

104TH CONGRESS
1ST SESSION

H. R. 1710

To combat terrorism.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 1995

Mr. HYDE (for himself, Mr. MCCOLLUM, Mr. SMITH of Texas, Mr. GEKAS, Mr. CANADY of Florida, Mr. HOKE, and Mr. BONO) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To combat terrorism.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive
5 Antiterrorism Act of 1995”.

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

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

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—NEW OFFENSES

- Sec. 101. Protection of Federal employees.
- Sec. 102. Providing financial support to terrorist organizations.
- Sec. 103. Modification of material support provision.
- Sec. 104. Acts of terrorism transcending national boundaries.

- Sec. 105. Conspiracy to harm people and property overseas.
- Sec. 106. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
- Sec. 107. Expansion and modification of weapons of mass destruction statute.
- Sec. 108. Addition of terrorism offenses to the money laundering statute.
- Sec. 109. Expansion of Federal jurisdiction over bomb threats.
- Sec. 110. Clarification of maritime violence jurisdiction.
- Sec. 111. Possession of stolen explosives prohibited.

TITLE II—INCREASED PENALTIES

- Sec. 201. Mandatory minimum for certain explosives offenses.
- Sec. 202. Increased penalty for explosive conspiracies.
- Sec. 203. Increased and alternate conspiracy penalties for terrorism offenses.
- Sec. 204. Mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence.
- Sec. 205. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
- Sec. 206. Directions to sentencing commission.

TITLE III—INVESTIGATIVE TOOLS

- Sec. 301. Interceptions of communications.
- Sec. 302. Pen registers and trap and trace devices in foreign counterintelligence investigations.
- Sec. 303. Disclosure of information and consumer reports to Federal Bureau of Investigation for foreign counterintelligence purposes.
- Sec. 304. Access to records of common carriers, public accommodation facilities, physical storage facilities and vehicle rental facilities in foreign counterintelligence and counterterrorism cases.
- Sec. 305. Study of tagging explosive materials, rendering explosive components inert, and imposing controls of precursors of explosives.
- Sec. 306. Limitation of statutory exclusionary rule concerning intercepted wire or oral communications.
- Sec. 307. Authority for wiretaps in any terrorism-related or explosives felony.
- Sec. 308. Temporary emergency wiretap authority involving terroristic crimes.
- Sec. 309. Expanded authority for multi-point wiretaps.
- Sec. 310. Enhanced access to telephone billing records.
- Sec. 311. Requirement to preserve evidence.
- Sec. 312. Military assistance with respect to offenses involving weapons of mass destruction.
- Sec. 313. Detention hearing.
- Sec. 314. Reward authority of the Attorney General.
- Sec. 315. Definition of terrorism.

TITLE IV—NUCLEAR MATERIALS

- Sec. 401. Expansion of nuclear materials prohibitions.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

- Sec. 501. Definitions.
- Sec. 502. Requirement of detection agents for plastic explosives.
- Sec. 503. Criminal sanctions.
- Sec. 504. Exceptions.
- Sec. 505. Investigative authority.

Sec. 506. Effective date.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 601. Removal procedures for alien terrorists.

Sec. 602. Funding for detention and deportation of alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

Sec. 611. Membership in terrorist organization as ground for exclusion.

Sec. 612. Denial of asylum to alien terrorists.

Sec. 613. Denial of other relief for alien terrorists.

Subtitle B—Expedited Exclusion

Sec. 621. Inspection and exclusion by immigration officers.

Sec. 622. Judicial review.

Sec. 623. Exclusion of aliens who have not been inspected and admitted.

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Sec. 631. Access to certain confidential INS files through court order.

Sec. 632. Waiver authority concerning notice of denial of application for visas.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

Sec. 641. Criminal forfeiture for passport and visa related offenses.

Sec. 642. Subpoenas for bank records.

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TITLE VII—FUNDING

Sec. 701. Authorization of appropriations.

Sec. 702. Civil monetary penalty surcharge and telecommunications carrier compliance payments.

1 **TITLE I—NEW OFFENSES**

2 **SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.**

3 (a) HOMICIDE.—Section 1114 of title 18, United

4 States Code, is amended to read as follows:

5 **“§1114. Protection of officers and employees of the**

6 **United States**

7 “Whoever kills or attempts to kill any officer or em-

8 ployee of the United States or of any agency in any branch

1 of the United States Government (including any member
2 of the uniformed services) while such officer or employee
3 is engaged in or on account of the performance of official
4 duties, or any person assisting such an officer or employee
5 in the performance of such duties or on account of that
6 assistance, shall be punished, in the case of murder, as
7 provided under section 1111, or in the case of man-
8 slaughter, as provided under section 1112, except that any
9 such person who is found guilty of attempted murder shall
10 be imprisoned for not more than 20 years.”.

11 (b) THREATS AGAINST FORMER OFFICERS AND EM-
12 PLOYEES.—Section 115(a)(2) of title 18, United States
13 Code, is amended by inserting “, or threatens to assault,
14 kidnap, or murder, any person who formerly served as a
15 person designated in paragraph (1), or” after “assaults,
16 kidnaps, or murders, or attempts to kidnap or murder”.

17 **SEC. 102. PROVIDING FINANCIAL SUPPORT TO TERRORIST**
18 **ORGANIZATIONS.**

19 (a) IN GENERAL.—That chapter 113B of title 18,
20 United States Code, that relates to terrorism is amended
21 by adding at the end the following:

22 **“§ 2339B. Providing financial support to terrorist or-**
23 **ganizations**

24 “(a) OFFENSE.—Whoever, within the United States,
25 knowingly provides material support or resources in or af-

1 fecting interstate or foreign commerce, to any organiza-
2 tion designated by the President under section
3 212(a)(3)(B)(iv) of the Immigration and Nationality Act
4 as a terrorist organization shall be fined under this title
5 or imprisoned not more than 10 years, or both.

6 “(b) DEFINITION.—As used in this section, the term
7 ‘material support or resources’ has the meaning given that
8 term in section 2339A of this title.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of chapter 113B of title 18, United
11 States Code, is amended by adding at the end the follow-
12 ing new item:

“2339B. Providing financial support to terrorist organizations.”.

13 **SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVI-**
14 **SION.**

15 Section 2339A of title 18, United States Code, is
16 amended read as follows:

17 **“§ 2339A. Providing material support to terrorists**

18 “(a) OFFENSE.—Whoever, within the United States,
19 provides material support or resources or conceals or dis-
20 guises the nature, location, source, or ownership of mate-
21 rial support or resources, knowing or intending that they
22 are to be used in preparation for or in carrying out, a
23 violation of section 32, 37, 351, 844(f) or (i), 956, 1114,
24 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, 2332a,
25 or 2332b of this title or section 46502 of title 49, or in

1 preparation for or in carrying out the concealment or an
2 escape from the commission of any such violation, shall
3 be fined under this title, imprisoned not more than ten
4 years, or both.”.

5 “(b) DEFINITION.—In this section, the term ‘mate-
6 rial support or resources’ means currency or other finan-
7 cial securities, financial services, lodging, training,
8 safehouses, false documentation or identification, commu-
9 nications equipment, facilities, weapons, lethal substances,
10 explosives, personnel, transportation, and other physical
11 assets.”.

12 **SEC. 104. ACTS OF TERRORISM TRANSCENDING NATIONAL**
13 **BOUNDARIES.**

14 (a) OFFENSE.—Title 18, United States Code, is
15 amended by inserting after section 2332a the following:

16 **“§2332b. Acts of terrorism transcending national**
17 **boundaries**

18 “(a) PROHIBITED ACTS.—

19 “(1) Whoever, involving any conduct transcend-
20 ing national boundaries and in a circumstance de-
21 scribed in subsection (b)—

22 “(A) kills, kidnaps, maims, commits an as-
23 sult resulting in serious bodily injury, or as-
24 saults with a dangerous weapon any individual
25 within the United States; or

1 “(B) creates a substantial risk of serious
2 bodily injury to any other person by destroying
3 or damaging any structure, conveyance, or
4 other real or personal property within the
5 United States;

6 in violation of the laws of any State or the United
7 States shall be punished as prescribed in subsection
8 (c).

9 “(2) Whoever threatens to commit an offense
10 under paragraph (1), or attempts or conspires to do
11 so, shall be punished as prescribed in subsection (c).

12 “(b) JURISDICTIONAL BASES.—The circumstances
13 referred to in subsection (a) are—

14 “(1) any of the offenders travels in, or uses the
15 mail or any facility of, interstate or foreign com-
16 merce in furtherance of the offense or to escape ap-
17 prehension after the commission of the offense;

18 “(2) the offense obstructs, delays, or affects
19 interstate or foreign commerce, or would have so ob-
20 structed, delayed, or affected interstate or foreign
21 commerce if the offense had been consummated;

22 “(3) the victim, or intended victim, is the Unit-
23 ed States Government or any official, officer, em-
24 ployee, or agent of the legislative, executive, or judi-

1 cial branches, or of any department or agency, of
2 the United States;

3 “(4) the structure, conveyance, or other real or
4 personal property is, in whole or in part, owned, pos-
5 sessed, used by, or leased to the United States, or
6 any department or agency thereof;

7 “(5) the offense is committed in the territorial
8 sea (including the airspace above and the seabed and
9 subsoil below, and artificial islands and fixed struc-
10 tures erected thereon) of the United States; or

11 “(6) the offense is committed in those places
12 within the United States that are in the special mar-
13 itime and territorial jurisdiction of the United
14 States.

15 Jurisdiction shall exist over all principals and co-conspira-
16 tors of an offense under this section, and accessories after
17 the fact to any offense under this section, if at least one
18 of such circumstances is applicable to at least one of-
19 fender.

20 “(c) PENALTIES.—

21 “(1) Whoever violates this section shall be pun-
22 ished—

23 “(A) for a killing or if death results to any
24 person from any other conduct prohibited by

1 this section by death, or by imprisonment for
2 any term of years or for life;

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

5 “(C) for maiming, by imprisonment for not
6 more than 35 years;

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

10 “(E) for destroying or damaging any
11 structure, conveyance, or other real or personal
12 property, by imprisonment for not more than
13 25 years;

14 “(F) for attempting or conspiring to com-
15 mit an offense, for any term of years up to the
16 maximum punishment that would have applied
17 had the offense been completed; and

18 “(G) for threatening to commit an offense
19 under this section, by imprisonment for not
20 more than 10 years.

21 “(2) Notwithstanding any other provision of
22 law, the court shall not place on probation any per-
23 son convicted of a violation of this section; nor shall
24 the term of imprisonment imposed under this section

1 run concurrently with any other term of imprison-
2 ment.

3 “(d) LIMITATION ON PROSECUTION.—No indictment
4 shall be sought nor any information filed for any offense
5 described in this section until the Attorney General, or the
6 highest ranking subordinate of the Attorney General with
7 responsibility for criminal prosecutions, makes a written
8 certification that, in the judgment of the certifying official,
9 such offense, or any activity preparatory to or meant to
10 conceal its commission, is terrorism, as defined in section
11 2331 of this title.

12 “(e) PROOF REQUIREMENTS.—

13 “(1) The prosecution is not required to prove
14 knowledge by any defendant of a jurisdictional base
15 alleged in the indictment.

16 “(2) In a prosecution under this section that is
17 based upon the adoption of State law, only the ele-
18 ments of the offense under State law, and not any
19 provisions pertaining to criminal procedure or evi-
20 dence, are adopted.

21 “(f) EXTRATERRITORIAL JURISDICTION.—There is
22 extraterritorial Federal jurisdiction—

23 “(1) over any offense under subsection (a), in-
24 cluding any threat, attempt, or conspiracy to commit
25 such offense; and

1 “(2) over conduct which, under section 3 of this
2 title, renders any person an accessory after the fact
3 to an offense under subsection (a).

4 “(g) DEFINITIONS.—As used in this section—

5 “(1) the term ‘conduct transcending national
6 boundaries’ means conduct occurring in another
7 country in addition to the conduct occurring in the
8 United States;

9 “(2) the term ‘facility of interstate or foreign
10 commerce’ has the meaning given that term in sec-
11 tion 1958(b)(2) of this title;

12 “(3) the term ‘serious bodily injury’ has the
13 meaning prescribed in section 1365(g)(3) of this
14 title; and

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

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of the chapter 113B of title 18, United
22 States Code, that relates to terrorism is amended by in-
23 serting after the item relating to section 2332a the follow-
24 ing new item:

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

1 (c) STATUTE OF LIMITATIONS AMENDMENT.—Sec-
2 tion 3286 of title 18, United States Code, is amended by—

3 (1) striking “any offense” and inserting “any
4 non-capital offense”;

5 (2) striking “36” and inserting “37”;

6 (3) striking “2331” and inserting “2332”;

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

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

11 (d) PRESUMPTIVE DETENTION.—Section 3142(e) of
12 title 18, United States Code, is amended by inserting “,
13 956(a), or 2332b” after “section 924(c)”.

14 **SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY**
15 **OVERSEAS.**

16 (a) IN GENERAL.—Section 956 of chapter 45 of title
17 18, United States Code, is amended to read as follows:

18 **“§956. Conspiracy to kill, kidnap, maim, or injure**
19 **persons or damage property in a foreign**
20 **country**

21 “(a)(1) Whoever, within the jurisdiction of the United
22 States, conspires with one or more other persons, regard-
23 less of where such other person or persons are located,
24 to commit at any place outside the United States an act
25 that would constitute the offense of murder, kidnapping,

1 or maiming if committed in the special maritime and terri-
2 torial jurisdiction of the United States shall, if any of the
3 conspirators commits an act within the jurisdiction of the
4 United States to effect any object of the conspiracy, be
5 punished as provided in subsection (a)(2).

6 “(2) The punishment for an offense under subsection
7 (a)(1) of this section is—

8 “(A) imprisonment for any term of years or for
9 life if the offense is conspiracy to murder or kidnap;
10 and

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

13 “(b) Whoever, within the jurisdiction of the United
14 States, conspires with one or more persons, regardless of
15 where such other person or persons are located, to damage
16 or destroy specific property situated within a foreign coun-
17 try and belonging to a foreign government or to any politi-
18 cal subdivision thereof with which the United States is at
19 peace, or any railroad, canal, bridge, airport, airfield, or
20 other public utility, public conveyance, or public structure,
21 or any religious, educational, or cultural property so situ-
22 ated, shall, if any of the conspirators commits an act with-
23 in the jurisdiction of the United States to effect any object
24 of the conspiracy, be imprisoned not more than 25 years.”.

1 (b) CLERICAL AMENDMENT.—The item relating to
2 section 956 in the table of sections at the beginning of
3 chapter 45 of title 18, United States Code, is amended
4 to read as follows:

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

5 **SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL**
6 **JURISDICTION OVER CERTAIN TERRORISM**
7 **OFFENSES OVERSEAS.**

8 (a) AIRCRAFT PIRACY.—Section 46502(b) of title 49,
9 United States Code, is amended—

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

12 (2) so that paragraph (2) reads as follows:

13 “(2) There is jurisdiction over the offense in
14 paragraph (1) if—

15 “(A) a national of the United States was
16 aboard the aircraft;

17 “(B) an offender is a national of the
18 United States; or

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

21 (3) by inserting after paragraph (2) the follow-
22 ing:

23 “(3) For purposes of this subsection, the term
24 ‘national of the United States’ has the meaning pre-

1 scribed in section 101(a)(22) of the Immigration
2 and Nationality Act (8 U.S.C. 1101(a)(22)).”.

3 (b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FA-
4 CILITIES.— Section 32(b) of title 18, United States Code,
5 is amended—

6 (1) by striking “, if the offender is later found
7 in the United States,”; and

8 (2) by inserting at the end the following the fol-
9 lowing: “There is jurisdiction over an offense under
10 this subsection if a national of the United States
11 was on board, or would have been on board, the air-
12 craft; an offender is a national of the United States;
13 or an offender is afterwards found in the United
14 States. For purposes of this subsection, the term
15 ‘national of the United States’ has the meaning pre-
16 scribed in section 101(a)(22) of the Immigration
17 and Nationality Act.”.

18 (c) MURDER OF FOREIGN OFFICIALS AND CERTAIN
19 OTHER PERSONS.—Section 1116 of title 18, United
20 States Code, is amended—

21 (1) in subsection (b), by adding at the end the
22 following:

23 “(7) ‘National of the United States’ has the
24 meaning prescribed in section 101(a)(22) of the Im-

1 migration and Nationality Act (8 U.S.C.
2 1101(a)(22)).”; and

3 (2) in subsection (c), by striking the first sen-
4 tence and inserting the following: “If the victim of
5 an offense under subsection (a) is an internationally
6 protected person outside the United States, the
7 United States may exercise jurisdiction over the of-
8 fense if (1) the victim is a representative, officer,
9 employee, or agent of the United States, (2) an of-
10 fender is a national of the United States, or (3) an
11 offender is afterwards found in the United States.”.

12 (d) PROTECTION OF FOREIGN OFFICIALS AND CER-
13 TAIN OTHER PERSONS.—Section 112 of title 18, United
14 States Code, is amended—

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

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

1 (e) THREATS AND EXTORTION AGAINST FOREIGN
2 OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878
3 of title 18, United States Code, is amended—

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

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

15 (f) KIDNAPPING OF INTERNATIONALLY PROTECTED
16 PERSONS.—Section 1201(e) of title 18, United States
17 Code, is amended—

18 (1) by striking the first sentence and inserting
19 the following: “If the victim of an offense under sub-
20 section (a) is an internationally protected person
21 outside the United States, the United States may
22 exercise jurisdiction over the offense if (1) the victim
23 is a representative, officer, employee, or agent of the
24 United States, (2) an offender is a national of the

1 United States, or (3) an offender is afterwards
2 found in the United States.”; and

3 (2) by adding at the end the following: “For
4 purposes of this subsection, the term ‘national of the
5 United States’ has the meaning prescribed in section
6 101(a)(22) of the Immigration and Nationality Act
7 (8 U.S.C. 1101(a)(22)).”.

8 (g) VIOLENCE AT INTERNATIONAL AIRPORTS.—
9 Section 37(b)(2) of title 18, United States Code, is
10 amended—

11 (1) by inserting “(A)” before “the offender is
12 later found in the United States”; and

13 (2) by inserting “; or (B) an offender or a vic-
14 tim is a national of the United States (as defined in
15 section 101(a)(22) of the Immigration and National-
16 ity Act (8 U.S.C. 1101(a)(22)))” after “the offender
17 is later found in the United States”.

18 (h) BIOLOGICAL WEAPONS.—Section 178 of title 18,
19 United States Code, is amended—

20 (1) by striking “and” at the end of paragraph
21 (3);

22 (2) by striking the “period” at the end of para-
23 graph (4) and inserting “; and”; and

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

1 lease, dissemination, or impact of toxic or poi-
2 sonous chemicals, or their precursors;”;

3 (3) by redesignating subsection (b) as sub-
4 section (c); and

5 (4) by inserting after subsection (a) the follow-
6 ing new subsection:

7 “(b) Any national of the United States who, without
8 lawful authority and outside the United States, uses, or
9 threatens, attempts, or conspires to use, a weapon of mass
10 destruction shall be imprisoned for any term of years or
11 for life, and if death results, shall be punished by death,
12 or by imprisonment for any term of years or for life.”.

13 **SEC. 108. ADDITION OF TERRORISM OFFENSES TO THE**
14 **MONEY LAUNDERING STATUTE.**

15 (a) MURDER AND DESTRUCTION OF PROPERTY.—
16 Section 1956(c)(7)(B)(ii) of title 18, United States Code,
17 is amended by striking “or extortion;” and inserting “ex-
18 tortion, murder, or destruction of property by means of
19 explosive or fire;”.

20 (b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of
21 title 18, United States Code, is amended—

22 (1) by inserting after “an offense under” the
23 following: “section 32 (relating to the destruction of
24 aircraft), section 37 (relating to violence at inter-
25 national airports), section 115 (relating to influenc-

1 ing, impeding, or retaliating against a Federal offi-
2 cial by threatening or injuring a family member),”;

3 (2) by inserting after “section 215 (relating to
4 commissions or gifts for procuring loans),” the fol-
5 lowing: “section 351 (relating to Congressional or
6 Cabinet officer assassination),”;

7 (3) by inserting after “section 793, 794, or 798
8 (relating to espionage),” the following: “section 831
9 (relating to prohibited transactions involving nuclear
10 materials), section 844 (f) or (i) (relating to destruc-
11 tion by explosives or fire of Government property or
12 property affecting interstate or foreign commerce),”;

13 (4) by inserting after “section 875 (relating to
14 interstate communications),” the following: “section
15 956 (relating to conspiracy to kill, kidnap, maim, or
16 injure certain property in a foreign country),”;

17 (5) by inserting after “section 1032 (relating to
18 concealment of assets from conservator, receiver, or
19 liquidating agent of financial institution),” the fol-
20 lowing: “section 1111 (relating to murder), section
21 1114 (relating to protection of officers and employ-
22 ees of the United States), section 1116 (relating to
23 murder of foreign officials, official guests, or inter-
24 nationally protected persons),”;

1 (6) by inserting after “section 1203 (relating to
2 hostage taking)” the following: “section 1361 (relat-
3 ing to willful injury of Government property), sec-
4 tion 1363 (relating to destruction of property within
5 the special maritime and territorial jurisdiction),”;

6 (7) by inserting after “section 1708 (theft from
7 the mail);” the following: “section 1751 (relating to
8 Presidential assassination),”;

9 (8) by inserting after “2114 (relating to bank
10 and postal robbery and theft),” the following: “sec-
11 tion 2280 (relating to violence against maritime
12 navigation), section 2281 (relating to violence
13 against maritime fixed platforms),”; and

14 (9) by striking “of this title” and inserting the
15 following: “section 2332 (relating to terrorist acts
16 abroad against United States nationals), section
17 2332a (relating to use of weapons of mass destruc-
18 tion), section 2332b (relating to international terror-
19 ist acts transcending national boundaries), 2339A
20 (relating to providing material support to terrorists)
21 of this title, section 46502 of title 49, United States
22 Code,”.

1 **SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER**
2 **BOMB THREATS.**

3 Section 844(e) of title 18, United States Code, is
4 amended by striking “commerce,” and inserting “inter-
5 state or foreign commerce, or in or affecting interstate or
6 foreign commerce,”

7 **SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURIS-**
8 **DICTION.**

9 Section 2280(b)(1)(A) of title 18, United States
10 Code, is amended—

11 (1) in clause (ii), by striking “and the activity
12 is not prohibited as a crime by the State in which
13 the activity takes place”; and

14 (2) in clause (iii), by striking “the activity takes
15 place on a ship flying the flag of a foreign country
16 or outside of the United States,”.

17 **SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIB-**
18 **ITED.**

19 Section 842(h) of title 18, United States Code, is
20 amended to read as follows:

21 “(h) It shall be unlawful for any person to receive,
22 possess, transport, ship, conceal, store, barter, sell, dispose
23 of, or pledge or accept as security for a loan, any stolen
24 explosive materials which are moving as, which are part
25 of, which constitute, or which have been shipped or trans-
26 ported in, interstate or foreign commerce, either before or

1 after such materials were stolen, knowing or having rea-
2 sonable cause to believe that the explosive materials were
3 stolen.”.

4 **TITLE II—INCREASED** 5 **PENALTIES**

6 **SEC. 201. MANDATORY MINIMUM FOR CERTAIN EXPLO-** 7 **SIVES OFFENSES.**

8 Section 844(f) of title 18, United States Code, is
9 amended to read as follows:

10 “(f) Whoever damages or destroys, or attempts to
11 damage or destroy, by means of fire or an explosive, any
12 personal or real property in whole or in part owned, pos-
13 sessed, or used by, or leased to, the United States, or any
14 department or agency thereof, shall be fined under this
15 title or imprisoned for not more than 25 years, or both,
16 but—

17 “(1) if personal injury results to any person
18 other than the offender, the term of imprisonment
19 shall be not more than 40 years;

20 “(2) if fire or an explosive is used and its use
21 creates a substantial risk of serious bodily injury to
22 any person other than the offender, the term of im-
23 prisonment shall not be less than 20 years; and

24 “(3) if death results to any person other than
25 the offender, the offender shall be subject to the

1 death penalty or imprisonment for any term of years
2 not less than 30, or for life.”.

3 **SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIR-**
4 **ACIES.**

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

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

13 **SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PEN-**
14 **ALTIES FOR TERRORISM OFFENSES.**

15 (a) TITLE 18 OFFENSES.—

16 (1) Sections 32(a)(7), 32(b)(4), 37(a),
17 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H),
18 2281(a)(1)(F), of title 18, United States Code, are
19 each amended by inserting “or conspires” after “at-
20 tempts”.

21 (2) Section 115(b)(2) of title 18, United States
22 Code, is amended by striking “or attempted kidnap-
23 ping” both places it appears and inserting “, at-
24 tempted kidnapping, or conspiracy to kidnap”.

1 (3)(A) Section 115(b)(3) of title 18, United
2 States Code, is amended by striking “or attempted
3 murder” and inserting “, attempted murder, or con-
4 spiracy to murder”.

5 (B) Section 115(b)(3) of title 18, United States
6 Code, is amended by striking “and 1113” and in-
7 serting “, 1113, and 1117”.

8 (4) Section 175(a) of title 18, United States
9 Code, is amended by inserting “or conspires to do
10 so,” after “any organization to do so,”.

11 (b) AIRCRAFT PIRACY.—

12 (1) Section 46502(a)(2) of title 49, United
13 States Code, is amended by inserting “or conspir-
14 ing” after “attempting”.

15 (2) Section 46502(b)(1) of title 49, United
16 States Code, is amended by inserting “or conspiring
17 to commit” after “committing”.

18 **SEC. 204. MANDATORY PENALTY FOR TRANSFERRING A**
19 **FIREARM KNOWING THAT IT WILL BE USED**
20 **TO COMMIT A CRIME OF VIOLENCE.**

21 Section 924(h) of title 18, United States Code, is
22 amended—

23 (1) by inserting “or having reasonable cause to
24 believe” after “knowing”; and

1 (2) by striking “imprisoned not more than 10
2 years, fined in accordance with this title, or both.”
3 and inserting “subject to the same penalties as may
4 be imposed under subsection (c) on a transferee for
5 a first conviction for the use or carrying of the fire-
6 arm.”.

7 **SEC. 205. MANDATORY PENALTY FOR TRANSFERRING AN**
8 **EXPLOSIVE MATERIAL KNOWING THAT IT**
9 **WILL BE USED TO COMMIT A CRIME OF VIO-**
10 **LENCE.**

11 Section 844 of title 18, United States Code, is
12 amended by adding at the end the following:

13 “(n) Whoever knowingly transfers any explosive ma-
14 terials, knowing or having reasonable cause to believe that
15 such explosive materials will be used to commit a crime
16 of violence (as defined in section 924(c)(3) of this title)
17 or drug trafficking crime (as defined in section 924(c)(2)
18 of this title) shall be subject to the same penalties as may
19 be imposed under subsection (h) on a transferee for a first
20 conviction for the use or carrying of the explosive mate-
21 rials.”.

22 **SEC. 206. DIRECTIONS TO SENTENCING COMMISSION.**

23 The United States Sentencing Commission shall
24 forthwith, in accordance with the procedures set forth in
25 section 21(a) of the Sentencing Act of 1987, as though

1 the authority under that section had not expired, amend
2 the sentencing guidelines so that the chapter 3 adjustment
3 relating to international terrorism also applies to domestic
4 terrorism.

5 **TITLE III—INVESTIGATIVE**
6 **TOOLS**

7 **SEC. 301. INTERCEPTIONS OF COMMUNICATIONS.**

8 (a) AUTHORIZATION OF INTERCEPTIONS IN CERTAIN
9 TERRORISM RELATED OFFENSES.—Section 2516(1) of
10 title 18, United States Code, is amended—

11 (1) by striking “and” at the end of subpara-
12 graph (n);

13 (2) by redesignating subparagraph (o) as sub-
14 paragraph (q);

15 (3) by inserting after paragraph (n) the follow-
16 ing:

17 “(o) any violation of section 842 (relating to ex-
18 plosives violations), section 956 or section 960 (re-
19 lating to certain actions against foreign nations),
20 section 1114 (relating to protection of officers and
21 employees of the United States), section 1116 (relat-
22 ing to murder of foreign officials, official guests, or
23 internationally protected persons), section 1751 (re-
24 lating to Presidential assassination), section 2332
25 (relating to terrorist acts abroad), section 2332a (re-

1 relating to weapons of mass destruction, section 2332b
2 (relating to acts of terrorism transcending national
3 boundaries), section 2339A (relating to providing
4 material support to terrorists), section 37 (relating
5 to violence at international airports) of title 18,
6 United States Code, or;

7 “(p) any violation of section 46502 of title 49,
8 United States Code; and”.

9 (b) REPORTS CONCERNING INTERCEPTED COMMU-
10 NICATIONS.—Subsection (6) of section 2518 of the United
11 States Code is amended to read as follows:

12 “(6) Whenever an order authorizing interception is
13 entered under this chapter, the order shall require the at-
14 torney for the Government to file a report with the judge
15 who issued the order showing what progress has been
16 made toward achievement of the authorized objective and
17 the need for continued interception. Such report shall be
18 made 15 days after the interception has begun. No other
19 reports shall be made to the judge under this subsection.”.

20 **SEC. 302. PEN REGISTERS AND TRAP AND TRACE DEVICES**
21 **IN FOREIGN COUNTERINTELLIGENCE INVES-**
22 **TIGATIONS.**

23 (a) APPLICATION.—Section 3122(b)(2) of title 18,
24 United States Code, is amended by inserting “or foreign
25 counterintelligence” after “criminal”.

1 (b) ORDER.—

2 (1) Section 3123(a) of title 18, United States
3 Code, is amended by inserting “or foreign counter-
4 intelligence” after “criminal”.

5 (2) Section 3123(b)(1) of title 18, United
6 States Code, is amended in subparagraph (B), by
7 striking “criminal”.

8 **SEC. 303. DISCLOSURE OF INFORMATION AND CONSUMER**
9 **REPORTS TO FEDERAL BUREAU OF INVES-**
10 **TIGATION FOR FOREIGN COUNTERINTEL-**
11 **LIGENCE PURPOSES.**

12 (a) IN GENERAL.—Chapter 33 of title 28, United
13 States Code, is amended by adding at the end the follow-
14 ing:

15 **“§ 540B. Disclosures for counterintelligence purposes**

16 “(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Not-
17 withstanding any provision of the Fair Credit Reporting
18 Act, a consumer reporting agency shall furnish to the Fed-
19 eral Bureau of Investigation the names and addresses of
20 all financial institutions (as that term is defined in section
21 1101 of the Right to Financial Privacy Act of 1978) at
22 which a consumer maintains or has maintained an ac-
23 count, to the extent that information is in the files of the
24 agency, when presented with a written request for that
25 information, signed by the Director of the Federal Bureau

1 of Investigation, or the Director’s designee (in a position
2 not lower than Deputy Assistant Director), which certifies
3 compliance with this section. The Director or the Direc-
4 tor’s designee may make such a certification only if the
5 Director or the Director’s designee has determined in writ-
6 ing that—

7 “(1) such information is necessary for the con-
8 duct of an authorized foreign counterintelligence in-
9 vestigation; and

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

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

18 “(B) is an agent of a foreign power and is
19 engaging or has engaged in international terror-
20 ism (as that term is defined in section 101(c)
21 of the Foreign Intelligence Surveillance Act of
22 1978) or clandestine intelligence activities that
23 involve or may involve a violation of criminal
24 statutes of the United States.

1 “(b) IDENTIFYING INFORMATION.—Notwithstanding
2 any provision of the Fair Credit Reporting Act, a
3 consumer reporting agency shall furnish identifying infor-
4 mation respecting a consumer, limited to name, address,
5 former addresses, places of employment, or former places
6 of employment, to the Federal Bureau of Investigation
7 when presented with a written request, signed by the Di-
8 rector or the Director’s designee, which certifies compli-
9 ance with this subsection. The Director or the Director’s
10 designee may make such a certification only if the Director
11 or the Director’s designee has determined in writing
12 that—

13 “(1) such information is necessary to the con-
14 duct of an authorized foreign counterintelligence in-
15 vestigation; and

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

21 “(c) COURT ORDER FOR DISCLOSURE OF CONSUMER
22 REPORTS.—Notwithstanding any provision of the Fair
23 Credit Reporting Act, if requested in writing by the Direc-
24 tor of the Federal Bureau of Investigation, or a designee
25 of the Director, a court may issue an order ex parte direct-

1 ing a consumer reporting agency to furnish a consumer
2 report to the Federal Bureau of Investigation, upon a
3 showing in camera that—

4 “(1) the consumer report is necessary for the
5 conduct of an authorized foreign counterintelligence
6 investigation; and

7 “(2) there are specific and articulable facts giv-
8 ing reason to believe that the consumer whose
9 consumer report is sought—

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

11 “(B) is engaging or has engaged in inter-
12 national terrorism (as that term is defined in
13 section 2331 of this title) or clandestine intel-
14 ligence activities that involve or may involve a
15 violation of criminal statutes of the United
16 States.

17 The terms of an order issued under this subsection shall
18 not disclose that the order is issued for purposes of a
19 counterintelligence investigation.

20 “(d) CONFIDENTIALITY.—No consumer reporting
21 agency or officer, employee, or agent of a consumer report-
22 ing agency shall disclose to any person, other than those
23 officers, employees, or agents of a consumer reporting
24 agency necessary to fulfill the requirement to disclose in-
25 formation to the Federal Bureau of Investigation under

1 this section, that the Federal Bureau of Investigation has
2 sought or obtained the identity of financial institutions or
3 a consumer report respecting any consumer under sub-
4 section (a), (b), or (c) and no consumer reporting agency
5 or officer, employee, or agent of a consumer reporting
6 agency shall include in any consumer report any informa-
7 tion that would indicate that the Federal Bureau of Inves-
8 tigation has sought or obtained such information or a
9 consumer report.

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

19 “(f) LIMIT ON DISSEMINATION.—The Federal Bu-
20 reau of Investigation may not disseminate information ob-
21 tained pursuant to this section outside of the Federal Bu-
22 reau of Investigation, except to the Department of Justice
23 as may be necessary for the approval or conduct of a for-
24 eign counterintelligence investigation, or, where the infor-
25 mation concerns a person subject to the Uniform Code of

1 Military Justice, to appropriate investigative authorities
2 within the military department concerned as may be nec-
3 essary for the conduct of a joint foreign counterintel-
4 ligence investigation.

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

13 “(h) REPORTS TO CONGRESS.—In January of each
14 year, the Attorney General, shall report to the Congress
15 concerning all requests made pursuant to subsections (a),
16 (b), and (c) during the preceding year.

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

23 “(1) \$100, without regard to the volume of
24 consumer reports, records, or information involved;

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

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

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

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

21 “(k) GOOD-FAITH EXCEPTION.—Notwithstanding
22 any other provision of the Fair Credit Reporting Act, any
23 consumer reporting agency or agent or employee thereof
24 making disclosure of consumer reports or identifying in-
25 formation pursuant to this subsection in good-faith reli-

1 ance upon a certification of the Federal Bureau of Inves-
2 tigation pursuant to provisions of this section shall not
3 be liable to any person for such disclosure under the Fair
4 Credit Reporting Act, the constitution of any State, or any
5 law or regulation of any State or any political subdivision
6 of any State.

7 “(l) LIMITATION OF REMEDIES.—Notwithstanding
8 any provision of the Fair Credit Reporting Act, the rem-
9 edies and sanctions set forth in this section shall be the
10 only judicial remedies and sanctions for violation of this
11 section.

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

18 “(n) DEFINITIONS.—Any term used in this section
19 that is defined for the purposes of the Fair Credit Report-
20 ing Act shall have the meaning given that term for those
21 purposes.”.

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

“624. Disclosures to FBI for counterintelligence purposes.”.

1 **SEC. 304. ACCESS TO RECORDS OF COMMON CARRIERS,**
2 **PUBLIC ACCOMMODATION FACILITIES, PHYS-**
3 **ICAL STORAGE FACILITIES AND VEHICLE**
4 **RENTAL FACILITIES IN FOREIGN COUNTER-**
5 **INTELLIGENCE AND COUNTERTERRORISM**
6 **CASES.**

7 (a) IN GENERAL.—Title 18, United States Code, is
8 amended by inserting after chapter 121 the following new
9 chapter:

10 **“CHAPTER 122—ACCESS TO CERTAIN RECORDS**

“Sec.

“2720. Access to records of common carriers, public accommodation facilities, physical storage facilities, and vehicle rental facilities in counterintelligence and counterterrorism cases.

11 **“§ 2720. Access to records of common carriers, public**
12 **accommodation facilities, physical stor-**
13 **age facilities, and vehicle rental facilities**
14 **in counterintelligence and**
15 **counterterrorism cases**

16 “(a) Any common carrier, public accommodation fa-
17 cility, physical storage facility, or vehicle rental facility
18 shall comply with a request for records in its possession
19 made pursuant to this section by the Federal Bureau of
20 Investigation when the Director or the Director’s designee
21 (in a position not lower than Assistant Special Agent in
22 Charge) certifies in writing to the common carrier, public
23 accommodation facility, physical storage facility, or vehicle

1 rental facility that such records are sought for foreign
2 counterintelligence purposes and that there are specific
3 and articulable facts giving reason to believe that the per-
4 son or an agent of a foreign power as defined in section
5 101 of the Foreign Intelligence Surveillance Act (50
6 U.S.C. 1801).

7 “(b)(1) Except as otherwise provided in the sub-
8 section, no common carrier, public accommodation facility,
9 physical storage facility, or vehicle rental facility, or any
10 officer, employee, or agent of such common carrier, public
11 accommodation facility, physical storage facility, or vehicle
12 rental facility shall disclose to any person any information
13 about that request.

14 “(2) The prohibition of this subsection does not apply
15 to a disclosure to those officers, agents, or employees of
16 the common carrier, public accommodation facility, phys-
17 ical storage facility, or vehicle rental facility necessary to
18 fulfill the requirement to disclose the information to the
19 Federal Bureau of Investigation under this section,

20 “(3) The prohibition of this subsection ends 180 days
21 after the request is made under subsection (a), unless the
22 Director or the Director’s designee certifies in writing, at
23 the beginning of each succeeding 180-day period, to the
24 recipient of the request that the continuation of the prohi-

1 bition during that period is necessary to the success of
2 an ongoing investigation.

3 “(c) As used in this section—

4 “(1) the term ‘common carrier’ has the mean-
5 ing given that term in section 10102 of title 49,
6 United States Code, and also includes an air carrier
7 (as defined in section 40102 of title 49, United
8 States Code) and a private commercial interstate
9 carrier for the delivery of packages and other ob-
10 jects;

11 “(2) the term ‘public accommodation facility’
12 means any inn, hotel, motel, or other establishment
13 which provides lodging to transient guests;

14 “(3) the term ‘physical storage facility’ means
15 any business or entity which provides space for the
16 storage of goods or materials, or services related to
17 the storage of goods or materials, to the public or
18 any segment thereof; and

19 “(4) the term ‘vehicle rental facility’ means any
20 person or entity which provides vehicles for rent,
21 lease, loan, or other similar use to the public or any
22 segment thereof.”.

23 (b) CLERICAL AMENDMENT.—The table of chapters
24 for part I of title 18, United States Code, is amended by

1 inserting after the item relating to chapter 121 the follow-
2 ing new item:

“**122. Access to certain records** **2729**”.

3 **SEC. 305. STUDY OF TAGGING EXPLOSIVE MATERIALS, REN-**
4 **DERING EXPLOSIVE COMPONENTS INERT,**
5 **AND IMPOSING CONTROLS OF PRECURSORS**
6 **OF EXPLOSIVES.**

7 (a) STUDY.—The Attorney General, in consultation
8 with other Federal, State and local officials with expertise
9 in this area and such other individuals as the Attorney
10 General deems appropriate, shall conduct a study concern-
11 ing—

12 (1) the tagging of explosive materials for pur-
13 poses of detection and identification;

14 (2) whether common chemicals used to manu-
15 facture explosive materials can be rendered inert and
16 whether it is feasible to require it; and

17 (3) whether controls can be imposed on certain
18 precursor chemicals used to manufacture explosive
19 materials and whether it is feasible to require it.

20 (b) REPORT.—Not later than 180 days after the date
21 of the enactment of this Act, the Attorney General shall
22 submit to the Congress a report that contains the results
23 of the study required by this section. The Attorney Gen-
24 eral shall make the report available to the public.

1 **SEC. 306. LIMITATION OF STATUTORY EXCLUSIONARY**
2 **RULE CONCERNING INTERCEPTED WIRE OR**
3 **ORAL COMMUNICATIONS.**

4 Section 2515 of title 18, United States Code, is
5 amended by adding at the end the following: “This section
6 shall not apply to the disclosure by the United States in
7 a criminal trial or hearing or before a grand jury of the
8 contents of a wire or oral communication, or evidence de-
9 rived therefrom, unless the violation of this chapter in-
10 volved bad faith by law enforcement.”

11 **SEC. 307. AUTHORITY FOR WIRETAPS IN ANY TERRORISM-**
12 **RELATED OR EXPLOSIVES FELONY.**

13 (a) DEFINITION OF “ELECTRONIC COMMUNICA-
14 TION”.—Section 2510(12) of title 18, United States Code,
15 is amended—

16 (1) by striking or” at the end of subparagraph
17 (B);

18 (2) by inserting “or” at the end of subpara-
19 graph (c); and

20 (3) by adding a new subparagraph (D), as fol-
21 lows:

22 “(D) information stored in a communications system
23 used for the electronic storage and transfer of funds;”

24 (b) DEFINITION OF “READILY ACCESSIBLE TO THE
25 GENERAL PUBLIC”.—Section 2510(16) of title 18, United
26 States Code, is amended—

1 (1) by inserting “or” at the end of subpara-
2 graph (D);

3 (2) by striking “or” at the end of subparagraph
4 (E); and

5 (3) by striking subparagraph (F).

6 **SEC. 308. TEMPORARY EMERGENCY WIRETAP AUTHORITY**
7 **INVOLVING TERRORISTIC CRIMES.**

8 (a) SECTION 2518.—Section 2518(7)(a) of title 18,
9 United States Code, is amended—

10 (1) by striking “or” at the end of subparagraph
11 (ii); and

12 (2) by inserting after subparagraph (ii) the fol-
13 lowing:

14 “(iii) conspiratorial activities involving do-
15 mestic terrorism or international terrorism (as
16 that term is defined in section 2331 of this
17 title), or”; and

18 (3) by redesignating existing subparagraph (iii)
19 as subparagraph (iv).

20 (b) DEFINITION OF DOMESTIC TERRORISM.—Section
21 2510 of title 18, United States Code, is amended.—

22 (1) by striking “and” at the end of paragraph
23 (17);

24 (2) by striking the period at the end of para-
25 graph (18) and inserting “; and”; and

1 (3) by inserting after paragraph (18) the fol-
2 lowing:

3 “(19) ‘domestic terrorism’ means terrorism, as
4 defined in section 2331 of this title, that occurs
5 primarily inside the territorial jurisdiction of the
6 United States.”.

7 **SEC. 309. EXPANDED AUTHORITY FOR ROVING WIRETAPS.**

8 Section 2518(11) of title 18, United States Code, is
9 amended to read as follows:

10 “(11) The requirements of subsections (1)(b)(11) and
11 (3)(d) of this section relating to the specification of facili-
12 ties from which or the place where the communication is
13 to be intercepted to do not apply if, in the case of an appli-
14 cation with respect to the interception of oral, wire, or
15 electronic communications—

16 “(a) the application is by a Federal investiga-
17 tive or law enforcement officer, and is approved by
18 the Attorney General, the Deputy Attorney General,
19 the Associate Attorney General, or an Assistant At-
20 torney General (or an official acting in any such ca-
21 pacity);

22 “(b) the application contains a full and com-
23 plete statement as to why such specification is not
24 practical and identifies the person committing the

1 offense and whose communications are to be inter-
2 cepted; and

3 “(c) the judge finds that such specification is
4 not practical.”.

5 **SEC. 310. ENHANCED ACCESS TO TELEPHONE BILLING**
6 **RECORDS.**

7 (a) SECTION 2709.—Section 2709(b) of title 18,
8 United States Code, is amended—

9 (1) in paragraph (1)(A), by inserting “local and
10 long distance” before “toll billing records”

11 (2) by striking “and” at the end of paragraph
12 (1);

13 (3) by striking the period at the end of para-
14 graph (2) and inserting “; and”; and

15 (4) by adding at the end a new paragraph (3),
16 as follows:

17 “(3) request the name, address, length of serv-
18 ice, and local and long distance toll billing records
19 of a person or entity if the Director or the Director’s
20 designee (in a position not lower than Deputy As-
21 sistant Director) certifies in writing to the wire or
22 electronic communication service provider to which
23 the request is made that the information sought is
24 relevant to an authorized domestic terrorism inves-
25 tigation.”.

1 (b) SECTION 2703.—Section 2703(c)(1)(C) of title
2 18, United States Code, is amended by inserting “local
3 and long distance” before “telephone toll billing records”.

4 **SEC. 311. REQUIREMENT TO PRESERVE EVIDENCE.**

5 Section 2703 of title 18, United States Code, is
6 amended by adding at the end the following:

7 “(f) REQUIREMENT TO PRESERVE EVIDENCE.—A
8 provider of wire or electronic communication services or
9 a remote computing service, upon the request of a govern-
10 mental entity, shall take all necessary steps to preserve
11 records, and other evidence in its possession pending the
12 issuance of a court order or other process. Such records
13 shall be retained for a period of 90 days, which period
14 shall be extended for an additional 90-day period upon a
15 renewed request by the governmental entity.”

16 **SEC. 312. MILITARY ASSISTANCE WITH RESPECT TO OF-**
17 **FENSES INVOLVING WEAPONS OF MASS DE-**
18 **STRUCTION.**

19 (a) REQUEST FOR ASSISTANCE.—The Attorney Gen-
20 eral may request the Secretary of Defense to provide tech-
21 nical and logistical assistance by civilian and military per-
22 sonnel of the Department of Defense in support of Depart-
23 ment of Justice activities relating to offenses involving
24 weapons of mass destruction (as defined in section 2332a

1 of title 18, United States Code) if the Attorney General
2 determines that—

3 (1) such assistance is needed to counter the
4 threat posed by such a weapon or to enforce the
5 criminal laws relating to such weapons; and

6 (2) civilian law enforcement expertise is not
7 available to provide the required assistance.

8 (b) PROVISION OF ASSISTANCE.—The Secretary of
9 Defense shall provide such assistance unless doing so
10 would adversely affect the military preparedness of the
11 United States.

12 (c) ASSISTANCE TO EXCLUDE ARREST OR APPRE-
13 HENSION.—For the purposes of this section, the term
14 “technical and logistical assistance” does not include the
15 apprehension or arrest of any person.

16 (d) REIMBURSEMENT.—The Secretary of Defense
17 may require reimbursement as a condition of providing as-
18 sistance under this section.

19 (e) DELEGATION.—The Attorney General may dele-
20 gate a function under this section only to a Deputy Attor-
21 ney General, Associate Attorney General, or Assistant At-
22 torney General.

23 **SEC. 313. DETENTION HEARING.**

24 Section 3142(f) of title 18, United States Code, is
25 amended by inserting “(not including any intermediate

1 Saturday, Sunday, or legal holiday)” after “five days” and
2 after “three days”.

3 **SEC. 314. REWARD AUTHORITY OF THE ATTORNEY GEN-**
4 **ERAL.**

5 (a) IN GENERAL.—Title 18, United States Code, is
6 amended by striking sections 3059 through 3059A and in-
7 serting the following:

8 **“§ 3059 Reward authority of the Attorney General**

9 “(a) The Attorney General may pay rewards and re-
10 ceive from any department or agency, funds for the pay-
11 ment of rewards under this section, to any individual who
12 provides any information unknown to the Government
13 leading to the arrest or prosecution of any individual for
14 Federal felony offenses.

15 “(b) If the reward exceeds \$100,000, the Attorney
16 General shall give notice of that fact to the Senate and
17 the House of Representatives not later than 30 days after
18 authorizing the payment of the reward,.

19 “(c) A determination made by the Attorney General
20 as to whether to authorize an award under this section
21 and as to the amount of any reward authorized shall be
22 final and conclusive, and no court shall have jurisdiction
23 to review it.

24 “(d) If the Attorney General determines that the
25 identity of the recipient of a reward or of the members

1 of the recipient's immediate family must be protected, the
2 Attorney General may take such measures in connection
3 with the payment of the reward as the Attorney General
4 deems necessary to effect such protection.

5 “(e) No officer or employee of any governmental en-
6 tity may receive a reward under this section for conduct
7 in performance of his or her official duties.

8 “(f) Any individual (and the immediate family of such
9 individual) who furnishes information which would justify
10 a reward under this section or a reward by the Secretary
11 of State under section 36 of the State Department Basic
12 Authorities Act of 1956 may, in the discretion of the At-
13 torney General, participate in the Attorney General's wit-
14 ness security program under chapter 224 of this title.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of chapter 203 of title 18, United States
17 Code, is amended by striking the items relating to section
18 3059 and 3059A and inserting the following new item:

“3059. Reward authority of the Attorney General.”.

19 (c) CONFORMING AMENDMENT.—Section 1751 of
20 title 18, United States Code, is amended by striking sub-
21 section (g).

22 **SEC. 315. DEFINITION OF TERRORISM.**

23 Section 2331 of title 18, United States Code, is
24 amended—

25 (1) so that paragraph (1) reads as follows:

1 “(1) the term ‘terrorism’ means the use of force
2 or violence in violation of the criminal laws of the
3 United States or of any State, or that would be in
4 violation of the criminal laws of the United States
5 or of any State if committed within the jurisdiction
6 of the United States or that State that appears to
7 be intended to achieve political or social ends by—

8 “(A) intimidating or coercing a segment of
9 the population;

10 “(B) influencing or coercing a government
11 official or officials; or

12 “(C) affecting the conduct of a government
13 through assassination or kidnapping;”;

14 (2) by inserting after paragraph (1) the follow-
15 ing:

16 “(2) the term ‘international terrorism’ means
17 terrorism that occurs primarily outside the terri-
18 torial jurisdiction of the United States, or tran-
19 scends national boundaries in terms of the means by
20 which it is accomplished, the persons it appears in-
21 tended to intimidate or coerce, or the locale in which
22 its perpetrators operate or seek asylum;”;

23 (3) by redesignating existing paragraphs (2)
24 through (4) as paragraphs (3) through (5), respec-
25 tively.

1 **TITLE IV—NUCLEAR MATERIALS**

2 **SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBI-**
3 **TIONS.**

4 (a) EXPANSION OF SCOPE AND JURISDICTIONAL
5 BASES.—Section 831 of title 18, United States Code, is
6 amended—

7 (1) in subsection (a), by striking “nuclear mate-
8 rial” each place it appears and inserting “nuclear
9 material or nuclear byproduct material”;

10 (2) in subsection (a)(1)(A), by inserting “or the
11 environment” after “property”;

12 (3) so that subsection (a)(1)(B) reads as fol-
13 lows:

14 “(B)(i) circumstances exist which are likely
15 to cause the death of or serious bodily injury to
16 any person or substantial damage to property
17 or the environment; or (ii) such circumstances
18 are represented to the defendant to exist;”;

19 (4) in subsection (a)(6), by inserting “or the
20 environment” after “property”;

21 (5) so that subsection (c)(2) reads as follows:

22 “(2) an offender or a victim is a national of the
23 United States or a United States corporation or
24 other legal entity;”;

1 (6) in subsection (c)(3), by striking “at the
2 time of the offense the nuclear material is in use,
3 storage, or transport, for peaceful purposes, and”;

4 (7) by striking “or” at the end of subsection
5 (c)(3);

6 (8) in subsection (c)(4), by striking “nuclear
7 material for peaceful purposes” and inserting “nu-
8 clear material or nuclear byproduct material”;

9 (9) by striking the period at the end of sub-
10 section (c)(4) and inserting “; or”;

11 (10) by adding at the end of subsection (c) the
12 following:

13 “(5) the governmental entity under subsection
14 (a)(5) is the United States or the threat under sub-
15 section (a)(6) is directed at the United States.”;

16 (11) in subsection (f)(1)(A), by striking “with
17 an isotopic concentration not in excess of 80 percent
18 plutonium 238”;

19 (12) in subsection (f)(1)(C) by inserting “en-
20 riched uranium, defined as” before “uranium”;

21 (13) in subsection (f), by redesignating para-
22 graphs (2), (3), and (4) as (3), (4), and (5), respec-
23 tively;

24 (14) by inserting after subsection (f)(1) the
25 following:

1 “(2) the term ‘nuclear byproduct material’
2 means any material containing any radioactive iso-
3 tope created through an irradiation process in the
4 operation of a nuclear reactor or accelerator;”;

5 (15) by striking “and” at the end of subsection
6 (f)(4), as redesignated;

7 (16) by striking the period at the end of sub-
8 section (f)(5), as redesignated, and inserting a semi-
9 colon; and

10 (17) by adding at the end of subsection (f) the
11 following:

12 “(6) the term ‘national of the United States’
13 has the meaning prescribed in section 101(a)(22) of
14 the Immigration and Nationality Act (8 U.S.C.
15 1101(a)(22)); and

16 “(7) the term ‘United States corporation or
17 other legal entity’ means any corporation or other
18 entity organized under the laws of the United States
19 or any State, district, commonwealth, territory or
20 possession of the United States.”.

1 **TITLE V—CONVENTION ON THE**
2 **MARKING OF PLASTIC EXPLO-**
3 **SIVES**

4 **SEC. 501. DEFINITIONS.**

5 Section 841 of title 18, United States Code, is
6 amended by adding at the end the following new sub-
7 sections:

8 “(o) ‘Convention on the Marking of Plastic Explo-
9 sives’ means the Convention on the Marking of Plastic Ex-
10 plosives for the Purpose of Detection, Done at Montreal
11 on 1 March 1991.

12 “(p) ‘Detection agent’ means any one of the sub-
13 stances specified in this subsection when introduced into
14 a plastic explosive or formulated in such explosive as a
15 part of the manufacturing process in such a manner as
16 to achieve homogeneous distribution in the finished explo-
17 sive, including—

18 “(1) Ethylene glycol dinitrate (EGDN),
19 $C_2H_4(NO_3)_2$, molecular weight 152, when the mini-
20 mum concentration in the finished explosive is 0.2
21 percent by mass;

22 “(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB),
23 $C_6H_{12}(NO_2)_2$, molecular weight 176, when the mini-
24 mum concentration in the finished explosive is 0.1
25 percent by mass;

1 “(3) Para-Mononitrotoluene (p-MNT),
2 C₇H₇NO₂, molecular weight 137, when the minimum
3 concentration in the finished explosive is 0.5 percent
4 by mass;

5 “(4) Ortho-Mononitrotoluene (o-MNT),
6 C₇H₇NO₂, molecular weight 137, when the minimum
7 concentration in the finished explosive is 0.5 percent
8 by mass; and

9 “(5) any other substance in the concentration
10 specified by the Secretary, after consultation with
11 the Secretary of State and the Secretary of Defense,
12 which has been added to the table in part 2 of the
13 Technical Annex to the Convention on the Marking
14 of Plastic Explosives.

15 “(q) ‘Plastic explosive’ means an explosive material
16 in flexible or elastic sheet form formulated with one or
17 more high explosives which in their pure form have a
18 vapor pressure less than 10⁻⁴ Pa at a temperature of
19 25°C., is formulated with a binder material, and is as a
20 mixture malleable or flexible at normal room tempera-
21 ture.”.

22 **SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR**
23 **PLASTIC EXPLOSIVES.**

24 Section 842 of title 18, United States Code, is
25 amended by adding at the end the following:

1 “(l) It shall be unlawful for any person to manufac-
2 ture any plastic explosive which does not contain a detec-
3 tion agent.

4 “(m)(1) it shall be unlawful for any person to import
5 or bring into the United States, or export from the United
6 States, any plastic explosive which does not contain a de-
7 tection agent.

8 “(2) During the 15-year period that begins with the
9 date of entry into force of the Convention on the Marking
10 of Plastic Explosives with respect to the United States,
11 paragraph (1) shall not apply to the importation or bring-
12 ing into the United States, or the exportation from the
13 United States, of any plastic explosive which was im-
14 ported, brought into, or manufactured in the United
15 States before the effective date of this subsection by or
16 on behalf of any agency of the United States performing
17 military or police functions (including any military Re-
18 serve component) or by or on behalf of the National Guard
19 of any State.

20 “(n)(1) It shall be unlawful for any person to ship,
21 transport, transfer, receive, or possess any plastic explo-
22 sive which does not contain a detection agent.

23 “(2)(A) During the 3-year period that begins on the
24 effective date of this subsection, paragraph (1) shall not
25 apply to the shipment, transportation, transfer, receipt, or

1 possession of any plastic explosive, which was imported,
2 brought into, or manufactured in the United States before
3 such effective date by any person.

4 “(B) During the 15-year period that begins on the
5 date of entry into force of the Convention on the Marking
6 of Plastic Explosives with respect to the United States,
7 paragraph (1) shall not apply to the shipment, transpor-
8 tation, transfer, receipt, or possession of any plastic explo-
9 sive, which was imported, brought into, or manufactured
10 in the United States before the effective date of this sub-
11 section by or on behalf of any agency of the United States
12 performing a military or police function (including any
13 military reserve component) or by or on behalf of the Na-
14 tional Guard of any State.

15 “(o) It shall be unlawful for any person, other than
16 an agency of the United States (including any military re-
17 serve component) or the National Guard of any State, pos-
18 sessed any plastic explosive on the effective date of this
19 subsection, to fail to report to the Secretary within 120
20 days after the effective date of this subsection the quantity
21 of such explosives possessed, the manufacturer or im-
22 porter, any marks of identification on such explosives, and
23 such other information as the Secretary may by regula-
24 tions prescribe.”.

1 **SEC. 503. CRIMINAL SANCTIONS.**

2 Section 844(a) of title 18, United States Code, is
3 amended to read as follows:

4 “(a) Any person who violates subsections (a) through
5 (i) or (l) through (o) of section 842 of this title shall be
6 fined under this title, imprisoned not more than 10 years,
7 or both.”

8 **SEC. 504. EXCEPTIONS.**

9 Section 845 of title 18, United States Code, is
10 amended—

11 (1) in subsection (a), by inserting “(l), (m), (n),
12 or (o) of section 842 and subsections” after “sub-
13 sections”;

14 (2) in subsection (a)(1), by inserting “and
15 which pertains to safety” before the semicolon; and

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

17 “(c) It is an affirmative defense against any proceed-
18 ing involving subsection (l), (m), (n), or (o) of section 842
19 of this title if the proponent proves by a preponderance
20 of the evidence that the plastic explosive—

21 “(1) consisted of a small amount of plastic ex-
22 plosive intended for and utilized solely in lawful—

23 “(A) research, development, or testing of
24 new or modified explosive materials;

1 “(B) training in explosives detection or de-
2 velopment or testing of explosives detection
3 equipment; or

4 “(C) forensic science purposes; or

5 “(2) was plastic explosive which, within 3 years
6 after the effective date of this paragraph, will be or
7 is incorporated in a military device within the terri-
8 tory of the United States and remains an integral
9 part of such military device, or is intended to be, or
10 is incorporated in, and remains an integral part of
11 a military device that is intended to become, or has
12 become, the property of any agency of the United
13 States performing military or police functions (in-
14 cluding any military reserve component) or the Na-
15 tional Guard of any State, wherever such device is
16 located. For purposes of this subsection, the term
17 ‘military device’ includes shells, bombs, projectiles,
18 mines, missiles, rockets, shaped charges, grenades,
19 perforators, and similar devices lawfully manufac-
20 tured exclusively for military or police purposes.”.

21 **SEC. 505. INVESTIGATIVE AUTHORITY.**

22 Section 846 of title 18, United States Code, is
23 amended—

24 (1) by inserting “subsection (m) or (n) of sec-
25 tion 842 or” before “subsection (d)”; and

1 (2) by adding at the end the following: “The
 2 Attorney General shall have exclusive authority to
 3 conduct investigations with respect to violations of
 4 subsection (m) or (n) of section 842 to the extent
 5 such violations appear to be terrorism (as defined in
 6 section 2331 of this title. Upon request, the Sec-
 7 retary may assist the Attorney General in such in-
 8 vestigations.”.

9 **SEC. 506. EFFECTIVE DATE.**

10 The amendments made by this title shall take effect
 11 1 year after the date of the enactment of this Act.

12 **TITLE VI—IMMIGRATION-**
 13 **RELATED PROVISIONS**
 14 **Subtitle A—Removal of Alien**
 15 **Terrorists**

16 **PART 1—REMOVAL PROCEDURES FOR ALIEN**
 17 **TERRORISTS**

18 **SEC. 601. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.**

19 (a) IN GENERAL.—The Immigration and Nationality
 20 Act is amended—

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

“TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN
 TERRORISTS

“Sec. 501. Definitions.

“Sec. 502. Establishment of special removal court; panel of attorneys to assist
 with classified information.

“Sec. 503. Application for initiation of special removal proceeding.

“Sec. 504. Consideration of application.

“Sec. 505. Special removal hearings.

“Sec. 506. Consideration of classified information.

“Sec. 507. Appeals.

“Sec. 508. Detention and custody.

1 and

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

3 “TITLE V—SPECIAL REMOVAL PROCEDURES

4 FOR ALIEN TERRORISTS

5 “DEFINITIONS

6 “SEC. 501. In this title:

7 “(1) The term ‘alien terrorist’ means an alien
8 described in section 241(a)(4)(B).

9 “(2) The term ‘classified information’ has the
10 meaning given such term in section 1(a) of the Clas-
11 sified Information Procedures Act (18 U.S.C. App.).

12 “(3) The term ‘national security’ has the mean-
13 ing given such term in section 1(b) of the Classified
14 Information Procedures Act (18 U.S.C. App.).

15 “(4) The term ‘special attorney’ means an at-
16 torney who is on the panel established under section
17 502(e).

18 “(5) The term ‘special removal court’ means
19 the court established under section 502(a).

20 “(6) The term ‘special removal hearing’ means
21 a hearing under section 505.

22 “(7) The term ‘special removal proceeding’
23 means a proceeding under this title.

1 “ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL
2 OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFOR-
3 MATION

4 “SEC. 502. (a) IN GENERAL.—The Chief Justice of
5 the United States shall publicly designate 5 district court
6 judges from 5 of the United States judicial circuits who
7 shall constitute a court which shall have jurisdiction to
8 conduct all special removal proceedings.

9 “(b) TERMS.—Each judge designated under sub-
10 section (a) shall serve for a term of 5 years and shall be
11 eligible for redesignation, except that the four associate
12 judges first so designated shall be designated for terms
13 of one, two, three, and four years so that the term of one
14 judge shall expire each year.

15 “(c) CHIEF JUDGE.—The Chief Justice shall publicly
16 designate one of the judges of the special removal court
17 to be the chief judge of the court. The chief judge shall
18 promulgate rules to facilitate the functioning of the court
19 and shall be responsible for assigning the consideration
20 of cases to the various judges.

21 “(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF
22 PROCEEDINGS.—The provisions of section 103(c) of the
23 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
24 1803(c)) shall apply to proceedings under this title in the
25 same manner as they apply to proceedings under such Act.

1 “(2) The approval of the Attorney General or
2 the Deputy Attorney General for the filing of the ap-
3 plication based upon a finding by that individual
4 that the application satisfies the criteria and re-
5 quirements of this title.

6 “(3) The identity of the alien for whom author-
7 ization for the special removal proceedings is sought.

8 “(4) A statement of the facts and cir-
9 cumstances relied on by the Department of Justice
10 to establish that—

11 “(A) the alien is an alien terrorist and is
12 physically present in the United States, and

13 “(B) with respect to such alien, adherence
14 to the provisions of title II regarding the depor-
15 tation of aliens would pose a risk to the na-
16 tional security of the United States.

17 “(5) An oath or affirmation respecting each of
18 facts and statements described in the previous para-
19 graphs.

20 “(c) RIGHT TO DISMISS.—The Department of Jus-
21 tice retains the right to dismiss a removal action under
22 this title at any stage of the proceeding.

23 “CONSIDERATION OF APPLICATION

24 “SEC. 504. (a) IN GENERAL.—In the case of an ap-
25 plication under section 503 to the special removal court,
26 a single judge of the court shall be assigned to consider

1 the application. The judge, in accordance with the rules
2 of the court, shall consider the application and may con-
3 sider other information, including classified information,
4 presented under oath or affirmation. The judge shall con-
5 sider the application (and any hearing thereof) in camera
6 and ex parte. A verbatim record shall be maintained of
7 any such hearing.

8 “(b) APPROVAL OF ORDER.—The judge shall enter
9 ex parte the order requested in the application if the judge
10 finds, on the basis of such application and such other in-
11 formation (if any), that there is probable cause to believe
12 that—

13 “(1) the alien who is the subject of the applica-
14 tion has been correctly identified and is an alien ter-
15 rorist, and

16 “(2) adherence to the provisions of title II re-
17 garding the deportation of the identified alien would
18 pose a risk to the national security of the United
19 States.

20 “(c) DENIAL OF ORDER.—If the judge denies the
21 order requested in the application, the judge shall prepare
22 a written statement of the judge’s reasons for the denial.

23 “(d) EXCLUSIVE PROVISIONS.—Whenever an order is
24 issued under this section with respect to an alien—

1 “(1) the alien’s rights regarding removal and
2 expulsion shall be governed solely by the provisions
3 of this title, and

4 “(2) except as they are specifically referenced,
5 no other provisions of this Act shall be applicable.

6 “SPECIAL REMOVAL HEARINGS

7 “SEC. 505. (a) IN GENERAL.—In any case in which
8 the application for the order is approved under section
9 504, a special removal hearing shall be conducted under
10 this section for the purpose of determining whether the
11 alien to whom the order pertains should be removed from
12 the United States on the grounds that the alien is an alien
13 terrorist. Consistent with section 506, the alien shall be
14 given reasonable notice of the nature of the charges
15 against the alien and a general account of the basis for
16 the charges. The alien shall be given notice, reasonable
17 under all the circumstances, of the time and place at which
18 the hearing will be held. The hearing shall be held as expe-
19 ditiously as possible.

20 “(b) USE OF SAME JUDGE.—The special removal
21 hearing shall be held before the same judge who granted
22 the order pursuant to section 504 unless that judge is
23 deemed unavailable due to illness or disability by the chief
24 judge of the special removal court, or has died, in which
25 case the chief judge shall assign another judge to conduct
26 the special removal hearing. A decision by the chief judge

1 pursuant to the preceding sentence shall not be subject
2 to review by either the alien or the Department of Justice.

3 “(c) RIGHTS IN HEARING.—

4 “(1) PUBLIC HEARING.—The special removal
5 hearing shall be open to the public.

6 “(2) RIGHT OF COUNSEL.—The alien shall have
7 a right to be present at such hearing and to be rep-
8 resented by counsel. Any alien financially unable to
9 obtain counsel shall be entitled to have counsel as-
10 signed to represent the alien. Such counsel shall be
11 appointed by the judge pursuant to the plan for fur-
12 nishing representation for any person financially un-
13 able to obtain adequate representation for the dis-
14 trict in which the hearing is conducted, as provided
15 for in section 3006A of title 18, United States Code.
16 All provisions of that section shall apply and, for
17 purposes of determining the maximum amount of
18 compensation, the matter shall be treated as if a fel-
19 ony was charged.

20 “(3) INTRODUCTION OF EVIDENCE.—The alien
21 shall have a right to introduce evidence on the
22 alien’s own behalf.

23 “(4) EXAMINATION OF WITNESSES.—Except as
24 provided in section 506, the alien shall have a rea-

1 sonable opportunity to examine the evidence against
2 the alien and to cross-examine any witness.

3 “(5) RECORD.—A verbatim record of the pro-
4 ceedings and of all testimony and evidence offered or
5 produced at such a hearing shall be kept.

6 “(6) DECISION BASED ON EVIDENCE AT HEAR-
7 ING.—The decision of the judge in the hearing shall
8 be based only on the evidence introduced at the
9 hearing, including evidence introduced under section
10 505(e).

11 “(7) NO RIGHT TO ANCILLARY RELIEF.—In the
12 hearing, the judge is not authorized to consider or
13 provide for relief from removal based on any of the
14 following:

15 “(A) Asylum under section 208.

16 “(B) Withholding of deportation under sec-
17 tion 243(h).

18 “(C) Suspension of deportation under sec-
19 tion 244(a) or 244(e).

20 “(D) Adjustment of status under section
21 245.

22 “(E) Registry under section 249.

23 “(d) SUBPOENAS.—

24 “(1) REQUEST.—At any time prior to the con-
25 clusion of the special removal hearing, either the

1 alien or the Department of Justice may request the
2 judge to issue a subpoena for the presence of a
3 named witness (which subpoena may also command
4 the person to whom it is directed to produce books,
5 papers, documents, or other objects designated
6 therein) upon a satisfactory showing that the pres-
7 ence of the witness is necessary for the determina-
8 tion of any material matter. Such a request may be
9 made ex parte except that the judge shall inform the
10 Department of Justice of any request for a subpoena
11 by the alien for a witness or material if compliance
12 with such a subpoena would reveal evidence or the
13 source of evidence which has been introduced, or
14 which the Department of Justice has received per-
15 mission to introduce, in camera and ex parte pursu-
16 ant to subsection (e) and section 506, and the De-
17 partment of Justice shall be given a reasonable op-
18 portunity to oppose the issuance of such a subpoena.

19 “(2) PAYMENT FOR ATTENDANCE.—If an appli-
20 cation for a subpoena by the alien also makes a
21 showing that the alien is financially unable to pay
22 for the attendance of a witness so requested, the
23 court may order the costs incurred by the process
24 and the fees of the witness so subpoenaed to be paid

1 for from funds appropriated for the enforcement of
2 title II.

3 “(3) NATIONWIDE SERVICE.—A subpoena
4 under this subsection may be served anywhere in the
5 United States.

6 “(4) WITNESS FEES.—A witness subpoenaed
7 under this subsection shall receive the same fees and
8 expenses as a witness subpoenaed in connection with
9 a civil proceeding in a court of the United States.

10 “(5) NO ACCESS TO CLASSIFIED INFORMA-
11 TION.—Nothing in this subsection is intended to
12 allow an alien to have access to classified informa-
13 tion.

14 “(e) INTRODUCTION OF CLASSIFIED INFORMA-
15 TION.—

16 “(1) IN GENERAL.—When classified informa-
17 tion has been summarized pursuant to section
18 506(b) or where a finding has been made under sec-
19 tion 506(b)(5) that no summary is possible, classi-
20 fied information shall be introduced (either in writ-
21 ing or through testimony) in camera and ex parte
22 and neither the alien nor the public shall be in-
23 formed of such evidence or its sources other than
24 through reference to the summary provided pursuant
25 to such section. Notwithstanding the previous sen-

1 tence, the Department of Justice may, in its discre-
2 tion and, in the case of classified information, after
3 coordination with the originating agency, elect to in-
4 troduce such evidence in open session.

5 “(2) TREATMENT OF ELECTRONIC SURVEIL-
6 LANCE INFORMATION.—

7 “(A) USE OF ELECTRONIC SURVEIL-
8 LANCE.—The Government is authorized to use
9 in a special removal proceedings the fruits of
10 electronic surveillance and unconsented physical
11 searches authorized under the Foreign Intel-
12 ligence Surveillance Act of 1978 (50 U.S.C.
13 1801 et seq.) without regard to subsections (c),
14 (e), (f), (g), and (h) of section 106 of that Act.

15 “(B) NO DISCOVERY OF ELECTRONIC SUR-
16 VEILLANCE INFORMATION.—An alien subject to
17 removal under this title shall have no right of
18 discovery of information derived from electronic
19 surveillance authorized under the Foreign Intel-
20 ligence Surveillance Act of 1978 or otherwise
21 for national security purposes. Nor shall such
22 alien have the right to seek suppression of evi-
23 dence.

24 “(C) CERTAIN PROCEDURES NOT APPLICA-
25 BLE.—The provisions and requirements of sec-

1 tion 3504 of title 18, United States Code, shall
2 not apply to procedures under this title.

3 “(3) RIGHTS OF UNITED STATES.—Nothing in
4 this section shall prevent the United States from
5 seeking protective orders and from asserting privi-
6 leges ordinarily available to the United States to
7 protect against the disclosure of classified informa-
8 tion, including the invocation of the military and
9 state secrets privileges.

10 “(f) INCLUSION OF CERTAIN EVIDENCE.—The Fed-
11 eral Rules of Evidence shall not apply to hearings under
12 this section. Evidence introduced at the special removal
13 hearing, either in open session or in camera and ex parte,
14 may, in the discretion of the Department of Justice, in-
15 clude all or part of the information presented under sec-
16 tion 504 used to obtain the order for the hearing under
17 this section.

18 “(g) ARGUMENTS.—Following the receipt of evi-
19 dence, the attorneys for the Department of Justice and
20 for the alien shall be given fair opportunity to present ar-
21 gument as to whether the evidence is sufficient to justify
22 the removal of the alien. The attorney for the Department
23 of Justice shall open the argument. The attorney for the
24 alien shall be permitted to reply. The attorney for the De-
25 partment of Justice shall then be permitted to reply in

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

4 “(h) BURDEN OF PROOF.—In the hearing the De-
5 partment of Justice has the burden of showing by clear
6 and convincing evidence that the alien is subject to re-
7 moval because the alien is an alien terrorist. If the judge
8 finds that the Department of Justice has met this burden,
9 the judge shall order the alien removed and detained pend-
10 ing removal from the United States. If the alien was re-
11 leased pending the special removal hearing, the judge shall
12 order the Attorney General to take the alien into custody.

13 “(i) WRITTEN ORDER.—At the time of rendering a
14 decision as to whether the alien shall be removed, the
15 judge shall prepare a written order containing a statement
16 of facts found and conclusions of law. Any portion of the
17 order that would reveal the substance or source of infor-
18 mation received in camera and ex parte pursuant to sub-
19 section (e) shall not be made available to the alien or the
20 public.

21 “CONSIDERATION OF CLASSIFIED INFORMATION

22 “SEC. 506. (a) CONSIDERATION IN CAMERA AND EX
23 PARTE.—In any case in which the application for the
24 order authorizing the special procedures of this title is ap-
25 proved, the judge who granted the order shall consider
26 each item of classified information the Department of Jus-

1 tice proposes to introduce in camera and ex parte at the
2 special removal hearing and shall order the introduction
3 of such information pursuant to section 505(e) if the judge
4 determines the information to be relevant.

5 “(b) PREPARATION AND PROVISION OF WRITTEN
6 SUMMARY.—

7 “(1) PREPARATION.—The Department of Jus-
8 tice shall prepare a written summary of such classi-
9 fied information which does not pose a risk to na-
10 tional security.

11 “(2) CONDITIONS FOR APPROVAL BY JUDGE
12 AND PROVISION TO ALIEN.—The judge shall approve
13 the summary so long as the judge finds that the
14 summary is sufficient—

15 “(A) to inform the alien of the general na-
16 ture of the evidence that the alien is an alien
17 terrorist, and

18 “(B) to permit the alien to prepare a de-
19 fense against deportation.

20 The Department of Justice shall cause to be deliv-
21 ered to the alien a copy of the summary.

22 “(3) OPPORTUNITY FOR CORRECTION AND
23 RESUBMITTAL.—If the judge does not approve the
24 summary, the judge shall provide the Department a
25 reasonable opportunity to correct the deficiencies

1 identified by the court and to submit a revised sum-
2 mary.

3 “(4) CONDITIONS FOR TERMINATION OF PRO-
4 CEEDINGS IF SUMMARY NOT APPROVED.—

5 “(A) IN GENERAL.—If, subsequent to the
6 opportunity described in paragraph (3), the
7 judge does not approve the summary, the judge
8 shall terminate the special removal hearing un-
9 less the judge makes the findings described in
10 subparagraph (B).

11 “(B) FINDINGS.—The findings described
12 in this subparagraph are, with respect to an
13 alien, that—

14 “(i) the continued presence of the
15 alien in the United States, and

16 “(ii) the provision of the required
17 summary,

18 would likely cause serious and irreparable harm
19 to the national security or death or serious bod-
20 ily injury to any person.

21 “(5) CONTINUATION OF HEARING WITHOUT
22 SUMMARY.—If a judge makes the findings described
23 in paragraph (4)(B)—

24 “(A) if the alien involved is an alien law-
25 fully admitted for permanent residence, the pro-

1 cedures described in subsection (c) shall apply;
2 and

3 “(B) in all cases the special removal hear-
4 ing shall continue, the Department of Justice
5 shall cause to be delivered to the alien a state-
6 ment that no summary is possible, and the clas-
7 sified information submitted in camera and ex
8 parte may be used pursuant to section 505(e).

9 “(c) SPECIAL PROCEDURES FOR ACCESS AND CHAL-
10 LENGES TO CLASSIFIED BY SPECIAL ATTORNEYS IN CASE
11 OF LAWFUL PERMANENT ALIENS.—

12 “(1) IN GENERAL.—The procedures described
13 in this subsection are that the judge (under rules of
14 the special removal court) shall designate a special
15 attorney to assist the alien—

16 “(A) by reviewing in camera the classified
17 information on behalf of the alien, and

18 “(B) by challenging through an in camera
19 proceeding the veracity of the evidence con-
20 tained in the classified information.

21 “(2) RESTRICTIONS ON DISCLOSURE.—A spe-
22 cial attorney receiving classified information under
23 paragraph (1)—

1 “(1) any determination by the judge pursuant
2 to section 506(a)—

3 “(A) concerning whether an item of evi-
4 dence may be introduced in camera and ex
5 parte, or

6 “(B) concerning the contents of any sum-
7 mary of evidence to be introduced in camera
8 and ex parte prepared pursuant to section
9 506(b); or

10 “(2) the refusal of the court to make the find-
11 ings permitted by section 506(b)(4)(B).

12 In any interlocutory appeal taken pursuant to this sub-
13 section, the entire record, including any proposed order
14 of the judge or summary of evidence, shall be transmitted
15 to the Court of Appeals under seal and the matter shall
16 be heard ex parte.

17 “(c) APPEALS OF DECISION IN HEARING.—

18 “(1) IN GENERAL.—Subject to paragraph (2),
19 the decision of the judge after a special removal
20 hearing may be appealed by either the alien or the
21 Department of Justice to the United States Court of
22 Appeals for the District of Columbia Circuit by no-
23 tice of appeal.

1 “(2) AUTOMATIC APPEALS IN CASES OF PERMA-
2 NENT RESIDENT ALIENS IN WHICH NO SUMMARY
3 PROVIDED.—

4 “(A) IN GENERAL.—Unless the alien
5 waives the right to a review under this para-
6 graph, in any case involving an alien lawfully
7 admitted for permanent residence who is denied
8 a written summary of classified information
9 under section 506(b)(4) and the procedures of
10 section 506(c) apply, any order issued by the
11 judge shall be reviewed by the Court of Appeals
12 for the District of Columbia Circuit.

13 “(B) USE OF SPECIAL ATTORNEY.—If any
14 issue relating to classified information arises in
15 such review, the alien shall be represented only
16 by the special attorney designated under section
17 506(c)(1) on behalf of the alien.

18 “(d) GENERAL PROVISIONS RELATING TO AP-
19 PEALS.—

20 “(1) NOTICE.—A notice of appeal pursuant to
21 subsection (b) or (c) (other than under subsection
22 (c)(2)) must be filed within 20 days, during which
23 time the order for which the appeal is sought shall
24 not be executed.

1 “(2) TRANSMITTAL OF RECORD.—In an appeal
2 or review to the Court of Appeals pursuant to sub-
3 section (b) or (c)—

4 “(A) the entire record shall be transmitted
5 to the Court of Appeals, and

6 “(B) information received pursuant to sec-
7 tion 505(e), and any portion of the judge’s
8 order that would reveal the substance or source
9 of such information, shall be transmitted under
10 seal.

11 “(3) EXPEDITED APPELLATE PROCEEDING.—In
12 an appeal or review to the Court of Appeals pursu-
13 ant to subsection (b) or (c):

14 “(A) REVIEW.—The appeal or review shall
15 be heard as expeditiously as practicable and the
16 Court may dispense with full briefing and hear
17 the matter solely on the record of the judge of
18 the special removal court and on such briefs or
19 motions as the Court may require to be filed by
20 the parties.

21 “(B) DISPOSITION.—The Court shall up-
22 hold or reverse the judge’s order within 60 days
23 after the date of the issuance of the judge’s
24 final order.

1 “(4) DE NOVO REVIEW.—In an appeal or re-
2 view to the Court of Appeals pursuant to subsection
3 (b) or (c):

4 “(A) QUESTIONS OF LAW.—The Court of
5 Appeals shall review all questions of law de
6 novo.

7 “(B) QUESTIONS OF FACT.—(i) Subject to
8 clause (ii), a prior finding on any question of
9 fact shall not be set aside unless such finding
10 was clearly erroneous.

11 “(ii) In the case of a review under sub-
12 section (c)(2) in which an alien lawfully admit-
13 ted for permanent residence was denied a writ-
14 ten summary of classified information under
15 section 506(b)(4), the Court of Appeals shall
16 review questions of fact de novo.

17 “(e) CERTIORARI.—Following a decision by the Court
18 of Appeals pursuant to subsection (b) or (c), either the
19 alien or the Department of Justice may petition the Su-
20 preme Court for a writ of certiorari. In any such case,
21 any information transmitted to the Court of Appeals
22 under seal shall, if such information is also submitted to
23 the Supreme Court, be transmitted under seal. Any order
24 of removal shall not be stayed pending disposition of a

1 writ of certiorari except as provided by the Court of Ap-
2 peals or a Justice of the Supreme Court.

3 “(f) APPEALS OF DETENTION ORDERS.—

4 “(1) IN GENERAL.— The provisions of sections
5 3145 through 3148 of title 18, United States Code,
6 pertaining to review and appeal of a release or de-
7 tention order, penalties for failure to appear, pen-
8 alties for an offense committed while on release, and
9 sanctions for violation of a release condition shall
10 apply to an alien to whom section 508(b)(1) applies.

11 In applying the previous sentence—

12 “(A) for purposes of section 3145 of such
13 title an appeal shall be taken to the United
14 States Court of Appeals for the District of Co-
15 lumbia Circuit, and

16 “(B) for purposes of section 3146 of such
17 title the alien shall be considered released in
18 connection with a charge of an offense punish-
19 able by life imprisonment.

20 “(2) NO REVIEW OF CONTINUED DETENTION.—

21 The determinations and actions of the Attorney
22 General pursuant to section 508(c)(2)(D) shall not
23 be subject to judicial review, including application
24 for a writ of habeas corpus, except for a claim by
25 the alien that continued detention violates the alien’s

1 rights under the Constitution. Jurisdiction over any
2 such challenge shall lie exclusively in the United
3 States Court of Appeals for the District of Columbia
4 Circuit.

5 “DETENTION AND CUSTODY

6 “SEC. 508. (a) INITIAL CUSTODY.—

7 “(1) UPON FILING APPLICATION.—Subject to
8 paragraph (2), the Attorney General may take into
9 custody any alien with respect to whom an applica-
10 tion under section 503 has been filed and, notwith-
11 standing any other provision of law, may retain such
12 an alien in custody in accordance with the proce-
13 dures authorized by this title.

14 “(2) SPECIAL RULES FOR PERMANENT RESI-
15 DENT ALIENS.—An alien lawfully admitted for per-
16 manent residence shall be entitled to a release hear-
17 ing before the judge assigned to hear the special re-
18 moval hearing. Such an alien shall be detained pend-
19 ing the special removal hearing, unless the alien
20 demonstrates to the court that—

21 “(A) the alien, if released upon such terms
22 and conditions as the court may prescribe (in-
23 cluding the posting of any monetary amount),
24 is not likely to flee, and

1 “(B) the alien’s release will not endanger
2 national security or the safety of any person or
3 the community.

4 The judge may consider classified information sub-
5 mitted in camera and ex parte in making a deter-
6 mination under this paragraph.

7 “(3) RELEASE IF DENIAL OF ORDER AND NO
8 REVIEW SOUGHT.—

9 “(A) IN GENERAL.—If a judge of the spe-
10 cial removal court denies the order sought in an
11 application with respect to an alien and the De-
12 partment of Justice does not seek review of
13 such denial, subject to subparagraph (B), the
14 alien shall be released from custody.

15 “(B) APPLICATION OF REGULAR PROCE-
16 DURES.—Subparagraph (A) shall not prevent
17 the arrest and detention of the alien pursuant
18 to title II.

19 “(b) CONDITIONAL RELEASE IF DENIAL OF ORDER
20 AND REVIEW SOUGHT.—

21 “(1) IN GENERAL.—If a judge of the special re-
22 moval court denies the order sought in an applica-
23 tion with respect to an alien and the Department of
24 Justice seeks review of such denial, the judge shall
25 release the alien from custody subject to the least re-

1 strictive condition or combination of conditions of re-
2 lease described in section 3142(b) and clauses (i)
3 through (xiv) of section 3142(c)(1)(B) of title 18,
4 United States Code, that will reasonably assure the
5 appearance of the alien at any future proceeding
6 pursuant to this title and will not endanger the safe-
7 ty of any other person or the community.

8 “(2) NO RELEASE FOR CERTAIN ALIENS.—If
9 the judge finds no such condition or combination of
10 conditions, the alien shall remain in custody until
11 the completion of any appeal authorized by this title.

12 “(c) CUSTODY AND RELEASE AFTER HEARING.—

13 “(1) RELEASE.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), if the judge decides pursuant to sec-
16 tion 505(i) that an alien should not be removed,
17 the alien shall be released from custody.

18 “(B) CUSTODY PENDING APPEAL.—If the
19 Attorney General takes an appeal from the
20 order, the alien shall remain in custody, subject
21 to the provisions of section 3142 of title 18,
22 United States Code.

23 “(2) CUSTODY AND REMOVAL.—

24 “(A) CUSTODY.—If the judge decides pur-
25 suant to section 505(i) that an alien shall be re-

1 moved, the alien shall be detained pending the
2 outcome of any appeal. After the conclusion of
3 any judicial review thereof which affirms the re-
4 moval order, the Attorney General shall retain
5 the alien in custody or, if the alien was released
6 pursuant to paragraph (1)(A), shall take the
7 alien into custody and remove the alien to a
8 country specified under subparagraph (B).

9 “(B) REMOVAL.—

10 “(i) IN GENERAL.—The removal of an
11 alien shall be to any country which the
12 alien shall designate if such designation
13 does not, in the judgment of the Attorney
14 General, in consultation with the Secretary
15 of State, impair the obligation of the
16 United States under any treaty (including
17 a treaty pertaining to extradition) or other-
18 wise adversely affect the foreign policy of
19 the United States.

20 “(ii) ALTERNATE COUNTRIES.—If the
21 alien refuses to choose a country to which
22 the alien wishes to be transported, or if the
23 Attorney General, in consultation with the
24 Secretary of State, determines that re-
25 moval of the alien to the country so se-

1 lected would impair a treaty obligation or
2 adversely affect United States foreign pol-
3 icy, the Attorney General shall cause the
4 alien to be transported to any country will-
5 ing to receive such alien.

6 “(C) CONTINUED DETENTION.—If no
7 country is willing to receive such an alien, the
8 Attorney General may, notwithstanding any
9 other provision of law, retain the alien in cus-
10 tody. The Attorney General, in coordination
11 with the Secretary of State, shall make periodic
12 efforts to reach agreement with other countries
13 to accept such an alien and at least every 6
14 months shall provide to the attorney represent-
15 ing the alien at the special removal hearing
16 alien a written report on the Attorney General’s
17 efforts. Any alien in custody pursuant to this
18 subparagraph shall be released from custody
19 solely at the discretion of the Attorney General
20 and subject to such conditions as the Attorney
21 General shall deem appropriate.

22 “(D) FINGERPRINTING.—Before an alien
23 is transported out of the United States pursu-
24 ant to this subsection, or pursuant to an order
25 of exclusion because such alien is excludable

1 under section 212(a)(3)(B), the alien shall be
2 photographed and fingerprinted, and shall be
3 advised of the provisions of subsection 276(b).

4 “(d) CONTINUED DETENTION PENDING TRIAL.—

5 “(1) DELAY IN REMOVAL.—Notwithstanding
6 the provisions of subsection (c)(2), the Attorney
7 General may hold in abeyance the removal of an
8 alien who has been ordered removed pursuant to this
9 title to allow the trial of such alien on any Federal
10 or State criminal charge and the service of any sen-
11 tence of confinement resulting from such a trial.

12 “(2) MAINTENANCE OF CUSTODY.—Pending the
13 commencement of any service of a sentence of con-
14 finement by an alien described in paragraph (1),
15 such an alien shall remain in the custody of the At-
16 torney General, unless the Attorney General deter-
17 mines that temporary release of the alien to the cus-
18 tody of State authorities for confinement in a State
19 facility is appropriate and would not endanger na-
20 tional security or public safety.

21 “(3) SUBSEQUENT REMOVAL.—Following the
22 completion of a sentence of confinement by an alien
23 described in paragraph (1) or following the comple-
24 tion of State criminal proceedings which do not re-
25 sult in a sentence of confinement of an alien released

1 to the custody of State authorities pursuant to para-
2 graph (2), such an alien shall be returned to the
3 custody of the Attorney General who shall proceed
4 to carry out the provisions of subsection (c)(2) con-
5 cerning removal of the alien.

6 “(e) APPLICATION OF CERTAIN PROVISIONS.—For
7 purposes of section 751 and 752 of title 18, United States
8 Code, an alien in the custody of the Attorney General pur-
9 suant to this title shall be subject to the penalties provided
10 by those sections in relation to a person committed to the
11 custody of the Attorney General by virtue of an arrest on
12 a charge of felony.

13 “(f) RIGHTS OF ALIENS IN CUSTODY.—

14 “(1) FAMILY AND ATTORNEY VISITS.—An alien
15 in the custody of the Attorney General pursuant to
16 this title shall be given reasonable opportunity to
17 communicate with and receive visits from members
18 of the alien’s family, and to contact, retain, and
19 communicate with an attorney.

20 “(2) DIPLOMATIC CONTACT.—An alien in the
21 custody of the Attorney General pursuant to this
22 title shall have the right to contact an appropriate
23 diplomatic or consular official of the alien’s country
24 of citizenship or nationality or of any country pro-
25 viding representation services therefore. The Attor-

1 ney General shall notify the appropriate embassy,
2 mission, or consular office of the alien’s detention.”.

3 (b) JURISDICTION OVER EXCLUSION ORDERS FOR
4 ALIEN TERRORISTS.—Subsection 106(b) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1105a(b)) is amended
6 by adding at the end the following sentence: “Jurisdiction
7 to review an order entered pursuant to the provisions of
8 section 235(c) concerning an alien excludable under sec-
9 tion 212(a)(3)(B) shall rest exclusively in the United
10 States Court of Appeals for the District of Columbia
11 Circuit.”.

12 (c) CRIMINAL PENALTY FOR REENTRY OF ALIEN
13 TERRORISTS.—Section 276(b) of such Act (8 U.S.C.
14 1326(b)) is amended—

15 (1) by striking “or” at the end of paragraph

16 (1),

17 (2) by striking the period at the end of para-
18 graph (2) and inserting “; or”, and

19 (3) by inserting after paragraph (2) the follow-
20 ing new paragraph:

21 “(3) who has been excluded from the United
22 States pursuant to subsection 235(c) because the
23 alien was excludable under subsection 212(a)(3)(B)
24 or who has been removed from the United States
25 pursuant to the provisions of title V, and who there-

1 after, without the permission of the Attorney Gen-
2 eral, enters the United States or attempts to do so
3 shall be fined under title 18, United States Code,
4 and imprisoned for a period of 10 years, which sen-
5 tence shall not run concurrently with any other sen-
6 tence.”.

7 (d) ELIMINATION OF CUSTODY REVIEW BY HABEAS
8 CORPUS.—Section 106(a) of such Act (8 U.S.C.
9 1105a(a)) is amended—

10 (1) by adding “and” at the end of paragraph
11 (8),

12 (2) by striking “; and” at the end of paragraph
13 (9) and inserting a period, and

14 (3) by striking paragraph (10).

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act and shall apply to all aliens without regard
18 to the date of entry or attempted entry into the United
19 States.

20 **SEC. 602. FUNDING FOR DETENTION AND DEPORTATION OF**
21 **ALIEN TERRORISTS.**

22 In addition to amounts otherwise appropriated, there
23 are authorized to be appropriated for each fiscal year (be-
24 ginning with fiscal year 1996) \$5,000,000 to the Immigra-

1 tion and Naturalization Service for the purpose of detain-
2 ing and deporting alien terrorists.

3 **PART 2—EXCLUSION AND DENIAL OF ASYLUM**
4 **FOR ALIEN TERRORISTS**

5 **SEC. 611. MEMBERSHIP IN TERRORIST ORGANIZATION AS**
6 **GROUND FOR EXCLUSION.**

7 (a) IN GENERAL.—Section 212(a)(3)(B) of the Im-
8 migration and Nationality Act (8 U.S.C. 1182(a)(3)(B))
9 is amended—

10 (1) in clause (i)—

11 (A) by striking “or” at the end of
12 subclause (I),

13 (B) in subclause (II), by inserting “en-
14 gaged in or” after “believe,” and

15 (C) by inserting after subclause (II) the
16 following:

17 “(III) is a representative of a ter-
18 rorist organization, or

19 “(IV) is a member of a terrorist
20 organization,”; and

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

22 “(iv) TERRORIST ORGANIZATION DE-
23 FINED.—

24 “(I) DESIGNATION BY PRESI-
25 DENT.—For purposes of this Act, the

1 term ‘terrorist organization’ means a
2 foreign organization designated in the
3 Federal Register as a terrorist organi-
4 zation by the President based upon a
5 finding that the organization engages
6 in, or has engaged in, terrorist activ-
7 ity that threatens the national secu-
8 rity of the United States.

9 “(II) PROCESS.—At least 3 days
10 before designating an organization as
11 a terrorist organization through publi-
12 cation in the Federal Register, the
13 President shall notify the Committees
14 on the Judiciary of the House of Rep-
15 resentatives and the Senate of the in-
16 tent to make such designation and the
17 President’s findings and basis for des-
18 ignation.

19 “(III) CONGRESSIONAL REMOVAL
20 AUTHORITY.—The Congress reserves
21 the authority to remove, by law, the
22 designation of an organization as a
23 terrorist organization for purposes of
24 this Act.

1 “(IV) SUNSET.—Subject to
2 subclause (III), the designation under
3 this clause of an organization as a
4 terrorist organization shall be effective
5 for a period of 2 years from the date
6 of the initial publication of the terror-
7 ist organization designation by the
8 President. At the end of such period
9 (but no sooner than 60 days prior to
10 the termination of the 2-year-designa-
11 tion period), the President may redesi-
12 gnate the organization in conformity
13 with the requirements of this clause
14 for designation of the organization.

15 “(V) PRESIDENTIAL REMOVAL
16 AUTHORITY.—The President may re-
17 move the terrorist organization des-
18 ignation from any organization pre-
19 viously designated as such an organi-
20 zation, at any time, so long as the
21 President publishes notice of the re-
22 moval in the Federal Register. The
23 President is not required to report to
24 Congress prior to taking such an ac-
25 tion.

1 “(v) REPRESENTATIVE DEFINED.—In
2 this subparagraph, the term ‘representa-
3 tive’ includes an officer, official, or spokes-
4 man of the organization and any person
5 who directs, counsels, commands or in-
6 duces the organization or its members to
7 engage in terrorist activity. The determina-
8 tion by the Secretary of State or the Attor-
9 ney General that an alien is a representa-
10 tive of a terrorist organization shall be
11 controlling and shall not be subject to re-
12 view by any court.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on the date of the enactment
15 of this Act.

16 **SEC. 612. DENIAL OF ASYLUM TO ALIEN TERRORISTS.**

17 (a) IN GENERAL.—Section 208(a) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1158(a)) is amended
19 by adding at the end the following: “The Attorney General
20 may not grant an alien asylum if the Attorney General
21 determines that the alien is excludable under subclause
22 (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable
23 under section 241(a)(4)(B).”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall take effect on the date of the enact-

1 ment of this Act and apply to asylum determinations made
2 on or after such date.

3 **SEC. 613. DENIAL OF OTHER RELIEF FOR ALIEN TERROR-**
4 **ISTS.**

5 (a) WITHHOLDING OF DEPORTATION.—Section
6 243(h)(2) of the Immigration and Nationality Act (8
7 U.S.C. 1253(h)(2)) is amended by adding at the end the
8 following new sentence: “For purposes of subparagraph
9 (D), an alien who is described in section 241(a)(4)(B)
10 shall be considered to be an alien with respect to whom
11 there are reasonable grounds for regarding as a danger
12 to the security of the United States.”.

13 (b) SUSPENSION OF DEPORTATION.—Section 244(a)
14 of such Act (8 U.S.C. 1254(a)) is amended by striking
15 “section 241(a)(4)(D)” and inserting “subparagraph (B)
16 or (D) of section 241(a)(4)”.

17 (c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of
18 such Act (8 U.S.C. 1254(e)(2)) is amended by inserting
19 “under section 241(a)(4)(B) or” after “who is deport-
20 able”.

21 (d) ADJUSTMENT OF STATUS.—Section 245(c) of
22 such Act (8 U.S.C. 1255(c)) is amended—

23 (1) by striking “or” before “(5)”, and

1 the officer shall order the alien excluded from the United
2 States without further hearing or review.

3 “(B) The examining immigration officer shall refer
4 for an interview by an asylum officer under subparagraph
5 (C) any alien who is excludable under section 212(a)(6)(C)
6 or 212(a)(7) and has indicated an intention to apply for
7 asylum under section 208 or a fear of persecution.

8 “(C)(i) An asylum officer shall promptly conduct
9 interviews of aliens referred under subparagraph (B).

10 “(ii) If the officer determines at the time of the inter-
11 view that an alien has a credible fear of persecution (as
12 defined in clause (v)), the alien shall be detained for an
13 asylum hearing before an asylum officer under section
14 208.

15 “(iii)(I) Subject to subclause (II), if the officer deter-
16 mines that the alien does not have a credible fear of perse-
17 cution, the officer shall order the alien excluded from the
18 United States without further hearing or review.

19 “(II) The Attorney General shall promulgate regula-
20 tions to provide for the immediate review by a supervisory
21 asylum office at the port of entry of a determination under
22 subclause (I).

23 “(iv) The Attorney General shall provide information
24 concerning the asylum interview described in this subpara-
25 graph to aliens who may be eligible. An alien who is eligi-

1 ble for such interview may consult with a person or per-
2 sons of the alien's choosing prior to the interview or any
3 review thereof, according to regulations prescribed by the
4 Attorney General. Such consultation shall be at no expense
5 to the Government and shall not delay the process.

6 “(v) For purposes of this subparagraph, the term
7 ‘credible fear of persecution’ means (I) that it is more
8 probable than not that the statements made by the alien
9 in support of the alien's claim are true, and (II) that there
10 is a significant possibility, in light of such statements and
11 of such other facts as are known to the officer that the
12 alien could establish eligibility for asylum under section
13 208.

14 “(D) As used in this paragraph, the term ‘asylum of-
15 ficer’ means an immigration officer who—

16 “(i) has had professional training in country
17 conditions, asylum law, and interview techniques;
18 and

19 “(ii) is supervised by an officer who meets the
20 condition in clause (i).

21 “(E)(i) An exclusion order entered in accordance with
22 subparagraph (A) is not subject to administrative appeal,
23 except that the Attorney General shall provide by regula-
24 tion for prompt review of such an order against an alien
25 who claims under oath, or as permitted under penalty of

1 perjury under section 1746 of title 28, United States
2 Code, after having been warned of the penalties for falsely
3 making such claim under such conditions, to have been
4 lawfully admitted for permanent residence.

5 “(ii) In any action brought against an alien under
6 section 275(a) or section 276, the court shall not have ju-
7 risdiction to hear any claim attacking the validity of an
8 order of exclusion entered under subparagraph (A).

9 “(2)(A) Except as provided in subparagraph (B), if
10 the examining immigration officer determines that an
11 alien seeking entry is not clearly and beyond a doubt enti-
12 tled to enter, the alien shall be detained for a hearing be-
13 fore a special inquiry officer.

14 “(B) The provisions of subparagraph (A) shall not
15 apply—

16 “(i) to an alien crewman,

17 “(ii) to an alien described in paragraph (1)(A)
18 or (1)(C)(iii)(I), or

19 “(iii) if the conditions described in section
20 273(d) exist.

21 “(3) The decision of the examining immigration offi-
22 cer, if favorable to the admission of any alien, shall be
23 subject to challenge by any other immigration officer and
24 such challenge shall operate to take the alien whose privi-

1 lege to enter is so challenged, before a special inquiry offi-
2 cer for a hearing on exclusion of the alien.”.

3 (b) CONFORMING AMENDMENT.—Section 237(a) of
4 such Act (8 U.S.C. 1227(a)) is amended—

5 (1) in the second sentence of paragraph (1), by
6 striking “Deportation” and inserting “Subject to
7 section 235(b)(1), deportation”, and

8 (2) in the first sentence of paragraph (2), by
9 striking “If” and inserting “Subject to section
10 235(b)(1), if”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the first day of the first
13 month that begins more than 90 days after the date of
14 the enactment of this Act.

15 **SEC. 622. JUDICIAL REVIEW.**

16 (a) PRECLUSION OF JUDICIAL REVIEW.—Section
17 106 of the Immigration and Nationality Act (8 U.S.C.
18 1105a) is amended—

19 (1) by amending the section heading to read as
20 follows:

21 “JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND
22 EXCLUSION, AND SPECIAL EXCLUSION”; and

23 (2) by adding at the end the following new sub-
24 section:

25 “(d)(1) Notwithstanding any other provision of law,
26 and except as provided in this subsection, no court shall

1 have jurisdiction to review any individual determination,
2 or to entertain any other cause or claim, arising from or
3 relating to the implementation or operation of section
4 235(b)(1). Regardless of the nature of the action or claim,
5 or the party or parties bringing the action, no court shall
6 have jurisdiction or authority to enter declaratory, injunc-
7 tive, or other equitable relief not specifically authorized in
8 this subsection nor to certify a class under Rule 23 of the
9 Federal Rules of Civil Procedure.

10 “(2) Judicial review of any cause, claim, or individual
11 determination covered under paragraph (1) shall only be
12 available in habeas corpus proceedings, and shall be lim-
13 ited to determinations of—

14 “(A) whether the petitioner is an alien, if the
15 petitioner makes a showing that the petitioner’s
16 claim of United States nationality is not frivolous;

17 “(B) whether the petitioner was ordered spe-
18 cially excluded under section 235(b)(1)(A); and

19 “(C) whether the petitioner can prove by a pre-
20 ponderance of the evidence that the petitioner is an
21 alien lawfully admitted for permanent residence and
22 is entitled to such review as is provided by the Attor-
23 ney General pursuant to section 235(b)(1)(E)(i).

24 “(3) In any case where the court determines that an
25 alien was not ordered specially excluded, or was not prop-

1 erly subject to special exclusion under the regulations
2 adopted by the Attorney General, the court may order no
3 relief beyond requiring that the alien receive a hearing in
4 accordance with section 236, or a determination in accord-
5 ance with section 235(c) or 273(d).

6 “(4) In determining whether an alien has been or-
7 dered specially excluded, the court’s inquiry shall be lim-
8 ited to whether such an order was in fact issued and
9 whether it relates to the petitioner.”.

10 (b) PRECLUSION OF COLLATERAL ATTACKS.—Sec-
11 tion 235 of such Act (8 U.S.C. 1225) is amended by add-
12 ing at the end the following new subsection:

13 “(d) In any action brought for the assessment of pen-
14 alties for improper entry or re-entry of an alien under sec-
15 tions 275 and 276, no court shall have jurisdiction to hear
16 claims collaterally attacking the validity of orders of exclu-
17 sion, special exclusion, or deportation entered under this
18 section or sections 236 and 242.”.

19 **SEC. 623. EXCLUSION OF ALIENS WHO HAVE NOT BEEN IN-**
20 **SPECTED AND ADMITTED.**

21 (a) IN GENERAL.—Section 241 of the Immigration
22 and Nationality Act (8 U.S.C. 1251) is amended by add-
23 ing at the end the following new subsection:

24 “(d) Notwithstanding any other provision of this title,
25 an alien found in the United States who has not been ad-

1 mitted to the United States after inspection in accordance
2 with section 235 is deemed for purposes of this Act to
3 be seeking entry and admission to the United States and
4 shall be subject to examination and exclusion by the Attor-
5 ney General under chapter 4. In the case of such an alien
6 the Attorney General shall provide by regulation an oppor-
7 tunity for the alien to establish that the alien was so ad-
8 mitted.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect on the first day of the first
11 month beginning more than 90 days after the date of the
12 enactment of this Act.

13 **Subtitle C—Improved Information** 14 **and Processing**

15 **PART 1—IMMIGRATION PROCEDURES**

16 **SEC. 631. ACCESS TO CERTAIN CONFIDENTIAL INS FILES** 17 **THROUGH COURT ORDER.**

18 (a) LEGALIZATION PROGRAM.—Section 245A(c)(5)
19 of the Immigration and Nationality Act (8 U.S.C.
20 1255a(c)(5) is amended—

21 (1) by inserting “(i)” after “except the Attor-
22 ney General”; and

23 (2) by inserting after “title 13, United States
24 Code” the following: “and (ii) may authorize an ap-
25 plication to a Federal court of competent jurisdiction

1 for, and a judge of such court may grant, an order
2 authorizing disclosure of information contained in
3 the application of the alien to be used—

4 “(I) for identification of the alien
5 when there is reason to believe that the
6 alien has been killed or severely incapacitated; or
7

8 “(II) for criminal law enforcement
9 purposes against the alien whose applica-
10 tion is to be disclosed if the alleged criminal
11 activity occurred after the legalization
12 application was filed and such activity in-
13 volves terrorist activity or poses either an
14 immediate risk to life or to national secu-
15 rity, or would be prosecutable as an aggra-
16 vated felony, but without regard to the
17 length of sentence that could be imposed
18 on the applicant”.

19 (b) SPECIAL AGRICULTURAL WORKER PROGRAM.—
20 Section 210(b) of such Act (8 U.S.C. 1160(b)) is amend-
21 ed—

22 (1) in paragraph (5), by inserting “, except as
23 allowed by a court order issued pursuant to para-
24 graph (6)” after “consent of the alien”, and

1 (2) in paragraph (6), by inserting after the first
2 sentence the following:

3 “Notwithstanding the previous sentence, the Attor-
4 ney General may authorize an application to a Fed-
5 eral court of competent jurisdiction for, and a judge
6 of such court may grant, an order authorizing dis-
7 closure of information contained in the application of
8 the alien to be used (i) for identification of the alien
9 when there is reason to believe that the alien has
10 been killed or severely incapacitated, or (ii) for
11 criminal law enforcement purposes against the alien
12 whose application is to be disclosed if the alleged
13 criminal activity occurred after the special agricul-
14 tural worker application was filed and such activity
15 involves terrorist activity or poses either an imme-
16 diate risk to life or to national security, or would be
17 prosecutable as an aggravated felony, but without
18 regard to the length of sentence that could be im-
19 posed on the applicant.”.

20 **SEC. 632. WAIVER AUTHORITY CONCERNING NOTICE OF**
21 **DENIAL OF APPLICATION FOR VISAS.**

22 Section 212(b) of the Immigration and Nationality
23 Act (8 U.S.C. 1182(b)) is amended—

24 (1) by redesignating paragraphs (1) and (2) as
25 subparagraphs (A) and (B);

1 stituting, or derived from, or traceable to, any proceeds
2 the person obtained, directly or indirectly, as a result of
3 such violation.”, and

4 (2) in subsection (b)(1)(B), by inserting “or
5 (a)(6)” after “(a)(2)”.

6 **SEC. 642. SUBPOENAS FOR BANK RECORDS.**

7 Section 986(a) of title 18, United States Code, is
8 amended by inserting “1028, 1541, 1542, 1543, 1544,
9 1546,” before “1956”.

10 **SEC. 643. EFFECTIVE DATE.**

11 The amendments made by this subtitle shall take ef-
12 fect on the first day of the first month that begins more
13 than 90 days after the date of the enactment of this Act.

14 **TITLE VII—FUNDING**

15 **SEC. 701. AUTHORIZATION OF APPROPRIATIONS.**

16 There is authorized to be appropriated to the Federal
17 Bureau of Investigation such sums as are necessary—

18 (1) to hire additional personnel, and to procure
19 equipment, to support expanded investigations of do-
20 mestic and international terrorism activities;

21 (2) to establish a Domestic Counterterrorism
22 Center to coordinate and centralize Federal, State,
23 and local law enforcement efforts in response to
24 major terrorist incidents, and as a clearinghouse for

1 all domestic and international terrorism information
2 and intelligence; and

3 (3) to cover costs associated with providing law
4 enforcement coverage of public events offering the
5 potential of being targeted by domestic or inter-
6 national terrorists.

7 **SEC. 702. CIVIL MONETARY PENALTY SURCHARGE AND**
8 **TELECOMMUNICATIONS CARRIER COMPLI-**
9 **ANCE PAYMENTS.**

10 The Communications Assistance for Law Enforce-
11 ment Act is amended by adding at the end the following:

12 **“TITLE IV—CIVIL MONETARY**
13 **PENALTY SURCHARGE AND**
14 **TELECOMMUNICATIONS CAR-**
15 **RIER COMPLIANCE PAY-**
16 **MENTS**

17 **“SEC. 401. CIVIL MONETARY PENALTY SURCHARGE.**

18 “(a) IMPOSITION.—Notwithstanding any other provi-
19 sion of law, and subject to section 402(c), 40 percent of
20 the principal amount of a civil monetary penalty assessed
21 by the United States or an agency thereof shall be added
22 to the fund established in section 402.

23 “(b) EFFECTIVE DATES.—(1) Subsection (a) shall
24 apply with respect to all civil monetary penalties assessed

1 on or after October 1, 1995, or the date of enactment of
2 this title, whichever is later.

3 “(2) The application of subsection (a) shall terminate
4 on October 1, 1998.

5 “(d) LIMITATION.—This section does not apply to
6 any civil monetary penalty assessed under the Internal
7 Revenue Code of 1986.

8 **“SEC. 402. DEPARTMENT OF JUSTICE TELECOMMUNI-**
9 **CATIONS CARRIER COMPLIANCE FUND.**

10 “(a) ESTABLISHMENT OF FUND.—There is hereby
11 established in the United States Treasury a fund to be
12 known as the Department of Justice Telecommunications
13 Carrier Compliance Fund (hereinafter in this section re-
14 ferred to as the ‘Fund’), which shall be available to the
15 Attorney General to the extent and in the amounts author-
16 ized by subsection (c) to make payments to telecommuni-
17 cations carriers, as authorized by section 109 of the Com-
18 munications Assistance for Law Enforcement Act.

19 “(b) OFFSETTING COLLECTIONS.—Notwithstanding
20 section 3302 of title 31, United States Code, the Attorney
21 General may credit amounts added pursuant to section
22 401 of this title to the Fund as offsetting collections.

23 “(c) REQUIREMENTS FOR APPROPRIATIONS OFF-
24 SET.—(1) Amounts may be added pursuant to section 401

1 only to the extent and in the amounts provided for in ad-
2 vance in appropriations Acts.

3 “(2)(A) Collections credited to the Fund are author-
4 ized to be appropriated in such amounts as may be nec-
5 essary, but not to exceed \$100,000,000 in fiscal year
6 1996, \$305,000,000 in fiscal year 1997, and \$80,000,000
7 in fiscal year 1998.

8 “(B) Amounts described in subparagraph (A) are au-
9 thorized to be appropriated without fiscal year limitation.

10 “(d) TERMINATION.—(1) The Attorney General may
11 terminate the Fund at such time as the Attorney General
12 determines that the Fund is no longer necessary, but no
13 later than the end of fiscal year 2000.

14 “(2) Any balance in the Fund at the time of its termi-
15 nation shall be deposited in the general fund of the Treas-
16 ury.

17 “(3) A decision of the Attorney General to terminate
18 the Fund shall not be subject to judicial review.

19 **“SEC. 403. DEFINITIONS.**

20 “For purposes of this title, the terms ‘agency’ and
21 ‘civil monetary penalty’ have the meanings given to them
22 by section 3 of the Federal Civil Penalties Inflation
23 Adjustment Act of 1990 (28 U.S.C. 2461 note).”.

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