

104TH CONGRESS
2D SESSION

H. R. 3494

To amend the Juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hard-core juvenile offenders and treat them as adults, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 1996

Mr. CANADY of Florida (for himself, Mr. WELDON of Florida, and Mr. HUTCHINSON) introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hard-core juvenile offenders and treat them as adults, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Violent and Hard-Core
5 Juvenile Offender Reform Act of 1996”.

1 **SEC. 2. FINDINGS.**

2 Section 101(a)(11) of the Juvenile Justice and Delin-
3 quency Prevention Act of 1974 (42 U.S.C. 5601(a)(11))
4 is amended by inserting before the semicolon the following:
5 “and on identifying violent and hard-core juvenile offend-
6 ers who should be prosecuted in the adult criminal justice
7 system as adults and not as juveniles”.

8 **SEC. 3. AMENDMENTS TO JUVENILE JUSTICE AND DELIN-**
9 **QUENCY PREVENTION ACT OF 1974.**

10 (a) PURPOSE.—Section 102(a) of the Juvenile Jus-
11 tice and Delinquency Prevention Act of 1974 (42 U.S.C.
12 5602(a)) is amended—

13 (1) by striking “and” at the end of paragraph
14 (10);

15 (2) by striking the period at the end of para-
16 graph (11) and inserting “; and”; and

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

19 “(12) to assist State and local governments in
20 protecting public safety by identifying violent and
21 hard-core juvenile offenders and transferring such
22 offenders out of the jurisdiction of the juvenile jus-
23 tice system and into the jurisdiction of adult crimi-
24 nal court.”.

25 (b) SERIOUS HABITUAL OFFENDER DEFINED.—Sec-
26 tion 103 of such Act (42 U.S.C. 5603) is amended—

1 (1) in paragraph (22), by striking “and” at the
2 end of clause (iii);

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

5 (3) by adding at the end the following new
6 paragraph:

7 “(24) the term ‘serious habitual offender’
8 means a juvenile who meets one or more of the fol-
9 lowing criteria:

10 “(A) Arrest for a capital, life, or first de-
11 gree aggravated sexual offense.

12 “(B) Not less than 5 arrests, with 3 ar-
13 rests chargeable as felonies and at least 3 ar-
14 rests occurring within the preceding 12 months.

15 “(C) Not less than 10 arrests, with 2 ar-
16 rests chargeable as felonies and at least 3 ar-
17 rests occurring within the preceding 12 months.

18 “(D) At least 1 arrest for conduct involv-
19 ing 3 or more burglaries, robberies, or sexual
20 assaults within the preceding 12 months.

21 “(E) Not less than 10 arrests, with 8 or
22 more arrests for misdemeanor crimes involving
23 theft, assault, battery, narcotics, controlled sub-
24 stance abuse, or possession of weapons, and at

1 least 3 arrests occurring within the preceding
2 12 months.”.

3 (c) REQUIREMENTS FOR STATE PLAN.—Section 223
4 of such Act (42 U.S.C. 5633) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (10)—

7 (i) by redesignating subparagraphs
8 (D) through (O) as subparagraphs (E)
9 through (P), respectively; and

10 (ii) by inserting after subparagraph
11 (C) the following new subparagraph:

12 “(D) the establishment of serious habitual
13 offender comprehensive action programs con-
14 sistent with subsection (b);”;

15 (B) by redesignating paragraphs (24) and
16 (25) as paragraphs (28) and (29), respectively;
17 and

18 (C) by inserting after paragraph (23) the
19 following new paragraphs:

20 “(24) provide for the establishment and mainte-
21 nance of an effective juvenile justice system that re-
22 quires the prosecution of juveniles 14 years of age
23 and older as adults in criminal court, rather than in
24 juvenile delinquency proceedings, for conduct con-
25 stituting—

1 “(A) murder or attempted murder;

2 “(B) robbery while armed with a dan-
3 gerous or deadly weapon;

4 “(C) battery or assault while armed with a
5 dangerous or deadly weapon;

6 “(D) forcible rape;

7 “(E) any serious drug offense which, if
8 committed by an adult subject to Federal juris-
9 diction, would be punishable under section
10 401(b)(1)(A) or 408 of the Controlled Sub-
11 stances Act (21 U.S.C. 841(b)(1)(A), 848) or
12 section 1010(b)(1)(A) of the Controlled Sub-
13 stances Import and Export Act (21 U.S.C.
14 960(b)(1)(A));

15 “(F) any other crime the State determines
16 appropriate; and

17 “(G) the third or subsequent occasion, un-
18 related to any previous occasion, on which such
19 juveniles engage in conduct for which adults
20 could be imprisoned for a term exceeding 1
21 year; unless, on a case-by-case basis—

22 “(i) a court determines that trying
23 such a juvenile as an adult is not in the in-
24 terest of justice under State law;

1 “(ii) such court records its reasons for
2 making such a determination in writing
3 and makes such record available for in-
4 spection by the public at large; and

5 “(iii) the court makes a record in
6 writing of the disposition of the juvenile in
7 the juvenile justice system available to the
8 public to the same extent that records of
9 adult criminal proceedings are open to the
10 public, notwithstanding any other law re-
11 quiring such information to be withheld or
12 limited in any way from access by the pub-
13 lic;

14 “(25) provide that a State will ensure that
15 whenever a juvenile, under 14 years of age, is adju-
16 dicated in a juvenile proceeding to have engaged in
17 conduct constituting an offense described in para-
18 graph (24)—

19 “(A) a record is kept relating to the adju-
20 dication that is—

21 “(i) equivalent to the record that
22 would be kept of an adult conviction for
23 that offense;

1 “(ii) retained for a period of time that
2 is equal to the period of time records are
3 kept for adult convictions;

4 “(iii) made available to law enforce-
5 ment agencies of any jurisdiction;

6 “(iv) made available to officials of a
7 school, school district, or postsecondary
8 school where the individual who is the sub-
9 ject of the juvenile record seeks, intends,
10 or is instructed to enroll, and that such of-
11 ficials are held liable to the same stand-
12 ards and penalties that law enforcement
13 and juvenile justice system employees are
14 held liable to, under Federal and State law
15 for handling and disclosing such informa-
16 tion; and

17 “(v) made available, once the juvenile
18 becomes an adult or is tried as an adult,
19 to any court having criminal jurisdiction
20 over such an individual for the purpose of
21 allowing such court to consider the individ-
22 ual’s prior juvenile history as a relevant
23 factor in determining appropriate punish-
24 ment for the individual at sentencing;

1 “(B) the juvenile is fingerprinted and pho-
2 tographed, and the fingerprints and photograph
3 are sent to the Federal Bureau of Investigation,
4 Identification Division for collection pursuant to
5 section 534 of title 28, United States Code; and

6 “(C) the court in which the adjudication
7 takes place will transmit to the Federal Bureau
8 of Investigation, Identification Division for col-
9 lection pursuant to section 534 of title 28,
10 United States Code, the information concerning
11 the adjudication, including the name, date of
12 adjudication, court, offenses, and disposition,
13 along with a prominent notation that the mat-
14 ter concerns a juvenile adjudication;

15 “(26) provide that whenever a juvenile, age 14
16 and older, is adjudicated delinquent, as defined by
17 Federal or State law in a juvenile delinquency pro-
18 ceeding for conduct which if committed by an adult
19 would constitute a felony under Federal or State
20 law, the State will ensure that—

21 “(A) a record is kept relating to the adju-
22 dication that is—

23 “(i) equivalent to the record that
24 would be kept of an adult conviction for
25 such an offense;

1 “(ii) retained for a period of time that
2 is equal to the period of time records are
3 kept for adult convictions;

4 “(iii) made available to law enforce-
5 ment agencies of any jurisdiction;

6 “(iv) made available to officials of a
7 school, school district, or postsecondary
8 school where the individual who is the sub-
9 ject of the juvenile record seeks, intends,
10 or is instructed to enroll, and that such of-
11 ficials are held liable to the same stand-
12 ards and penalties that law enforcement
13 and juvenile justice system employees are
14 held liable to, under Federal and State law
15 for handling and disclosing such informa-
16 tion; and

17 “(v) made available, once the juvenile
18 becomes an adult or is tried as an adult,
19 to any circuit court having criminal juris-
20 diction over such an individual for the pur-
21 pose of allowing such court to consider the
22 individual’s prior juvenile history as a rel-
23 evant factor in determining appropriate
24 punishment for the individual at the sen-
25 tencing hearing;

1 “(B) the juvenile is fingerprinted and pho-
2 tographed, and the fingerprints and photograph
3 are sent to the Federal Bureau of Investigation,
4 Identification Division and are otherwise made
5 available to the same extent that fingerprints
6 and photographs of adults are made available;
7 and

8 “(C) the court in which the adjudication
9 takes place transmits to the Federal Bureau of
10 Investigation, Identification Division, informa-
11 tion concerning the adjudication, including the
12 name, date of adjudication, court, offenses, and
13 disposition, along with a prominent notation
14 that the matter concerns a juvenile adjudica-
15 tion;

16 “(27) provide that the State will ensure that if
17 any juvenile has been adjudicated to be delinquent
18 on 2 or more separate occasions based on conduct
19 that would be a felony if committed by an adult the
20 record of the second and all subsequent adjudica-
21 tions is kept as described in paragraph (26) and
22 made available to the public to the same extent that
23 a record of an adult conviction is open to the pub-
24 lic;”;

1 (2) in subsection (c)(3), by striking “the re-
2 requirements of subsection (a) (12)(A), (13), (14), or
3 (23) in any fiscal year beginning after January 1,
4 1993” and inserting “any requirement of paragraph
5 (12)(A), (13), (14), (23), (24), (25), (26), or (27)
6 of subsection (a) in any fiscal year beginning after
7 January 1, 1997”; and

8 (3) by redesignating subsections (b), (c), and
9 (d) as subsections (c), (d), and (e); and

10 (4) by adding the following new subsection:

11 “(b) SERIOUS HABITUAL OFFENDER COMPREHEN-
12 SIVE ACTION PROGRAM.—

13 “(1) IN GENERAL.—Serious habitual offender
14 comprehensive action programs referred to in sub-
15 section (a)(10)(D) (referred to in this subsection as
16 ‘programs’) shall be multidisciplinary interagency
17 case management and information sharing systems,
18 meeting the requirements of this subsection, that en-
19 able the juvenile and criminal justice system,
20 schools, and social service agencies to make more in-
21 formed decisions regarding early identification, con-
22 trol, supervision, and treatment of juveniles who re-
23 peatedly commit serious delinquent or criminal acts.

24 “(2) MULTIDISCIPLINARY AGENCIES.—Under
25 such programs, units of local government in a State

1 shall establish a multidisciplinary agency comprised
2 of representatives from—

3 “(A) law enforcement organizations;

4 “(B) school districts;

5 “(C) State’s attorneys offices;

6 “(D) court services;

7 “(E) State and county children and family
8 services; and

9 “(F) any additional organizations, groups,
10 or agencies deemed appropriate to accomplish
11 the purposes described in paragraph (1), includ-
12 ing—

13 “(i) juvenile detention centers;

14 “(ii) mental and medical health agen-
15 cies; and

16 “(iii) the community at large.

17 “(3) IDENTIFICATION OF SERIOUS HABITUAL
18 OFFENDERS.—Each multidisciplinary agency estab-
19 lished under paragraph (2) shall adopt, by a major-
20 ity of its members, criteria to identify individuals
21 who are serious habitual offenders as defined in sec-
22 tion 103(24).

23 “(4) INTERAGENCY INFORMATION SHARING
24 AGREEMENT.—

1 “(A) IN GENERAL.—Each multidisciplinary
2 agency established under paragraph (2) shall
3 adopt, by a majority of its members, an inter-
4 agency information sharing agreement to be
5 signed by the chief executive officer of each or-
6 ganization and agency represented in the multi-
7 disciplinary agency.

8 “(B) DISCLOSURE OF INFORMATION.—The
9 interagency information sharing agreement
10 shall require that—

11 “(i) all records pertaining to serious
12 habitual offenders shall be kept confiden-
13 tial to the extent required by State law;

14 “(ii) information in the records may
15 be made available to other staff from mem-
16 ber organizations and agencies as author-
17 ized by the multidisciplinary agency for the
18 purposes of promoting case management,
19 community supervision, conduct control,
20 and tracking of the serious habitual of-
21 fender for the application and coordination
22 of appropriate services; and

23 “(iii) access to the information in the
24 records shall be limited to individuals who
25 provide direct services to the serious habit-

1 ual offender or who provide community
2 conduct control and supervision to the seri-
3 ous habitual offender.”.

4 **SEC. 4. JUVENILE ADJUDICATIONS CONSIDERED IN SEN-**
5 **TENCING.**

6 Pursuant to section 994 of title 28, United States
7 Code, the United States Sentencing Commission shall pro-
8 mulgate guidelines or amend existing guidelines to provide
9 that offenses contained in the juvenile record of an adult
10 defendant shall be considered as adult offenses in sentenc-
11 ing determinations if such juvenile offenses would have
12 constituted a felony had they been committed by the de-
13 fendant as an adult.

14 **SEC. 5. ACCESS TO JUVENILE RECORDS.**

15 Section 5038(a) of title 18, United States Code, is
16 amended—

17 (1) in paragraph (5), by striking “and” at the
18 end;

19 (2) in paragraph (6), by striking the period and
20 inserting “; and”; and

21 (3) by adding at the end the following new
22 paragraph:

23 “(7) inquiries from officials of a school, school
24 district, or any postsecondary school where the indi-

1 vidual who is the subject of the juvenile record
2 seeks, intends, or is instructed or ordered to enroll.”.

3 **SEC. 6. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.**

4 Paragraph (3) of section 615(e) of the Individuals
5 with Disabilities Education Act (20 U.S.C. 1415(e)(3)) is
6 amended—

7 (1) by striking “(A) Except as provided in sub-
8 paragraph (B)” and inserting “(A) Except as pro-
9 vided in subparagraphs (B) and (C)”; and

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

12 “(C) This paragraph shall not apply to a
13 child with a disability who commits a criminal
14 act, on the property of a school under the juris-
15 diction of the State or local educational agency,
16 which would be considered a crime if committed
17 by an adult and such act subsequently becomes
18 the basis for a juvenile adjudication or criminal
19 proceeding involving the child.”.

20 **SEC. 7. LIMITED DISCLOSURE OF FEDERAL BUREAU OF IN-**
21 **VESTIGATION RECORDS.**

22 Section 534(e) of title 28, United States Code, is
23 amended—

24 (1) by redesignating paragraph (3) as para-
25 graph (4); and

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

3 “(3) The Director of the Federal Bureau of Inves-
4 tigation, Identification Division shall provide, upon re-
5 quest, the information received under the provisions of
6 paragraph (25) of section 223(a) of the Juvenile Justice
7 Delinquency and Prevention Act of 1974, to officials of
8 a school, school district, or postsecondary school where the
9 individual who is the subject of such information seeks,
10 intends, or is instructed or ordered to enroll.”.

11 **SEC. 8. AMENDMENTS TO FEDERAL JUVENILE DELIN-**
12 **QUENCY ACT.**

13 (a) PROSECUTION OF JUVENILES AS ADULTS.—Sec-
14 tion 5032 of title 18, United States Code, is amended by
15 inserting before the first undesignated paragraph the fol-
16 lowing:

17 “Notwithstanding any other provision of law,
18 juvenile defendants 14 years of age or older shall be
19 prosecuted as adults, and this chapter shall not
20 apply, if such juveniles are charged with an offense
21 that constitutes—

22 “(A) murder or attempted murder;

23 “(B) robbery while armed with a dan-
24 gerous or deadly weapon;

1 “(C) battery or assault while armed with a
2 dangerous or deadly weapon;

3 “(D) forcible rape;

4 “(E) any serious drug offense which, if
5 committed by an adult, would be punishable
6 under section 401(b)(1)(A) or 408 of the Con-
7 trolled Substances Act (21 U.S.C.
8 841(b)(1)(A), 848) or section 1010(b)(1)(A) of
9 the Controlled Substances Import and Export
10 Act (21 U.S.C. 960(b)(1)(A));

11 “(F) the third or subsequent occasion, un-
12 related to any previous occasion, on which such
13 juveniles engage in conduct for which adults
14 could be imprisoned for a term exceeding 1
15 year, unless, on a case-by-case basis—

16 “(i) a court determines that trying
17 such a juvenile as an adult is not in the in-
18 terest of justice;

19 “(ii) such court records its reasons for
20 making such a determination in writing
21 and makes such record available for in-
22 spection by the public at large; and

23 “(iii) the court makes a record in
24 writing of the disposition of the juvenile in
25 the juvenile justice system available to the

1 public, notwithstanding any other law re-
2 quiring such information to be withheld or
3 limited in any way from access by the pub-
4 lic.”.

5 (b) AMENDMENTS CONCERNING RECORDS.—Section
6 5038 of title 18, United States Code, is amended—

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

8 (2) by redesignating subsection (e) as sub-
9 section (d); and

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

12 “(e)(1) Whenever—

13 “(A) a juvenile under 14 years of age has been
14 found guilty of committing an act which if commit-
15 ted by an adult would be an offense described in the
16 first undesignated paragraph of section 5032; or

17 “(B) a juvenile, age 14 and older, is adju-
18 dicated delinquent in a juvenile delinquency proceed-
19 ing for conduct which if committed by an adult
20 would constitute a felony,

21 the court shall comply with the requirements of paragraph

22 (2).

23 “(2) The requirements referred to in paragraph (1)
24 are that—

1 “(A) a record shall be kept relating to the adju-
2 dication that is—

3 “(i) equivalent to the record that would be
4 kept of an adult conviction for such an offense;

5 “(ii) retained for a period of time that is
6 equal to the period of time records are kept for
7 adult convictions;

8 “(iii) made available to law enforcement
9 agencies of any jurisdiction;

10 “(iv) made available to officials of a school,
11 school district, or postsecondary school where
12 the individual who is the subject of the juvenile
13 record seeks, intends, or is instructed to enroll,
14 and that such officials are held liable to the
15 same standards and penalties that law enforce-
16 ment and juvenile justice system employees are
17 held liable to, under Federal and State law for
18 handling and disclosing such information; and

19 “(v) made available, once the juvenile be-
20 comes an adult or is tried as an adult, to any
21 court having criminal jurisdiction over such an
22 individual for the purpose of allowing such
23 court to consider the individual’s prior juvenile
24 history as a relevant factor in determining ap-

1 appropriate punishment for the individual at the
2 sentencing hearing;

3 “(B) the juvenile shall be fingerprinted and
4 photographed, and the fingerprints and photograph
5 shall be sent to the Federal Bureau of Investigation,
6 Identification Division and shall otherwise be made
7 available to the same extent that fingerprints and
8 photographs of adults are made available; and

9 “(C) the court in which the adjudication takes
10 place shall transmit to the Federal Bureau of Inves-
11 tigation, Identification Division, information con-
12 cerning the adjudication, including the name, date of
13 adjudication, court, offenses, and disposition, along
14 with a prominent notation that the matter concerns
15 a juvenile adjudication;

16 “(3) If a juvenile has been adjudicated to be delin-
17 quent on 2 or more separate occasions based on conduct
18 that would be a felony if committed by an adult, the record
19 of the second and all subsequent adjudications shall be
20 kept and made available to the public to the same extent
21 that a record of an adult conviction is open to the public.”.

22 **SEC. 9. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

23 (a) IN GENERAL.—Except as provided in subsection
24 (b), this Act and the amendments made by this Act shall
25 take effect on the date of the enactment of this Act.

1 (b) EXCEPTIONS.—The amendments made by sub-
2 sections (b) and (c) of section 3 shall not apply with re-
3 spect to a State before the first fiscal year that begins
4 after the end of the first regular session of the State legis-
5 lature following the date of the enactment of this Act.

○