or who conspires to do so” before
23 “shall be fined” the first place it appears.

1 **TITLE VII—TERRORISM**
2 **Subtitle A—Aviation Terrorism**

3 **SEC. 701. IMPLEMENTATION OF THE 1988 PROTOCOL FOR**
4 **THE SUPPRESSION OF UNLAWFUL ACTS OF**
5 **VIOLENCE AT AIRPORTS SERVING INTER-**
6 **NATIONAL CIVIL AVIATION.**

7 (a) OFFENSE.—Chapter 2 of title 18, United States
8 Code, is amended by adding at the end thereof the follow-
9 ing new section:

10 **“§ 36. Violence at international airports**

11 “(a) Whoever in a circumstance described in sub-
12 section (b) of this section unlawfully and intentionally,
13 using any device, substance or weapon,—

14 “(1) performs an act of violence against a per-
15 son at an airport serving international civil aviation
16 which causes or is likely to cause serious injury or
17 death; or

18 “(2) destroys or seriously damages the facilities
19 of an airport serving international civil aviation or a
20 civil aircraft not in service located thereon or dis-
21 rupts the services of the airport;

22 if such an act endangers or is likely to endanger safety
23 at that airport, or attempts to do such an act, shall be
24 fined under this title or imprisoned not more than twenty
25 years, or both; and if the death of any person results from

1 conduct prohibited by this subsection, shall be punished
2 by death or imprisoned for any term of years or for life.

3 “(b) The circumstances referred to in subsection (a)
4 are that—

5 “(1) the prohibited activity takes place in the
6 United States; or

7 “(2) the prohibited activity takes place outside
8 of the United States and the offender is later found
9 in the United States.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of chapter 2 of title 18, United States
12 Code, is amended by adding at the end the following:

“36. Violence at international airports.”.

13 (c) EFFECTIVE DATE.—This section shall take effect
14 on the later of—

15 (1) the date of the enactment of this subtitle;
16 or

17 (2) the date the Protocol for the Suppression of
18 Unlawful Acts of Violence at Airports Serving Inter-
19 national Civil Aviation, Supplementary to the Con-
20 vention for the Suppression of Unlawful Acts against
21 the Safety of Civil Aviation, done at Montreal on 23
22 September 1971, has come into force and the United
23 States has become a party to the Protocol.

1 **SEC. 702. AMENDMENT TO FEDERAL AVIATION ACT.**

2 Section 902(n) of the Federal Aviation Act of 1958
3 (49 U.S.C. App. 1472(n)) is amended by—

4 (1) striking out paragraph (3); and

5 (2) renumbering paragraph (4) as paragraph

6 (3).

7 **Subtitle B—Maritime Terrorism**

8 **SEC. 711. SHORT TITLE FOR SUBTITLE B.**

9 This subtitle may be cited as the “Act for the Preven-
10 tion and Punishment of Violence Against Maritime Navi-
11 gation and Fixed Platforms”.

12 **SEC. 712. FINDINGS.**

13 The Congress finds that—

14 (1) the Convention for the Suppression of Un-
15 lawful Acts Against the Safety of Maritime Naviga-
16 tion requires each contracting State to establish its
17 jurisdiction over certain offenses affecting the safety
18 of maritime navigation;

19 (2) the Protocol for the Suppression of Unlaw-
20 ful Acts Against the Safety of Fixed Platforms Lo-
21 cated on the Continental Shelf, which accompanies
22 the aforementioned Convention, requires that each
23 contracting State to the Protocol establish its juris-
24 diction over certain offenses affecting the safety of
25 fixed platforms;

1 (3) such offenses place innocent lives and prop-
2 erty in jeopardy, endanger national security, affect
3 domestic tranquility, gravely affect interstate and
4 foreign commerce, and are offenses against the law
5 of nations;

6 (4) on December 27, 1988, the President of the
7 United States issued Proclamation 5928 proclaiming
8 that the territorial sea of the United States hence-
9 forth extended to 12 nautical miles from the base-
10 lines of the United States determined in accordance
11 with international law; and

12 (5) on November 5, 1989, the Senate gave its
13 advice and consent to ratification of the Convention
14 and its Protocol.

15 **SEC. 713. STATEMENT OF PURPOSE.**

16 The purpose of this Act is to—

17 (1) implement fully the Convention for the Sup-
18 pression of Unlawful Acts Against the Safety of
19 Maritime Navigation and the Protocol for the Sup-
20 pression of Unlawful Acts Against the Safety of
21 Fixed Platforms Located on the Continental Shelf;

22 (2) clarify Federal criminal jurisdiction over the
23 territorial sea of the United States; and

24 (3) establish Federal criminal jurisdiction over
25 certain acts committed by or against a national of

1 the United States while upon a foreign vessel during
2 a voyage having a scheduled departure from or ar-
3 rival in the United States.

4 **SEC. 714. OFFENSES OF VIOLENCE AGAINST MARITIME**
5 **NAVIGATION OR FIXED PLATFORMS.**

6 Chapter 111 of title 18, United States Code, is
7 amended by adding at the end thereof the following new
8 sections:

9 **“§ 2280. Violence against maritime navigation**

10 “(a) Whoever, in a circumstance described in sub-
11 section (c) of this section, unlawfully and intentionally—

12 “(1) seizes or exercises control over a ship by
13 force or threat thereof or any other form of intimi-
14 dation;

15 “(2) performs an act of violence against a per-
16 son on board a ship if that act is likely to endanger
17 the safe navigation of that ship;

18 “(3) destroys a ship or causes damage to a ship
19 or to its cargo which is likely to endanger the safe
20 navigation of that ship;

21 “(4) places or causes to be placed on a ship, by
22 any means whatsoever, a device or substance which
23 is likely to destroy that ship, or cause damage to
24 that ship or its cargo which endangers or is likely
25 to endanger the safe navigation of that ship;

1 “(5) destroys or seriously damages maritime
2 navigational facilities or seriously interferes with
3 their operation, if such act is likely to endanger the
4 safe navigation of a ship;

5 “(6) communicates information, knowing the
6 information to be false and under circumstances in
7 which such information may reasonably be believed,
8 thereby endangering the safe navigation of a ship;

9 “(7) injures or kills any person in connection
10 with the commission or the attempted commission of
11 any of the offenses set forth in paragraphs (1) to
12 (6); or

13 “(8) attempts to do any act prohibited under
14 paragraphs (1)–(7);

15 shall be fined under this title or imprisoned not more than
16 twenty years, or both; and if the death of any person re-
17 sults from conduct prohibited by this subsection, shall be
18 punished by death or imprisoned for any term of years
19 or for life.

20 “(b) Whoever threatens to do any act prohibited
21 under paragraphs (2), (3) or (5) of subsection (a), with
22 apparent determination and will to carry the threat into
23 execution, if the threatened act is likely to endanger the
24 safe navigation of the ship in question, shall be fined

1 under this title or imprisoned not more than five years,
2 or both.

3 “(c) The circumstances referred to in subsection (a)
4 of this section are—

5 “(1) in the case of a covered ship, if—

6 “(A) such activity is committed—

7 “(i) against or on board a ship flying
8 the flag of the United States at the time
9 the prohibited activity is committed;

10 “(ii) in the United States; or

11 “(iii) by a national of the United
12 States or by a stateless person whose ha-
13 bitual residence is in the United States;

14 “(B) during the commission of such activ-
15 ity, a national of the United States is seized,
16 threatened, injured or killed; or

17 “(C) the offender is later found in the
18 United States after such activity is committed;

19 “(2) in the case of a ship navigating or sched-
20 uled to navigate solely within the territorial sea or
21 internal waters of a country other than the United
22 States, if the offender is later found in the United
23 States after such activity is committed; and

1 “(3) in the case of any vessel, if such activity
2 is committed in an attempt to compel the United
3 States to do or abstain from doing any act.

4 “(d) The master of a covered ship flying the flag of
5 the United States who has reasonable grounds to believe
6 that there is on board that master’s ship any person who
7 has committed an offense under Article 3 of the Conven-
8 tion for the Suppression of Unlawful Acts Against the
9 Safety of Maritime Navigation may deliver such person
10 to the authorities of a State Party to that Convention.
11 Before delivering such person to the authorities of another
12 country, the master shall notify in an appropriate manner
13 the Attorney General of the United States of the alleged
14 offense and await instructions from the Attorney General
15 as to what action he should take. When delivering the per-
16 son to a country which is a State Party to the Convention,
17 the master shall, whenever practicable, and if possible be-
18 fore entering the territorial sea of such country, notify the
19 authorities of such country of his intention to deliver such
20 person and the reason therefor. If the master delivers such
21 person, the master shall furnish the authorities of such
22 country with the evidence in the master’s possession that
23 pertains to the alleged offense.

24 “(e) As used in this section—

1 “(1) the term ‘ship’ means a vessel of any type
2 whatsoever not permanently attached to the sea-bed,
3 including dynamically supported craft, submersibles
4 or any other floating craft, but such term does not
5 include a warship, a ship owned or operated by a
6 government when being used as a naval auxiliary or
7 for customs or police purposes, or a ship which has
8 been withdrawn from navigation or laid up;

9 “(2) the term ‘covered ship’ means a ship that
10 is navigating or is scheduled to navigate into,
11 through or from waters beyond the outer limit of the
12 territorial sea of a single country or a lateral limit
13 of that country’s territorial sea with an adjacent
14 country;

15 “(3) the term ‘national of the United States’
16 has the meaning given such term in section
17 101(a)(22) of the Immigration and Nationality Act
18 (8 U.S.C. 1101(a)(22));

19 “(4) the term ‘territorial sea of the United
20 States’ means all waters extending seaward to 12
21 nautical miles from the baselines of the United
22 States determined in accordance with international
23 law; and

24 “(5) the term ‘United States’, when used in a
25 geographical sense, includes the Commonwealth of

1 Puerto Rico, the Commonwealth of the Northern
2 Mariana Islands and all territories and possessions
3 of the United States.

4 **“§ 2281. Violence against maritime fixed platforms**

5 “(a) Whoever, in a circumstance described in sub-
6 section (c) of this section, unlawfully and intentionally—

7 “(1) seizes or exercises control over a fixed
8 platform by force or threat thereof or any other
9 form of intimidation;

10 “(2) performs an act of violence against a per-
11 son on board a fixed platform if that act is likely to
12 endanger its safety;

13 “(3) destroys a fixed platform or causes dam-
14 age to it which is likely to endanger its safety;

15 “(4) places or causes to be placed on a fixed
16 platform, by any means whatsoever, a device or sub-
17 stance which is likely to destroy that fixed platform
18 or likely to endanger its safety;

19 “(5) injures or kills any person in connection
20 with the commission or the attempted commission of
21 any of the offenses set forth in paragraphs (1) to
22 (4); or

23 “(6) attempts to do anything prohibited under
24 paragraphs (1)–(5);

1 shall be fined under this title or imprisoned not more than
2 twenty years, or both; and if death results to any person
3 from conduct prohibited by this subsection, shall be pun-
4 ished by death or imprisoned for any term of years or for
5 life.

6 “(b) Whoever threatens to do anything prohibited
7 under paragraphs (2) or (3) of subsection (a), with appar-
8 ent determination and will to carry the threat into execu-
9 tion, if the threatened act is likely to endanger the safety
10 of the fixed platform, shall be fined under this title or im-
11 prisoned not more than five years, or both.

12 “(c) The circumstances referred to in subsection (a)
13 of this section are if—

14 “(1) such activity is committed against or on
15 board a fixed platform—

16 “(A) that is located on the continental
17 shelf of the United States;

18 “(B) that is located on the continental
19 shelf of another country, by a national of the
20 United States or by a stateless person whose
21 habitual residence is in the United States; or

22 “(C) in an attempt to compel the United
23 States to do or abstain from doing any act;

24 “(2) during the commission of such activity
25 against or on board a fixed platform located on a

1 continental shelf, a national of the United States is
2 seized, threatened, injured or killed; or

3 “(3) such activity is committed against or on
4 board a fixed platform located outside the United
5 States and beyond the continental shelf of the Unit-
6 ed States and the offender is later found in the
7 United States.

8 “(d) As used in this section—

9 “(1) the term ‘continental shelf’ means the sea-
10 bed and subsoil of the submarine areas that extend
11 beyond a country’s territorial sea to the limits pro-
12 vided by customary international law as reflected in
13 Article 76 of the 1982 Convention on the Law of the
14 Sea;

15 “(2) the term ‘fixed platform’ means an artifi-
16 cial island, installation or structure permanently at-
17 tached to the sea-bed for the purpose of exploration
18 or exploitation of resources or for other economic
19 purposes;

20 “(3) the term ‘national of the United States’
21 has the meaning given such term in section
22 101(a)(22) of the Immigration and Nationality Act
23 (8 U.S.C. 1101(a)(22));

24 “(4) the term ‘territorial sea of the United
25 States’ means all waters extending seaward to 12

1 nautical miles from the baselines of the United
2 States determined in accordance with international
3 law; and

4 “(5) the term ‘United States’, when used in a
5 geographical sense, includes the Commonwealth of
6 Puerto Rico, the Commonwealth of the Northern
7 Mariana Islands and all territories and possessions
8 of the United States.”.

9 **SEC. 715. CLERICAL AMENDMENTS.**

10 The table of sections at the beginning of chapter 111
11 of title 18, United States Code, is amended by adding at
12 the end the following:

“2280. Violence against maritime navigation.

“2281. Violence against maritime fixed platforms.”.

13 **SEC. 716. EFFECTIVE DATES.**

14 Section 714 of this Act shall take effect on the later
15 of—

16 (1) the date of the enactment of this Act; or

17 (2)(A) in the case of section 2280 of title 18,
18 United States Code, the date the Convention for the
19 Suppression of Unlawful Acts Against the Safety of
20 Maritime Navigation has come into force and the
21 United States has become a party to that Conven-
22 tion; and

23 (B) in the case of section 2281 of title 18,
24 United States Code, the date the Protocol for the

1 Suppression of Unlawful Acts Against the Safety of
2 Fixed Platforms Located on the Continental Shelf
3 has come into force and the United States has be-
4 come a party to that Protocol.

5 **SEC. 717. TERRITORIAL SEA EXTENDING TO TWELVE MILES**
6 **INCLUDED IN SPECIAL MARITIME AND TER-**
7 **RITORIAL JURISDICTION.**

8 The Congress hereby declares that all the territorial
9 sea of the United States, as defined by Presidential Proc-
10 lamation 5928 of December 27, 1988, is part of the Unit-
11 ed States, subject to its sovereignty, and, for purposes of
12 Federal criminal jurisdiction, is within the special mari-
13 time and territorial jurisdiction of the United States wher-
14 ever that term is used in title 18, United States Code.

15 **SEC. 718. ASSIMILATED CRIMES IN EXTENDED TERRI-**
16 **TORIAL SEA.**

17 Section 13 of title 18, United States Code (relating
18 to the adoption of State laws for areas within Federal ju-
19 risdiction), is amended by inserting after “title” in sub-
20 section (a) the phrase “or on, above, or below any portion
21 of the territorial sea of the United States not within the
22 territory of any State, Territory, Possession, or District”,
23 and by inserting the following new subsection (c) at the
24 end thereof:

1 “(c) Whenever any waters of the territorial sea of the
2 United States lie outside the territory of any State, Terri-
3 tory, Possession, or District, such waters (including the
4 airspace above and the seabed and subsoil below, and arti-
5 ficial islands and fixed structures erected thereon) shall
6 be deemed for purposes of subsection (a) to lie within the
7 area of that State, Territory, Possession, or District it
8 would lie within if the boundaries of such State, Territory,
9 Possession, or District were extended seaward to the outer
10 limit of the territorial sea of the United States.”.

11 **SEC. 719. JURISDICTION OVER CRIMES AGAINST UNITED**
12 **STATES NATIONALS ON CERTAIN FOREIGN**
13 **SHIPS.**

14 Section 7 of title 18, United States Code (relating
15 to the special maritime and territorial jurisdiction of the
16 United States), is amended by inserting at the end thereof
17 the following new paragraph:

18 “(8) Any foreign vessel during a voyage having a
19 scheduled departure from or arrival in the United States
20 with respect to an offense committed by or against a na-
21 tional of the United States.”.

22 **Subtitle C—Terrorist Alien Removal**

23 **SEC. 721. SHORT TITLE FOR SUBTITLE C.**

24 This subtitle may be cited as the “Terrorist Alien Re-
25 moval Act of 1993”.

1 **SEC. 722. FINDINGS.**

2 The Congress finds the following:

3 (1) Terrorist groups have been able to create
4 significant infrastructures and cells in the United
5 States among persons who are in the United States
6 either temporarily, as students or in other capacities,
7 or as permanent resident aliens.

8 (2) International terrorist groups that sponsor
9 these infrastructures were responsible for—

10 (A) conspiring to bomb the Turkish Hon-
11 orary Consulate in Philadelphia, Pennsylvania
12 in 1982;

13 (B) bombing of a Pan Am airline flight
14 enroute to Honolulu in 1982;

15 (C) hijacking of a Royal Jordanian airliner
16 in Beirut, Lebanon with two United States na-
17 tionals on board in 1985;

18 (D) hijacking TWA Flight 847 during
19 which a United States Navy diver was mur-
20 dered in 1985;

21 (E) hijacking Egypt Air Flight 648 during
22 which three Americans were killed in 1985;

23 (F) murder of four members of the United
24 States Marine Corps in El Salvador in 1985;

25 (G) murdering an American citizen aboard
26 the Achille Lauro cruise liner in 1985;

1 (H) hijacking Pan Am Flight 73 in Kara-
2 chi, Pakistan, in which 44 Americans were held
3 hostage and two were killed in 1986;

4 (I) conspiring to bomb an Air India air-
5 craft in New York City in 1986;

6 (J) attempting to bomb the Air Canada
7 cargo facility at the Los Angeles International
8 Airport in 1986;

9 (K) murder of the United States Naval
10 attaché in Athens, Greece, in 1988;

11 (L) terrorist attack on the Greek cruise
12 ship "City of Poros" in 1988;

13 (M) bombing of Pan Am flight 103 result-
14 ing in 279 deaths in 1988;

15 (N) murder of United States Marine Corps
16 officers assigned to the United Nations Truce
17 Supervisory Organization in Lebanon, in 1989;

18 (O) murder of United States Army officer
19 in Manila in 1984; and

20 (P) numerous bombings and murders in
21 Northern Ireland over the past decade.

22 (3) Certain governments and organizations have
23 directed their assets in the United States to take
24 measures in preparation for the commission of ter-
25 rorist acts in this country.

1 (4) Present immigration laws have not been
2 used to any significant degree by law enforcement
3 officials to deport alien terrorists because compliance
4 with these laws with respect to such aliens would
5 compromise classified intelligence sources and infor-
6 mation. Moreover, appellate procedures routinely af-
7 farded aliens following a deportation hearing fre-
8 quently extend over several years resulting in an in-
9 ability to effect the expeditious removal of aliens en-
10 gaging in terrorist activity.

11 (5) Present immigration laws are inadequate to
12 protect the national security of the United States
13 from terrorist attacks by certain aliens. Therefore,
14 new procedures are needed to remove alien terrorists
15 from the United States and thus reduce the threat
16 that such aliens pose to the national security and
17 other vital interests of the United States.

18 **SEC. 723. TERRORIST ACTIVITIES DEFINED.**

19 For purposes of this Act, the terms, “terrorist activ-
20 ity” and “engage in terrorist activity shall be defined as
21 provided in section 601(a) of Public Law 101-649.

22 **SEC. 724. PROCEDURES FOR REMOVAL OF ALIEN TERROR-**
23 **ISTS.**

24 The Immigration and Nationality Act is amended—

1 (1) by adding at the end of the table of con-
2 tents the following:

“TITLE V—REMOVAL OF ALIEN TERRORISTS

“Sec. 501. Applicability

“Sec. 502. Special removal hearing

“Sec. 503. Designation of judges

“Sec. 504. Miscellaneous provisions”; and

3 (2) by adding at the end the following new title:

4 **“TITLE V—REMOVAL OF ALIEN**
5 **TERRORISTS**

6 “APPLICABILITY

7 “SEC. 501. (a) The provisions of this title may be
8 followed in the discretion of the Department of Justice
9 whenever the Department of Justice has information that
10 an alien described in paragraph 4(B) of section 241(a),
11 as amended, is subject to deportation because of such
12 section.

13 “(b) Whenever an official of the Department of Jus-
14 tice files, under section 502, an application with the court
15 established under section 503 for authorization to seek re-
16 moval pursuant to the provision of this title, the alien’s
17 rights regarding removal and expulsion shall be governed
18 solely by the provisions of this title. Except as they are
19 specifically referenced, no other provisions of the Immigra-
20 tion and Nationality Act shall be applicable. An alien sub-
21 ject to removal under these provisions shall have no right
22 of discovery of information derived from electronic surveil-

1 lance authorized under the Foreign Intelligence Surveil-
2 lance Act or otherwise for national security purposes, nor
3 shall such alien have the right to seek suppression of evi-
4 dence derived in this manner. Further, the government is
5 authorized to use, in the removal proceedings, the fruits
6 of electronic surveillance authorized under the Foreign In-
7 telligence Surveillance Act without regard to subsections
8 106 (c), (e), (f), (g), and (h) of the Act.

9 “(c) This title is enacted in response to findings of
10 Congress that aliens described in paragraph 4(b) of sec-
11 tion 241(a), as amended, represent a unique threat to the
12 security of the United States. It is the intention of Con-
13 gress that such aliens be promptly removed from the
14 United States following—

15 “(1) a judicial determination of probable cause
16 to believe that such person is such an alien; and

17 “(2) a judicial determination pursuant to the
18 provisions of this title that an alien is removable on
19 the grounds that he is an alien described in para-
20 graph 4(B) of section 241(a), as amended;

21 and that such aliens not be given a deportation hearing
22 and are ineligible for any discretionary relief from deporta-
23 tion and for relief under section 243(h).

24 “SPECIAL REMOVAL HEARING

25 “SEC. 502. (a) Whenever removal of an alien is
26 sought pursuant to the provisions of this title, a written

1 application upon oath or affirmation shall be submitted
2 in camera and ex parte to the court established under sec-
3 tion 503 for an order authorizing such a procedure. Each
4 application shall require the approval of the Attorney Gen-
5 eral or the Deputy Attorney General based upon his find-
6 ing that it satisfies the criteria and requirement of such
7 application as set forth in this title. Each application shall
8 include—

9 “(1) the identity of the Department of Justice
10 attorney making the application;

11 “(2) the approval of the Attorney General or
12 the Deputy Attorney General for the making of the
13 application;

14 “(3) the identity of the alien for whom author-
15 ization for the special removal procedure is sought;
16 and

17 “(4) a statement of the facts and circumstances
18 relied on by the Department of Justice to establish
19 that—

20 “(A) an alien as described in paragraph
21 4(B) of section 2411(a), as amended, is phys-
22 ically present in the United States; and

23 “(B) with respect to such alien, adherence
24 to the provisions of title II regarding the depor-
25 tation of aliens would pose a risk to the na-

1 tional security of the United States, adversely
2 affect foreign relations, reveal an investigative
3 technique important to efficient law enforce-
4 ment, or disclose a confidential source of infor-
5 mation.

6 “(b) The application shall be filed under seal with
7 the court established under section 503. The Attorney
8 General may take into custody any alien with respect to
9 whom such an application has been filed and, notwith-
10 standing any other provision of law, may retain such an
11 alien in custody in accordance with the procedures author-
12 ized by this title.

13 “(c) In accordance with the rules of the court estab-
14 lished under section 503, the judge shall consider the ap-
15 plication and may consider other information presented
16 under oath or affirmation at an in camera and ex parte
17 hearing on the application. A verbatim record shall be
18 maintained of such a hearing. The application and any
19 other evidence shall be considered by a single judge of that
20 court who shall enter an ex parte order as required if he
21 finds, on the basis of the facts submitted in the application
22 and any other information provided by the Department
23 of Justice at the in camera and ex parte hearing, there
24 is probable cause to believe that—

1 “(1) the alien who is the subject of the applica-
2 tion has been correctly identified and is an alien as
3 described in paragraph 4(B) of section 241(a), as
4 amended; and

5 “(2) adherence to the provisions of title II re-
6 garding the deportation of the identified alien would
7 pose a risk to the national security of the United
8 States, adversely affect foreign relations, reveal an
9 investigative technique important to efficient law en-
10 forcement, or disclose a confidential source of infor-
11 mation.

12 “(d)(1) In any case in which the application for the
13 order is denied, the judge shall prepare a written state-
14 ment of his reasons for the denial and the Department
15 of Justice may seek a review of the denial by the court
16 of appeals for the Federal Circuit by notice of appeal
17 which must be filed within 20 days. In such a case the
18 entire record of the proceeding shall be transmitted to the
19 court of appeals under seal and the Court of Appeals shall
20 hear the matter ex parte.

21 “(2) If the Department of Justice does not seek re-
22 view, the alien shall be released from custody, unless such
23 alien may be arrested and taken into custody pursuant
24 to title II as an alien subject to deportation, in which case

1 such alien shall be treated in accordance with the provi-
2 sions of this Act concerning the deportation of aliens.

3 “(3) If the application for the order is denied because
4 the judge has not found probable cause to believe that the
5 alien who is the subject of the application has been cor-
6 rectly identified or is an alien as described in paragraph
7 4(B) of section 241(a), as amended, and the Department
8 of Justice seeks review, the alien shall be released from
9 custody unless such alien may be arrested and taken into
10 custody pursuant to title II as an alien subject to deporta-
11 tion, in which case such alien shall be treated in accord-
12 ance with the provisions of this Act concerning the depor-
13 tation of aliens simultaneously with the application of this
14 title.

15 “(4) If the application for the order is denied be-
16 cause, although the judge found probable cause to believe
17 that the alien who is the subject of the application has
18 been correctly identified and is an alien as described in
19 paragraph 4(B) of section 241(a), as amended, the judge
20 has found that there is not probable cause to believe that
21 adherence to the provisions of title II regarding the depor-
22 tation of the identified alien would pose a risk to the na-
23 tional security of the United States, adversely affect for-
24 eign relations, reveal an investigative technique important
25 to efficient law enforcement, or disclose a confidential

1 source of information, the judge shall release the alien
2 from custody subject to the least restrictive condition or
3 combination of conditions of release described in section
4 3142(b) and (c)(1)(B)(i) through (xiv) of title 18, United
5 States Code, that will reasonably assure the appearance
6 of the alien at any future proceeding pursuant to this title
7 and will not endanger the safety of any other person or
8 the community; but if the judge finds no such condition
9 or combination of conditions the alien shall remain in cus-
10 tody until the completion of any appeal authorized by this
11 title. The provisions of sections 3145 through 3148 of title
12 18, United States Code, pertaining to review and appeal
13 of a release or detention order, penalties for failure to ap-
14 pear, penalties for an offense committed while on release,
15 and sanctions for violation of a release condition shall
16 apply to an alien to whom the previous sentence applies
17 and—

18 “(A) for purposes of section 3145 of such title
19 an appeal shall be taken to the Court of Appeals for
20 the Federal Circuit; and

21 “(B) for purposes of section 3146 of such title
22 the alien shall be considered released in connection
23 with a charge of an offense punishable by life im-
24 prisonment.

1 “(e)(1) In any case in which the application for the
2 order authorizing the special procedures of this title is ap-
3 proved, the judge who granted the order shall consider
4 separately each item of evidence the Department of Jus-
5 tice proposes to introduce in camera and ex parte at the
6 special removal hearing. The judge shall authorize the in-
7 troduction in camera and ex parte of any item of evidence
8 for which the judge determines that the introduction other
9 than in camera and ex parte would pose a risk to the na-
10 tional security of the United States, adversely affect for-
11 eign relations, reveal an investigative technique important
12 to efficient law enforcement, or disclose a confidential
13 source of information. With respect to any evidence which
14 the judge authorizes to be introduced in camera and ex
15 parte, the judge shall cause to be prepared and shall sign,
16 and the Department of Justice shall cause to be delivered
17 to the alien, either—

18 “(A) a written summary which shall be suffi-
19 cient to inform the alien of the general nature of the
20 evidence that he is an alien as described in para-
21 graph 4(b) of section 241(a), as amended, and to
22 permit the alien to marshal the facts and prepare a
23 defense, but which shall not pose a risk to national
24 security, adversely affect foreign relations, reveal an
25 investigative technique important to efficient law en-

1 forcement, or disclose a confidential source of infor-
2 mation; or

3 “(B) if necessary to prevent serious harm to the
4 national security or death or serious bodily injury to
5 any person, a statement informing the alien that no
6 such summary is possible.

7 “(2) The Department of Justice may take an inter-
8 locutory appeal to the United States Court of Appeals for
9 the Federal Circuit of any determination by the judge pur-
10 suant to paragraph (1)—

11 “(A) concerning whether an item of evidence
12 may be introduced in camera and ex parte;

13 “(B) concerning the contents of any summary
14 of evidence to be introduced in camera and ex parte
15 prepared pursuant to paragraph (1)(A); or

16 “(C) concerning whether a summary of evidence
17 to be introduced in camera and ex parte is possible
18 pursuant to paragraph (1)(B).

19 In any interlocutory appeal taken pursuant to this para-
20 graph, the entire record, including any proposed order of
21 the judge or summary of evidence, shall be transmitted
22 to the court of appeals under seal and the matter shall
23 be heard ex parte. The court of appeals shall consider the
24 appeal as expeditiously as possible.

1 “(f) In any case in which the application for the order
2 is approved, the special removal hearing authorized by this
3 section shall be conducted for the purpose of determining
4 if the alien to whom the order pertains should be removed
5 from the United States on the grounds that he is an alien
6 as described in paragraph 4(B) of section 241(a), as
7 amended. In accordance with subsection (e), the alien shall
8 be given reasonable notice of the nature of the charges
9 against him. The alien shall be given notice, reasonable
10 under all the circumstances, of the time and place at which
11 the hearing will be held. The hearing shall be held as expe-
12 ditiously as possible.

13 “(g) The special removal hearing shall be held before
14 the same judge who granted the order pursuant to sub-
15 section (e) unless that judge is deemed unavailable due
16 to illness or disability by the chief judge of the court estab-
17 lished pursuant to section 503, or has died, in which case
18 the chief judge shall assign another judge to conduct the
19 special removal hearing. A decision by the chief judge pur-
20 suant to the preceding sentence shall not be subject to
21 review by either the alien or the Department of Justice.

22 “(h) The special removal hearing shall be open to the
23 public. The alien shall have a right to be present at such
24 hearing and to be represented by counsel. Any alien finan-
25 cially unable to obtain counsel shall be entitled to have

1 counsel assigned to represent him. Such counsel shall be
2 appointed by the judge pursuant to the plan for furnishing
3 representation for any person financially unable to obtain
4 adequate representation for the district in which the hear-
5 ing is conducted, as provided for in section 3006A of title
6 18, United States Code. All provisions of that section shall
7 apply and, for purposes of determining the maximum
8 amount of compensation, the matter shall be treated as
9 if a felony was charged. The alien may be called as a wit-
10 ness by the Department of Justice. The alien shall have
11 a right to introduce evidence on his own behalf. Except
12 as provided in subsection (j), the alien shall have a reason-
13 able opportunity to examine the evidence against him and
14 to cross-examine any witness. A verbatim record of the
15 proceedings and of all testimony and evidence offered or
16 produced at such a hearing shall be kept. The decision
17 of the judge shall be based only on the evidence introduced
18 at the hearing, including evidence introduced under sub-
19 section (j).

20 “(i) At any time prior to the conclusion of the special
21 removal hearing, either the alien or the Department of
22 Justice may request the judge to issue a subpoena for the
23 presence of a named witness (which subpoena may also
24 command the person to whom it is directed to produce
25 books, papers, documents, or other objects designated

1 therein) upon a satisfactory showing that the presence of
2 the witness is necessary for the determination of any ma-
3 terial matter. Such a request may be made ex parte except
4 that the judge shall inform the Department of Justice of
5 any request for a subpoena by the alien for a witness or
6 material if compliance with such a subpoena would reveal
7 evidence or the source of evidence which has been intro-
8 duced, or which the Department of Justice has received
9 permission to introduce, in camera and ex parte pursuant
10 to subsection (j), and the Department of Justice shall be
11 given a reasonable opportunity to oppose the issuance of
12 such a subpoena. If an application for a subpoena by the
13 alien also makes a showing that the alien is financially
14 unable to pay for the attendance of a witness so requested,
15 the court may order the costs incurred by the process and
16 the fees of the witness so subpoenaed to be paid for from
17 funds appropriated for the enforcement of title II. A sub-
18 poena under this subsection may be served anywhere in
19 the United States. A witness subpoenaed under this sub-
20 section shall receive the same fees and expenses as a wit-
21 ness subpoenaed in connection with a civil proceeding in
22 a court of the United States. Nothing in this subsection
23 is intended to allow an alien to have access to classified
24 information.

1 “(j) Evidence which has either been summarized pur-
2 suant to subsection (e)(1)(A) or for which no summary
3 has been deemed possible pursuant to subsection (e)(1)(B)
4 shall be introduced (either in writing or through testi-
5 mony) in camera and ex parte and neither the alien nor
6 the public shall be informed of such evidence or its sources
7 other than through reference to the summary provided
8 pursuant to subsection (e)(1)(A) or to the explanation that
9 no summary could be provided pursuant to subsection
10 (e)(1)(B). Notwithstanding the previous sentence, the De-
11 partment of Justice may, in its discretion, elect to intro-
12 duce such evidence in open session.

13 “(k) Evidence introduced at the special removal hear-
14 ing, either in open session or in camera and ex parte, may,
15 in the discretion of the Department of Justice, include all
16 or part of the information presented under subsections (a)
17 through (c) used to obtain the order for the hearing under
18 this section.

19 “(l) Following the receipt of evidence, the attorneys
20 for the Department of Justice and for the alien shall be
21 given fair opportunity to present argument as to whether
22 the evidence is sufficient to justify the removal of the
23 alien. The attorney for the Department of Justice shall
24 open the argument. The attorney for the alien shall be
25 permitted to reply. The attorney for the Department of

1 Justice shall then be permitted to reply in rebuttal. The
2 judge may allow any part of the argument that refers to
3 evidence received in camera and ex parte to be heard in
4 camera and ex parte.

5 “(m) The Department of Justice has the burden of
6 showing by clear and convincing evidence that the alien
7 is subject to removal because he is an alien as described
8 in paragraph 4(B) of subsection 241(a) of this Act (8
9 U.S.C. 1251(a)(4)(B)), as amended. If the judge finds
10 that the Department of Justice has met this burden, the
11 judge shall order the alien removed.

12 “(n)(1) At the time of rendering a decision as to
13 whether the alien shall be removed, the judge shall prepare
14 a written order containing a statement of facts found and
15 conclusions of law. Any portion of the order that would
16 reveal the substance or source of information received in
17 camera and ex parte pursuant to subsection (j) shall not
18 be made available to the alien or the public.

19 “(2) The decision of the judge may be appealed by
20 either the alien or the Department of Justice to the Court
21 of Appeals for the Federal Circuit by notice of appeal
22 which must be filed within twenty days, during which time
23 such order shall not be executed. In any case appealed
24 pursuant to this subsection, the entire record shall be
25 transmitted to the Court of Appeals and information re-

1 ceived pursuant to subsection (j), any portion of the
2 judge's order that would reveal the substance or source
3 of such information shall be transmitted under seal. The
4 Court of Appeals shall consider the case as expeditiously
5 as possible.

6 “(3) In an appeal to the Court of Appeals pursuant
7 to either subsections (d) or (e) of this section, the Court
8 of Appeals shall review questions of law de novo, but a
9 prior finding on any question of fact shall not be set aside
10 unless such finding was clearly erroneous.

11 “(o) If the judge decides pursuant to subsection (n)
12 that the alien should not be removed, the alien shall be
13 released from custody unless such alien may be arrested
14 and taken into custody pursuant to title II of this Act
15 as an alien subject to deportation, in which case, for pur-
16 poses of detention, such alien may be treated in accord-
17 ance with the provisions of this Act concerning the depor-
18 tation of aliens.

19 “(p) Following a decision by the Court of Appeals
20 pursuant to either subsection (d) or (n), either the alien
21 or the Department of Justice may petition the Supreme
22 Court for a writ of certiorari. In any such case, any infor-
23 mation transmitted to the Court of Appeals under seal
24 shall, if such information is also submitted to the Supreme
25 Court, be transmitted under seal. Any order of removal

1 shall not be stayed pending disposition of a writ of certio-
2 rari except as provided by the Court of Appeals or a Jus-
3 tice of the Supreme Court.

4 “DESIGNATION OF JUSTICE

5 “SEC. 503. (a) The Chief Justice of the United
6 States shall publicly designate five district court judges
7 from five of the United States judicial circuits who shall
8 constitute a court which shall have jurisdiction to conduct
9 all matters and proceedings authorized by section 502.
10 The Chief Justice shall publicly designate one of the
11 judges so appointed as the chief judge. The chief judge
12 shall promulgate rules to facilitate the functioning of the
13 court and shall be responsible for assigning the consider-
14 ation of cases to the various judges.

15 “(b) Proceedings under section 502 shall be con-
16 ducted as expeditiously as possible. The Chief Justice, in
17 consultation with the Attorney General and other appro-
18 priate federal officials, shall, consistent with the objectives
19 of this title, provide for the maintenance of appropriate
20 security measures for applications for ex parte orders to
21 conduct the special removal hearings authorized by section
22 502, the orders themselves, and evidence received in cam-
23 era and ex parte, and for such other actions as are nec-
24 essary to protect information concerning matters before
25 the court from harming the national security of the United
26 States, adversely affecting foreign relations, revealing in-

1 vestigative techniques, or disclosing confidential sources of
2 information.

3 “(c) Each judge designated under this section shall
4 serve for a term of five years and shall be eligible for re-
5 designation, except that the four associate judges first des-
6 ignated under subsection (a) shall be designated for terms
7 of from one to four years so that the term of one judge
8 shall expire each year.

9 “MISCELLANEOUS PROVISIONS

10 “SEC. 504. (a)(1) Following a determination pursu-
11 ant to this title that an alien shall be removed, and after
12 the conclusion of any judicial review thereof, the Attorney
13 General may retain the alien in custody or, if the alien
14 was released pursuant to subsection 502(o), may return
15 the alien to custody, and shall cause the alien to be trans-
16 ported to any country which the alien shall designate pro-
17 vided the Attorney General determines based on consulta-
18 tion with the Secretary of State that transportation to
19 such country would not impair the obligation of the United
20 States under any treaty (including a treaty pertaining to
21 extradition) or otherwise adversely affect the foreign policy
22 of the United States.

23 “(2) If the alien refuses to choose a country to which
24 he wishes to be transported, or if the Attorney General
25 determines pursuant to paragraph (1) that removal of the
26 alien to the country so selected would impair a treaty obli-

1 gation or adversely affect United States foreign policy, the
2 Attorney General shall cause the alien to be transported
3 to any country willing to receive such alien.

4 “(3) Before an alien is transported out of the United
5 States pursuant to paragraph (1) or (2) or pursuant to
6 an order of exclusion because such alien is excludable
7 under paragraph 212(a)((3)(B) of this Act (8 U.S.C.
8 1182(a)(3)(B)), as amended, he shall be photographed
9 and fingerprinted, and shall be advised of the provisions
10 of subsection 276(b) of this Act (8 U.S.C. 1326(b)).

11 “(4) If no country is willing to receive such an alien,
12 the Attorney General may, notwithstanding any other pro-
13 vision of law, retain the alien in custody. The Attorney
14 General shall make periodic efforts to reach agreement
15 with other countries to accept such as alien and at least
16 every six months shall provide to the alien a written report
17 on his efforts. Any alien in custody pursuant to this sub-
18 section shall be released from custody solely at the discre-
19 tion of the Attorney General and subject to such condi-
20 tions as the Attorney General shall deem appropriate. The
21 determinations and actions of the Attorney General pursu-
22 ant to this subsection shall not be subject to judicial re-
23 view, including applications for writ of habeas corpus, ex-
24 cept for a claim by the alien that continued detention vio-
25 lates his rights under the Constitution. Jurisdiction over

1 any such challenge shall lie exclusively in the Court of Ap-
2 peals for the Federal Circuit.

3 “(b)(1) Notwithstanding the provisions of subsection
4 (a), the Attorney General may hold in abeyance the re-
5 moval of an alien who has been ordered removed pursuant
6 to this title to allow the trial of such alien on any Federal
7 or State criminal charge and the service of any sentence
8 of confinement resulting from such a trial.

9 “(2) Pending the commencement of any service of a
10 sentence of confinement by an alien described in para-
11 graph (1), such an alien shall remain in the custody of
12 the Attorney General, unless the Attorney General deter-
13 mines that temporary release of the alien to the custody
14 of State authorities for confinement in a State facility is
15 appropriate and would not endanger national security or
16 public safety.

17 “(3) Following the completion of a sentence of con-
18 finement by an alien described in paragraph (1) or follow-
19 ing the completion of State criminal proceedings which do
20 not result in a sentence of confinement of an alien released
21 to the custody of State authorities pursuant to paragraph
22 (2), such an alien shall be returned to the custody of the
23 Attorney General who shall proceed to carry out the provi-
24 sions of subsection (a) concerning removal of the alien.

1 “(c) For purposes of sections 751 and 752 of title
2 18, United States Code, an alien in the custody of the
3 Attorney General pursuant to this title shall be subject
4 to the penalties provided by those sections in relation to
5 a person committed to the custody of the Attorney General
6 by virtue of an arrest on a charge of felony.

7 “(d)(1) An alien in the custody of the Attorney Gen-
8 eral pursuant to this title shall be given reasonable oppor-
9 tunity to communicate with and receive visits from mem-
10 bers of his family, and to contact, retain, and commu-
11 nicate with an attorney.

12 “(2) An alien in the custody of the Attorney General
13 pursuant to this title shall have the right to contact an
14 appropriate diplomatic or consular official of the alien’s
15 country of citizenship or nationality or of any country pro-
16 viding representation services therefor. The Attorney Gen-
17 eral shall notify the appropriate embassy, mission, or con-
18 sular office of the alien’s detention.

19 **SEC. 725. CONFORMING AMENDMENTS.**

20 The Immigration and Nationality Act is amended as
21 follows:

22 (1) Subsection 106(b) (8 U.S.C. 1105a(b)) is
23 amended by adding at the end thereof the following
24 sentence: “Jurisdiction to review an order entered
25 pursuant to the provisions of section 235(c) of this

1 Act concerning an alien excludable under paragraph
2 3(B) of subsection 212(a) (8 U.S.C. 1182(a)), as
3 amended, shall rest exclusively in the United States
4 Court of Appeals for the Federal Circuit.”.

5 (2) Section 276(b) (8 U.S.C. 1326(b)) is
6 amended by deleting the word “or” at the end of
7 subparagraph (b)(1), by replacing the period at the
8 end of subparagraph (b)(2) with a semicolon fol-
9 lowed by the word “or”, and by adding at the end
10 of paragraph (b) the following subparagraph: “(3)
11 who has been excluded from the United States pur-
12 suant to subsection 235(c) of this Act (8 U.S.C.
13 1225(c)) because such alien was excludable under
14 paragraph 3(B) of subsection 212(a) thereof (8
15 U.S.C. 1182(a)(3)(B)), as amended, or who has
16 been removed from the United States pursuant to
17 the provisions of title V of the Immigration and Na-
18 tionality Act, and who thereafter, without the per-
19 mission of the Attorney General, enters the United
20 States or attempts to do so shall be fined under title
21 18, United States Code, and imprisoned for a period
22 of ten years which sentence shall not run concur-
23 rently with any other sentence.”

24 (3) Section 106(a) (8 U.S.C. 1105a(a)) is
25 amended by striking from the end of subparagraph

1 8 the semicolon and the word “and” and inserting
2 a period in lieu thereof, and by striking subpara-
3 graph 9.

4 **SEC. 726. EFFECTIVE DATE.**

5 The provisions of this Act shall be effective upon en-
6 actment, and shall apply to all aliens without regard to
7 the date of entry or attempted entry into the United
8 States.

9 **Subtitle D—Terrorism Offenses and**
10 **Sanctions**

11 **SEC. 731. TORTURE.**

12 (a) IN GENERAL.—Part I of title 18, United States
13 Code, is amended by inserting after chapter 113A the fol-
14 lowing new chapter:

15 **“CHAPTER 113B—TORTURE**

 “Sec.
 2340. Definitions.
 2340A. Torture.
 2340B. Exclusive remedies.

16 **“§ 2340. Definitions**

17 “As used in this chapter—

18 “(1) the term ‘torture’ means an act committed
19 by a person acting under the color of law specifically
20 intended to inflict severe physical or mental pain or
21 suffering (other than pain or suffering incidental to
22 lawful sanctions) upon another person within his
23 custody or physical control;

1 “(2) the term ‘severe mental pain or suffering’
2 means the prolonged mental harm caused by or re-
3 sulting from—

4 “(A) the intentional infliction or threat-
5 ened infliction of severe physical pain or suffer-
6 ing;

7 “(B) the administration or application, or
8 threatened administration or application, of
9 mind altering substances or other procedures
10 calculated to disrupt profoundly the senses or
11 the personality;

12 “(C) the threat of imminent death; or

13 “(D) the threat that another person will
14 imminently be subjected to death, severe phys-
15 ical pain or suffering, or the administration or
16 application of mind altering substances or other
17 procedures calculated to disrupt profoundly the
18 senses or personality; and

19 “(3) the term ‘United States’ includes all areas
20 under the jurisdiction of the United States including
21 any of the places within the provisions of sections 5
22 and 7 of this title and section 101(38) of the Fed-
23 eral Aviation Act of 1958 (49 U.S.C. App.
24 1301(38)).

1 **“§ 2340A. Torture**

2 “(a) Whoever, in a circumstance described in sub-
3 section (b) of this section and outside the United States,
4 commits or attempts to commit torture shall be fined
5 under this title or imprisoned not more than twenty years,
6 or both; and if death results to any person from conduct
7 prohibited by this subsection, shall be punished by death
8 or imprisoned for any term of years or for life.

9 “(b) The circumstances referred to in subsection (a)
10 are if—

11 “(1) the alleged offender is a national of the
12 United States; or

13 “(2) the alleged offender is present in the Unit-
14 ed States, irrespective of the nationality of the vic-
15 tim or the alleged offender.

16 **“§ 2340B. Exclusive remedies**

17 “Nothing in this chapter shall be construed as pre-
18 cluding the application of State or local laws on the same
19 subject, nor shall anything in this chapter be construed
20 as creating any substantive or procedural right enforceable
21 by law by any party in any civil proceeding.”.

22 (b) CLERICAL AMENDMENT.—The table of chapters
23 at the beginning of part I of title 18, United States Code,
24 is amended by inserting after the item for chapter 113B
25 the following new item:

“113B. Torture 2340”.

1 **SEC. 732. WEAPONS OF MASS DESTRUCTION.**

2 (a) FINDINGS.—The Congress finds that the use and
3 threatened use of weapons of mass destruction, as defined
4 in the statute enacted by subsection (b) of this section,
5 gravely harm the national security and foreign relations
6 interests of the United States, seriously affect interstate
7 and foreign commerce, and disturb the domestic tran-
8 quility of the United States.

9 (b) OFFENSE.—Chapter 113A of title 18, United
10 States Code, is amended by adding the following new sec-
11 tion:

12 **“§ 2339. Use of weapons of mass destruction**

13 “(a) Whoever uses, or attempts or conspires to use,
14 a weapon of mass destruction—

15 “(1) against a national of the United States
16 while such national is outside of the United States;

17 “(2) against any person within the United
18 States; or

19 “(3) against any property that is owned, leased
20 or used by the United States or by any department
21 or agency of the United States, whether the property
22 is within or outside of the United States;

23 shall be imprisoned for any term of years or for life, and
24 if death results, shall be punished by death or imprisoned
25 for any term of years or for life.

26 “(b) For purposes of this section—

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

5 “(2) the term ‘weapon of mass destruction’
6 means—

7 “(A) any destructive device as defined in
8 section 921 of this title;

9 “(B) poison gas;

10 “(C) any weapon involving a disease orga-
11 nism; or

12 “(D) any weapon that is designed to re-
13 lease radiation or radioactivity at a level dan-
14 gerous to human life.”.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of chapter 113A of title 18, United States
17 Code, is amended by adding the following:

 “2339. Use of weapons of mass destruction.”.

18 **SEC. 733. HOMICIDES AND ATTEMPTED HOMICIDES IN-**
19 **VOLVING FIREARMS IN FEDERAL FACILITIES.**

20 Section 930 of title 18, United States Code, is
21 amended by—

22 (a) redesignating subsections (c), (d), (e), and
23 (f) as subsections (d), (e), (f), and (g) respectively;

24 (b) in subsection (a), deleting “(c)” and insert-
25 ing in lieu thereof “(d)”; and

1 (c) inserting after subsection (b) the following:

2 “(c) Whoever kills or attempts to kill any person in
3 the course of a violation of subsection (a) or (b), or in
4 the course of an attack on a Federal facility involving the
5 use of a firearm or other dangerous weapon, shall—

6 “(1) in the case of a killing constituting murder
7 as defined in section 1111(a) of this title, be pun-
8 ished by death or imprisoned for any term of years
9 or for life; and

10 “(2) in the case of any other killing or an at-
11 tempted killing, be subject to the penalties provided
12 for engaging in such conduct within the special mar-
13 itime and territorial jurisdiction of the United States
14 under sections 1112 and 1113 of this title.”.

15 **SEC. 734. PROVIDING MATERIAL SUPPORT TO TERRORISTS.**

16 (a) OFFENSE.—Chapter 113A of title 18, United
17 States Code, is amended by adding the following new
18 section:

19 **“§ 2339A. Providing material support to terrorists**

20 “Whoever, within the United States, provides mate-
21 rial support or resources or conceals or disguises the na-
22 ture, location, source, or ownership of material support or
23 resources, knowing or intending that they are to be used
24 to facilitate a violation of section 32, 36, 351, 844 (f) or
25 (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281,

1 2332, or 2339 of this title, or section 902(i) of the Federal
2 Aviation Act of 1958, as amended (49 U.S.C. App.
3 1472(i)), or to facilitate the concealment or an escape
4 from the commission of any of the foregoing, shall be fined
5 under this title, imprisoned not more than ten years, or
6 both. For purposes of this section, material support or re-
7 sources shall include, but not be limited to, currency or
8 other financial securities, lodging, training, safehouses,
9 false documentation or identification, communications
10 equipment, facilities, weapons, lethal substances, explo-
11 sives, personnel, transportation, and other physical
12 assets.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter 113A of title 18, United States
15 Code is amended by adding the following:

“2339A. Providing material support to terrorists.”.

16 **SEC. 735. ADDITION OF TERRORIST OFFENSES TO THE**
17 **RICO STATUTE.**

18 (a) VARIOUS OFFENSES.—Section 1961(1)(B) of
19 title 18 of the United States Code is amended:

20 (1) by inserting after “Section” the following:
21 “32 (relating to the destruction of aircraft), section
22 36 (relating to violence at international airports),
23 section”;

24 (2) by inserting after “section 224 (relating to
25 sports bribery);” the following: “section 351 (relat-

1 ing to Congressional or Cabinet officer assassina-
2 tion),”;

3 (3) by inserting after “section 664 (relating to
4 embezzlement from pension and welfare funds),” the
5 following: “section 844 (f) or (i) (relating to destruc-
6 tion by explosives of government property or prop-
7 erty affecting interstate or foreign commerce),”;

8 (4) by inserting after “section 1084 (relating to
9 the transmission of gambling information),” the fol-
10 lowing: “section 1111 (relating to murder), section
11 1114 (relating to murder of United States law en-
12 forcement officials), section 1116 (relating to mur-
13 der of foreign officials, official guests, or internation-
14 ally protected persons), section 1203 (relating to
15 hostage taking),”;

16 (5) by inserting after “section 1344 (relating to
17 financial institution fraud),” the following: “section
18 1361 (relating to willful injury of government prop-
19 erty), section 1363 (relating to destruction of prop-
20 erty within the special maritime and territorial juris-
21 diction),”;

22 (6) by inserting after “section 1513 (relating to
23 retaliating against a witness, victim, or an inform-
24 ant),” the following: “section 1751 (relating to Pres-
25 idential assassination),”;

1 (7) by inserting after “section 1958 (relating to
2 use of interstate commerce facilities in the commis-
3 sion of murder-for-hire),” the following: “section
4 2280 (relating to violence against maritime naviga-
5 tion), section 2281 (relating to violence against mar-
6 itime fixed platforms),”; and

7 (8) by inserting after “2320 (relating to traf-
8 ficking in certain motor vehicles or motor vehicle
9 parts),” the following: “section 2332 (relating to ter-
10 rorist acts abroad against United States nationals),
11 section 2339 (relating to use of weapons of mass de-
12 struction),”.

13 (b) AIRCRAFT PIRACY.—Section 1961(1) of title 18
14 of the United States Code is amended by striking “or”
15 before “(E)”, and inserting at the end thereof the follow-
16 ing: “or (F) section 902 (i) or (n) of the Federal Aviation
17 Act of 1958, as amended (49 U.S.C. App. 1472 (i) or
18 (n));”.

19 (c) DEFINITION.—Section 1961(5) of title 18 of the
20 United States Code is amended by adding at the end the
21 following: “The term shall not be construed to require the
22 presence of any pecuniary purpose when the acts of rack-
23 eteering involve only crimes of violence.”.

1 **SEC. 736. FORFEITURE FOR TERRORISTS AND OTHER VIO-**
2 **LENT ACTS.**

3 (a) IN GENERAL.—Chapter 46 of title 18, United
4 States Code, is amended by adding after section 982 the
5 following:

6 **“§983. Civil forfeiture of property used to commit**
7 **violent acts**

8 “(a) The following property shall be subject to civil
9 forfeiture by the United States:

10 “(1) Any property used or intended for use to
11 commit or facilitate the commission of a violent act;
12 and

13 “(2) Any property constituting or derived from
14 the gross profits or other proceeds obtained from a
15 violent act.

16 No interest of an owner in property shall be forfeited
17 under paragraphs (1) or (2) by reason of any act or omis-
18 sion established by that owner to have been committed or
19 omitted without the knowledge, consent or willful blind-
20 ness of that owner.

21 “(b) All provisions of the customs law relating to the
22 seizure, summary and judicial forfeiture, and condemna-
23 tion of property for violation of the customs laws, the dis-
24 position of such property or the proceeds from the sale
25 thereof, the remission or mitigation of such forfeitures,
26 and the compromise of claims, shall apply to seizures and

1 forfeitures incurred, or alleged to have been incurred,
2 under this section, insofar as applicable and not inconsis-
3 ent with the provisions of this section, except that such
4 duties as are imposed upon the customs officer or any
5 other person with respect to the seizure and forfeiture of
6 property under the customs laws shall be performed with
7 respect to seizures and forfeitures of property under this
8 section by such officers, agents, or other persons as may
9 be authorized or designated for that purpose by the Attor-
10 ney General, except to the extent that such duties arise
11 from seizures and forfeitures effected by any customs
12 officer.

13 “(c) As used in this section, the term ‘violent act’
14 means—

15 “(1) any felony offense under the following
16 chapters of this title: chapter 2 (relating to aircraft
17 and motor vehicles); chapter 5 (relating to arson);
18 chapter 7 (relating to assault); chapter 12 (relating
19 to civil disorders); chapter 18 (relating to congress-
20 sional, cabinet, and supreme court assassination,
21 kidnaping, and assault); chapter 35 (relating to es-
22 cape and rescue); chapter 40 (relating to importa-
23 tion, manufacture, distribution and storage of explo-
24 sive materials; chapter 41 (relating to extortion and
25 threats); chapter 44 (relating to firearms); chapter

1 51 (relating to homicide); chapter 55 (relating to
2 kidnaping); chapter 65 (relating to malicious mis-
3 chief); chapter 81 (relating to piracy and
4 privateering); chapter 84 (relating to Presidential
5 and Presidential staff assassination, kidnaping, and
6 assault); chapter 95 (relating to racketeering); chap-
7 ter 97 (relating to railroads); chapter 102 (relating
8 to riots); chapter 103 (relating to robbery and bur-
9 glary); chapter 105 (relating to sabotage); chapter
10 111 (relating to shipping); chapter 113A (relating to
11 terrorism); or chapter 113B (relating to torture);

12 “(2) any felony offense under the following sec-
13 tions of this title: section 831 (relating to prohibited
14 transactions involving nuclear materials); section
15 956 (relating to conspiracy to injure property of for-
16 eign government); or section 1153 (relating to of-
17 fenses committed within Indian country);

18 “(3) any felony offense under: section 2284 of
19 title 42 of the United States Code (relating to the
20 sabotage of nuclear facilities); sections 901 (i), (j),
21 (k), (l), (m), or (n) of the Federal Aviation Act of
22 1958 (49 U.S.C. App. 1472 (i), (j), (k), (l), (m) or
23 (n)); section 11(c)(2) of the Natural Gas Pipeline
24 Safety Act (49 U.S.C. App. 1679(c)(2)); or section

1 208(c)(2) of the Hazardous Liquid Pipeline Safety
2 Act (49 U.S.C. App. 2007(c)(2));

3 “(4) any other United States offense punishable
4 by imprisonment for more than one year involving
5 murder, robbery, kidnaping, extortion, or malicious
6 destruction of property; or

7 “(5) a conspiracy or attempt to commit any of
8 the foregoing offenses.

9 “(d) The filing of an indictment of information alleg-
10 ing a violation of an offense constituting a violent act
11 which is also related to a civil forfeiture proceeding under
12 this section shall, upon motion of the United States and
13 for good cause shown, stay the civil forfeiture proceeding.

14 **“§984. Criminal forfeiture of property used to com-**
15 **mit violent acts**

16 “(a) Any person convicted of a violent act as defined
17 in section 983(c) of this title shall forfeit to the United
18 States, irrespective of any provision of State law, such per-
19 son’s interest in—

20 “(1) any property constituting, or derived from,
21 any proceeds the person obtained, directly or indi-
22 rectly, as the result of such violent act; and

23 “(2) any of the person’s property used, or in-
24 tended to be used, in any manner or part, to com-

1 mit, or to facilitate the commission of, such violent
2 act.

3 “(b) The provisions of subsections (b), (c), and (e)–
4 (p) of section 413 of the Comprehensive Drug Abuse Pre-
5 vention and Control Act of 1970 (21 U.S.C. 853 (b), (c),
6 and (e)–(p)) shall apply to—

7 “(1) property subject to forfeiture under sub-
8 section (a);

9 “(2) any seizure or disposition of such property;
10 and

11 “(3) any judicial proceeding in relation to such
12 property.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter 46 of title 18, United States
15 Code, is amended by adding at the end the following:

“983. Civil forfeiture of property used to commit violent acts.

“984. Criminal forfeiture of property used to commit violent acts.”.

16 **SEC. 737. ENHANCED PENALTIES FOR CERTAIN OFFENSES.**

17 (a) TITLE 50.—Title 50, United States Code, is
18 amended—

19 (1) in section 1705(b), by replacing “\$50,000”
20 with “\$1,000,000”; and

21 (2) in section 1705(a), by replacing “\$10,000”
22 with “\$1,000,000”.

23 (b) TITLE 18.—Title 18, United States Code, is
24 amended.—

1 (1) in section 1541, by replacing “\$500” with
2 “\$250,000” and by replacing “one year” with “five
3 years”;

4 (2) in sections 1542, 1543, 1544 and 1546, by
5 replacing “\$2,000” with “\$250,000” and by replac-
6 ing “five years” with “ten years”; and

7 (3) in section 1545, by replacing “\$2,000” with
8 “\$250,000” and by replacing “three years” with
9 “ten years”.

10 **SEC. 738. SENTENCING GUIDELINES INCREASE FOR TER-**
11 **RORIST CRIMES.**

12 The United States Sentencing Commission is directed
13 to amend its sentencing guidelines to provide an increase
14 of not less than three levels in the base offense level for
15 any felony, whether committed within or outside the Unit-
16 ed States, that involves or is intended to promote inter-
17 national terrorism, unless such involvement or intent is
18 itself an element of the crime.

19 **Subtitle E—Antiterrorism Enforcement**
20 **Provisions**

21 **SEC. 741. ALIENS COOPERATING IN TERRORIST OR**
22 **OTHER INVESTIGATIONS.**

23 (a) IN GENERAL.—Notwithstanding any other provi-
24 sion of law, whenever the Attorney General, or his des-
25 ignee, determines that the entry of a particular alien into

1 the United States for permanent residence or other status,
2 or where an alien is already present in the United States,
3 the award of permanent residence or other status, is in
4 the interest of national security, essential to the further-
5 ance of the national intelligence mission, important to the
6 United States public safety, or necessary to protect the
7 life of an individual who has provided cooperation to Fed-
8 eral law enforcement, such alien and his immediate family
9 shall be given entry into the United States and/or awarded
10 permanent residence or other status. Where the decision
11 to grant such entry or award of permanent residence or
12 other status is based on furtherance of the national intel-
13 ligence mission, the Attorney General shall consult with
14 the Director of the Central Intelligence Agency concerning
15 the decision.

16 (b) LIMIT ON NUMBER OF ALIENS.—The number of
17 aliens and members of their immediate families entering
18 the United States under the authority of this section shall
19 in no case exceed two hundred persons in any one fiscal
20 year. The decision to grant or deny permanent resident
21 or other status under this section is at the discretion of
22 the Attorney General and shall not be subject to judicial
23 review.

1 **SEC. 742. AMENDMENT TO THE ALIEN ENEMY ACT.**

2 Section 21 of title 50, United States Code, is amend-
3 ed by inserting “(a)” before “Whenever,” and by adding
4 the following new subsection:

5 “(b) Whenever the President invokes the authority
6 contained in subsection (a) as to aliens of a hostile nation
7 or government and further determines that the United
8 States may also be subject to actual, attempted, or threat-
9 ened predatory incursions by aliens of other nations,
10 whether or not acting in concert with the hostile nation,
11 the President is authorized, by his proclamation thereof,
12 to include within the terms of subsection (a) and sections
13 22, 23, and 24, any and all other aliens within the United
14 States, or any subcategories or subclasses of such aliens,
15 by nationality or otherwise, as the President may so des-
16 ignate.”.

17 **SEC. 743. COUNTERINTELLIGENCE ACCESS TO TELEPHONE**
18 **RECORDS.**

19 Section 2709 of title 18 of the United States Code
20 is amended by—

- 21 (1) striking out subsections (b) and (c); and
22 (2) inserting the following new subsections (b)
23 and (c):

24 “(b) **REQUIRED CERTIFICATION.**—The Director of
25 the Federal Bureau of Investigation (or an individual

1 within the Federal Bureau of Investigation designated for
2 this purpose by the Director) may:

3 “(1) request any such information and records
4 if the Director (or the Director’s designee) certifies
5 in writing to the wire or electronic communication
6 service provider to which the request is made that—

7 “(A) the information sought is relevant to
8 an authorized foreign counterintelligence inves-
9 tigation; and

10 “(B) there are specific and articulable
11 facts giving reason to believe that the person or
12 entity about whom information is sought is a
13 foreign power or an agent of a foreign power as
14 defined in section 101 of the Foreign Intel-
15 ligence Surveillance Act of 1978 (50 U.S.C.
16 1801);

17 “(2) request subscriber information regarding a
18 person or entity if the Director (or the Director’s
19 designee certifies in writing to the wire or electronic
20 communications service provider to which the re-
21 quest is made that—

22 “(A) the information sought is relevant to
23 an authorized foreign counterintelligence inves-
24 tigation; and

1 “(B) that information available to the FBI
2 indicates there is reason to believe that commu-
3 nication facilities registered in the name of the
4 person or entity have been used, through the
5 services of such provider, in communication
6 with a foreign power or an agent of a foreign
7 power as defined in section 101 of the Foreign
8 Intelligence Surveillance Act of 1978 (50
9 U.S.C. 1801).

10 “(c) PENALTY FOR DISCLOSURE.—No wire or elec-
11 tronic communication service provider, or officer, em-
12 ployee, or agent thereof, shall disclose to any person that
13 the Federal Bureau of Investigation has sought or ob-
14 tained access to information under this section. A knowing
15 violation of this section is punishable as a class A mis-
16 demeanor.”.

17 **SEC. 744. COUNTERINTELLIGENCE ACCESS TO CREDIT**
18 **RECORDS.**

19 Section 1681(f) of title 15, United States Code, is
20 amended by inserting “(1)” before the existing paragraph
21 thereof, and by adding the following provisions:

22 “(2) Notwithstanding the provisions of section
23 1681(b) of this title, a consumer reporting agency shall
24 furnish a consumer report to the Federal Bureau of Inves-
25 tigation (FBI) when presented with a request for a

1 consumer report made pursuant to this subsection by the
2 FBI: *provided*, That the Director of the FBI, or his des-
3 ignee, certifies in writing to the consumer reporting agen-
4 cy that such records are sought for counterintelligence
5 purposes and that there exists specific and articulable
6 facts giving reason to believe the person to whom the re-
7 quested consumer report relates is an agent of a foreign
8 power as defined in section 101 of the Foreign Intelligence
9 Surveillance Act of 1978 (50 U.S.C. 1801).

10 “(3) Notwithstanding the provisions of section
11 1681(b) of this title, a consumer reporting agency shall
12 furnish identifying information respecting any consumer
13 limited to name, address, former addresses, places of em-
14 ployment or former places of employment, to a representa-
15 tive of the FBI when presented with a written request
16 signed by the Director of the FBI, or his designee, stating
17 that the information is sought in connection with an au-
18 thorized foreign counterintelligence investigation.

19 “(4) No consumer reporting agency, officer, em-
20 ployee, or agent of such institution, shall disclose to any
21 person that the FBI has sought or obtained a consumer
22 report, or identifying information respecting any
23 consumer. A knowing violation of this section is punish-
24 able as a class A misdemeanor.”.

1 **SEC. 745. AUTHORIZATION FOR INTERCEPTIONS OF COM-**
2 **MUNICATIONS.**

3 (a) TITLE 50 Crimes.—Section 2516(1)(k) of title
4 18, United States Code, is amended by adding before the
5 “;” the following: “, or of section 1701 and the following
6 of title 50, United States Code (relating to the Inter-
7 national Emergency Economic Powers Act); section 2410
8 appendix of title 50, United States Code (relating to the
9 Export Administration Act); or section 5 appendix of title
10 50, United States Code (relating to the Trading with the
11 Enemy Act)”.

12 (b) TITLE 18 Crimes.— Section 2516(1) of title 18,
13 United States Code, is further amended—

14 (1) by redesignating subparagraph (o) as sub-
15 paragraph (p) and adding a new subparagraph (o)
16 as follows:

17 “(o) any violation of section 956 or section 960
18 of title 18, United States Code (relating to certain
19 actions against foreign nations);”; and

20 (2) in paragraph (c), by inserting before “or
21 section 1992 (relating to wrecking trains)” the fol-
22 lowing: “section 2332 (relating to terrorist acts
23 abroad), section 2339 (relating to weapons of mass
24 destruction), section 36 (relating to violence at air-
25 ports),”.

1 **SEC. 746. PARTICIPATION OF FOREIGN AND STATE GOV-**
2 **ERNMENT PERSONNEL IN INTERCEPTIONS**
3 **OF COMMUNICATIONS.**

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

8 **SEC. 747. DISCLOSURE OF INTERCEPTED COMMUNICA-**
9 **TIONS TO FOREIGN LAW ENFORCEMENT**
10 **AGENCIES.**

11 Section 2510(7) of title 18, United States Code, is
12 amended by inserting before the semicolon “and addition-
13 ally, for purposes of section 2517 (1)–(2), any person au-
14 thorized to perform investigative, law enforcement, or
15 prosecutorial functions by a foreign government”.

16 **SEC. 748. EXTENSION OF THE STATUTE OF LIMITATIONS**
17 **FOR CERTAIN TERRORISM OFFENSES.**

18 (a) IN GENERAL.—Chapter 213 of title 18, United
19 States Code, is amended by inserting after section 3285
20 the following:

21 **“§ 3286. Extension of statute of limitations for certain**
22 **terrorism offenses**

23 “Notwithstanding section 3282, no person shall be
24 prosecuted, tried, or punished for any offense involving a
25 violation of section 32 (aircraft destruction), section 36
26 (airport violence), section 112 (assaults upon diplomats),

1 section 351 (crimes against Congressmen or Cabinet offi-
2 cers), section 1116 (crimes against diplomats), section
3 1203 (hostage taking), section 1361 (willful injury to gov-
4 ernment property), section 1751 (crimes against the Presi-
5 dent), section 2280 (maritime violence), section 2281
6 (maritime platform violence), section 2332 (terrorist acts
7 abroad against United States nationals), section 2339 (use
8 of weapons of mass destruction), or section 2340A (tor-
9 ture) of this title or section 902 (i), (j), (k), (l), or (n)
10 of the Federal Aviation Act of 1958, as amended (49
11 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the in-
12 dictment is found or the information is instituted within
13 ten years next after such offense shall have been
14 committed.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of chapter 213 is amended by inserting
17 below the item for:

“3285. Criminal contempt.”

18 the following:

“3286. Extension of statute of limitations for certain terrorism offenses.”.

19 **TITLE VIII—EQUAL JUSTICE ACT**

20 **SEC. 801. SHORT TITLE.**

21 This title may be cited as the “Equal Justice Act”.

1 **SEC. 802. PROHIBITION OF RACIALLY DISCRIMINATORY**
2 **POLICIES CONCERNING CAPITAL PUNISH-**
3 **MENT OR OTHER PENALTIES.**

4 (a) IN GENERAL.—The penalty of death and all other
5 penalties shall be administered by the United States and
6 by every State without regard to the race or color of the
7 defendant or victim. Neither the United States nor any
8 State shall prescribe any racial quota or statistical test
9 for the imposition or execution of the death penalty or any
10 other penalty.

11 (b) DEFINITIONS.—For purposes of this title—

12 (1) the action of the United States or of a State
13 includes the action of any legislative, judicial, execu-
14 tive, administrative, or other agency or instrumental-
15 ity of the United States or a State, or of any politi-
16 cal subdivision of the United States or a State;

17 (2) the term “State” has the meaning given in
18 section 541 of title 18, United States Code; and

19 (3) the term “racial quota or statistical test”
20 includes any law, rule, presumption, goal, standard
21 for establishing a prima facie case, or mandatory or
22 permissive inference that—

23 (A) requires or authorizes the imposition
24 or execution of the death penalty or another
25 penalty so as to achieve a specified racial pro-

1 portion relating to offenders, convicts, defend-
2 ants, arrestees, or victims; or

3 (B) requires or authorizes the invalidation
4 of, or bars the execution of, sentences of death
5 or other penalties based on the failure of a ju-
6 risdiction to achieve a specified racial propor-
7 tion relating to offenders, convicts, defendants,
8 arrestees, or victims in the imposition or execu-
9 tion of such sentences or penalties.

10 **SEC. 803. GENERAL SAFEGUARDS AGAINST RACIAL PREJU-**
11 **DICE OR BIAS IN THE TRIBUNAL.**

12 In a criminal trial in a court of the United States,
13 or of any State—

14 (1) on motion of the defense attorney or pros-
15 ecutor, the risk of racial prejudice or bias shall be
16 examined on voir dire if there is a substantial likeli-
17 hood in the circumstances of the case that such prej-
18 udice or bias will affect the jury either against or in
19 favor of the defendant;

20 (2) on motion of the defense attorney or pros-
21 ecutor, a change of venue shall be granted if an im-
22 partial jury cannot be obtained in the original venue
23 because of racial prejudice or bias; and

1 (3) neither the prosecutor nor the defense at-
2 torney shall make any appeal to racial prejudice or
3 bias in statements before the jury.

4 **SEC. 804. FEDERAL CAPITAL CASES.**

5 (a) JURY INSTRUCTIONS AND CERTIFICATION.—In a
6 prosecution for an offense against the United States in
7 which a sentence of death is sought, and in which the cap-
8 ital sentencing determination is to be made by a jury, the
9 judge shall instruct the jury that it is not to be influenced
10 by prejudice or bias relating to the race or color of the
11 defendant or victim in considering whether a sentence of
12 death is justified, and that the jury is not to recommend
13 the imposition of a sentence of death unless it has con-
14 cluded that it would recommend the same sentence for
15 such a crime regardless of the race or color of the defend-
16 ant or victim. Upon the return of a recommendation of
17 a sentence of death, the jury shall also return a certificate,
18 signed by each juror, that the juror’s individual decision
19 was not affected by prejudice or bias relating to the race
20 or color of the defendant or victim, and that the individual
21 juror would have made the same recommendation regard-
22 less of the race or color of the defendant or victim.

23 (b) RACIALLY MOTIVATED KILLINGS.—In a prosecu-
24 tion for an offense against the United States for which
25 a sentence of death is authorized, the fact that the killing

1 of the victim was motivated by racial prejudice or bias
2 shall be deemed an aggravating factor whose existence
3 permits consideration of the death penalty, in addition to
4 any other aggravating factors that may be specified by law
5 as permitting consideration of the death penalty.

6 (c) KILLINGS IN VIOLATION OF CIVIL RIGHTS STAT-
7 UTES.—Sections 241, 242, and 245(b) of title 18, United
8 States Code, are each amended by deleting “shall be sub-
9 ject to imprisonment for any term of years or for life”
10 and inserting in lieu thereof “shall be punished by death
11 or imprisonment for any term of years or for life”.

12 **SEC. 805. FUNDING OBJECTIVE.**

13 Section 501 of title I of the Omnibus Crime Control
14 and Safe Streets Act of 1968 (42 U.S.C. 3751) is amend-
15 ed by striking “and” following the semicolon in paragraph
16 (20), striking the period at the end of paragraph (21) and
17 inserting in lieu thereof “; and”, and adding at the end
18 thereof the following new paragraph:

19 “(22) providing, in all appropriate cases, par-
20 ticularly collateral and other post-conviction proceed-
21 ings, adequate resources and expertise to ensure
22 that the death penalty is expeditiously carried out.”.

1 **SEC. 806. EXTENSION OF PROTECTION OF CIVIL RIGHTS**
2 **STATUTES.**

3 (a) SECTION 241.—Section 241 of title 18, United
4 States Code, is amended by deleting “inhabitant of” and
5 inserting in lieu thereof “person in”.

6 (b) SECTION 242.—Section 242 of title 18, United
7 States Code, is amended by deleting “inhabitant of” and
8 inserting in lieu thereof “person in”, and by deleting
9 “such inhabitant” and inserting in lieu thereof “such
10 person”.

11 **TITLE IX—VICTIMS’ RIGHTS**

12 **SEC. 901. RESTITUTION AMENDMENTS.**

13 (a) EXPANSION OF RESTITUTION.—Section 3663(b)
14 of title 18, United States Code, is amended by striking
15 “and” following the semicolon in paragraph (3), redesignig-
16 nating paragraph (4) as paragraph (5), and adding after
17 paragraph (3) the following:

18 “(4) in any case, reimburse the victim for nec-
19 essary child care, transportation, and other expenses
20 related to participation in the investigation or pros-
21 ecution of the offense or attendance at proceedings
22 related to the offense; and”.

23 (b) SUSPENSION OF FEDERAL BENEFITS.—Sub-
24 sections (g) and (h) of section 3663 of title 18, United
25 States Code, are redesignated as subsections (h) and (i),

1 respectively, and a new subsection (g) is inserted as
2 follows:

3 “(g)(1) If the defendant is delinquent in making res-
4 titution in accordance with any schedule of payments es-
5 tablished under subsection (f)(1) of this section, or any
6 requirement of immediate payment under subsection
7 (f)(3) of this section, the court may, after a hearing, sus-
8 pend the defendant’s eligibility for all Federal benefits
9 until such time as the defendant demonstrates to the court
10 good-faith efforts to return to such schedule.

11 “(2) For purposes of this subsection—

12 “(A) the term ‘Federal benefits’—

13 “(i) means any grant, contract, loan, pro-
14 fessional license, or commercial license provided
15 by an agency of the United States or by appro-
16 priated funds of the United States; and

17 “(ii) does not include any retirement, wel-
18 fare, Social Security, health, disability, veterans
19 benefit, public housing, or other similar benefit,
20 or any other benefit for which payments or
21 services are required for eligibility; and

22 “(B) the term ‘veterans benefit’ means all bene-
23 fits provided to veterans, their families, or survivors
24 by virtue of the service of a veteran in the Armed
25 Forces of the United States.”.

1 **SEC. 902. VICTIM'S RIGHT OF ALLOCATION IN SENTENCING.**

2 Rule 32 of the Federal Rules of Criminal Procedure
3 is amended by—

4 (1) striking “and” following the semicolon in
5 subdivision (a)(1)(B);

6 (2) striking the period at the end of subdivision
7 (a)(1)(C) and inserting in lieu thereof “; and”;

8 (3) inserting after subdivision (a)(1)(C) the fol-
9 lowing:

10 “(D) if sentence is to be imposed for a
11 crime of violence or sexual abuse, address the
12 victim personally if the victim is present at the
13 sentencing hearing and determine if the victim
14 wishes to make a statement and to present any
15 information in relation to the sentence.”;

16 (4) in the second to last sentence of subdivision
17 (a)(1), striking “equivalent opportunity” and insert-
18 ing in lieu thereof “opportunity equivalent to that of
19 the defendant’s counsel”;

20 (5) in the last sentence of subdivision (a)(1) in-
21 serting “the victim,” before “, or the attorney for
22 the Government.”; and

23 (6) adding at the end the following:

24 “(f) DEFINITIONS.—For purposes of this rule—

25 (1) “victims” means any individual against
26 whom an offense for which a sentence is to be im-

1 posed has been committed, but the right of allocu-
 2 tion under subdivision (a)(1)(D) may be exercised
 3 instead by—

4 “(A) a parent or legal guardian in case the
 5 victim is below the age of eighteen years or in-
 6 competent; or

7 “(B) one or more family members or rel-
 8 atives designated by the court in case the victim
 9 is deceased or incapacitated;

10 if such person or persons are present at the sentenc-
 11 ing hearing, regardless of whether the victim is
 12 present; and

13 “(2) ‘crime or violence or sexual abuse’ means
 14 a crime that involved the use or attempted or threat-
 15 ened use of physical force against the person or
 16 property of another, or a crime under chapter 109A
 17 of title 18, United States Code.”.

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