

108TH CONGRESS
1ST SESSION

S. 22

To enhance domestic security and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mr. DASCHLE (for himself, Mr. LEAHY, Mr. BIDEN, Mr. KENNEDY, Mr. SCHUMER, Mr. DURBIN, Mrs. CLINTON, Mrs. MURRAY, Mr. DAYTON, Mr. CORZINE, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To enhance domestic security 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 (a) SHORT TITLE.—This Act may be cited as the
4 “Justice Enhancement and Domestic Security Act of
5 2003”.

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

TITLE I—COMBATING TERRORISM AND ENHANCING DOMESTIC SECURITY

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Sec. 1102. Purpose.

- Sec. 1103. First Responders Partnership Grant Program for public safety officers.
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- Sec. 1105. Definitions.
- Sec. 1106. Authorization of appropriations.

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- Sec. 1202. Authorization of appropriations for hiring additional INS personnel.
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- Sec. 1303. Establishment of extraordinary tribunals.
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- Sec. 1306. Sense of Congress.
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- Sec. 1401. Short title.
- Sec. 1402. Findings.
- Sec. 1403. Hoaxes, false reports and reimbursement.

Subtitle E—Amendments to Federal Antiterrorism Laws

- Sec. 1501. Attacks against mass transit clarification of definition.
- Sec. 1502. Release or detention of a material witness.
- Sec. 1503. Clarification of sunset provision in USA Patriot Act.

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2 **TERRORISM AND ENHANCING**
3 **DOMESTIC SECURITY**
4 **Subtitle A—Supporting First**
5 **Responders**

6 **SEC. 1101. SHORT TITLE.**

7 This subtitle may be cited as the “First Responders
8 Partnership Grant Act of 2003”.

9 **SEC. 1102. PURPOSE.**

10 The purpose of this subtitle is to support first re-
11 sponders to protect homeland security and prevent and re-
12 spond to acts of terrorism.

13 **SEC. 1103. FIRST RESPONDERS PARTNERSHIP GRANT PRO-**
14 **GRAM FOR PUBLIC SAFETY OFFICERS.**

15 (a) **IN GENERAL.**—The Director of the Bureau of
16 Justice Assistance is authorized to make grants to States,
17 units of local government, and Indian tribes to support
18 public safety officers in their efforts to protect homeland
19 security and prevent and respond to acts of terrorism.

20 (b) **USES OF FUNDS.**—Grants awarded under this
21 section shall be—

22 (1) distributed directly to the State, unit of
23 local government, or Indian tribe; and

24 (2) used to fund equipment, training and facili-
25 ties to support public safety officers in their efforts

1 to protect homeland security and prevent and re-
2 spond to acts of terrorism.

3 (c) MINIMUM AMOUNT.—Unless all eligible applica-
4 tions submitted by any State or unit of local government
5 within such State for a grant under this section have been
6 funded, such State, together with grantees within the
7 State (other than Indian tribes), shall be allocated in each
8 fiscal year under this section not less than 0.75 percent
9 of the total amount appropriated in the fiscal year for
10 grants pursuant to this section, except that the United
11 States Virgin Islands, American Samoa, Guam, and the
12 Northern Mariana Islands shall each be allocated 0.25
13 percent.

14 (d) MAXIMUM AMOUNT.—A qualifying State, unit of
15 local government, or Indian tribe may not receive more
16 than 5 percent of the total amount appropriated in each
17 fiscal year for grants under this section, except that a
18 State, together with the grantees within the State may not
19 receive more than 20 percent of the total amount appro-
20 priated in each fiscal year for grants under this section.

21 (e) MATCHING FUNDS.—The portion of the costs of
22 a program provided by a grant under subsection (a) may
23 not exceed 90 percent. Any funds appropriated by Con-
24 gress for the activities of any agency of an Indian tribal
25 government or the Bureau of Indian Affairs performing

1 law enforcement functions on any Indian lands may be
2 used to provide the non-Federal share of a matching re-
3 quirement funded under this subsection.

4 **SEC. 1104. APPLICATIONS.**

5 (a) IN GENERAL.—To request a grant under this
6 subtitle, the chief executive of a State, unit of local govern-
7 ment, or Indian tribe shall submit an application to the
8 Director of the Bureau of Justice Assistance in such form
9 and containing such information as the Director may rea-
10 sonably require.

11 (b) REGULATIONS.—Not later than 90 days after the
12 date of the enactment of this subtitle, the Director of the
13 Bureau of Justice Assistance shall promulgate regulations
14 to implement this section (including the information that
15 must be included and the requirements that the States,
16 units of local government, and Indian tribes must meet)
17 in submitting the applications required under this section.

18 **SEC. 1105. DEFINITIONS.**

19 For purposes of this subtitle—

20 (1) the term “public safety officer” means any
21 person serving a public agency with or without com-
22 pensation as a law enforcement officer, as a fire-
23 fighter, or as a member of a rescue squad or ambu-
24 lance crew;

1 (2) the term “State” means each of the 50
2 States, the District of Columbia, the Commonwealth
3 of Puerto Rico, the United States Virgin Islands,
4 American Samoa, Guam, and the Northern Mariana
5 Islands;

6 (3) the term “unit of local government” means
7 a county, municipality, town, township, village, par-
8 ish, borough, or other unit of general government
9 below the State level;

10 (4) the term “Indian tribe” has the same mean-
11 ing as in section 4(e) of the Indian Self-Determina-
12 tion and Education Assistance Act (25 U.S.C.
13 450b(e)); and

14 (5) the term “law enforcement officer” means
15 any officer, agent, or employee of a State, unit of
16 local government, or Indian tribe authorized by law
17 or by a government agency to engage in or supervise
18 the prevention, detection, or investigation of any vio-
19 lation of criminal law, or authorized by law to super-
20 vise sentenced criminal offenders.

21 **SEC. 1106. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to carry out this subtitle
24 \$4,000,000,000 for each of fiscal years 2003 through
25 2005.

1 **Subtitle B—Border Security**

2 **SEC. 1201. SHORT TITLE.**

3 This subtitle may be cited as the “Safe Borders Act
4 of 2003”.

5 **SEC. 1202. AUTHORIZATION OF APPROPRIATIONS FOR HIR-**
6 **ING ADDITIONAL INS PERSONNEL.**

7 (a) INS INSPECTORS.—Subject to the availability of
8 appropriations, during each of the fiscal years 2004
9 through 2007, the Attorney General shall increase the
10 number of inspectors and associated support staff in the
11 Immigration and Naturalization Service by the equivalent
12 of at least 250 full-time employees over the number of in-
13 spectors and associated support staff in the Immigration
14 and Naturalization Service authorized by the Uniting and
15 Strengthening America by Providing Appropriate Tools
16 Required to Intercept and Obstruct Terrorism (USA PA-
17 TRIOT ACT) Act of 2001 (Public Law 107–56) and the
18 Enhanced Border Security and Visa Entry Reform Act of
19 2002 (Public Law 107–173).

20 (b) INS INVESTIGATIVE PERSONNEL.—Subject to
21 the availability of appropriations, during each of the fiscal
22 years 2004 through 2007, the Attorney General shall in-
23 crease the number of investigative and associated support
24 staff of the Immigration and Naturalization Service by the
25 equivalent of at least 250 full-time employees over the

1 number of investigators and associated support staff in
2 the Immigration and Naturalization Service authorized by
3 the Uniting and Strengthening America by Providing Ap-
4 propriate Tools Required to Intercept and Obstruct Ter-
5 rorism (USA PATRIOT ACT) Act of 2001 (Public Law
6 107–56) and the Enhanced Border Security and Visa
7 Entry Reform Act of 2002 (Public Law 107–173).

8 (c) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated such sums as may be
10 necessary to carry out this section, including such sums
11 as may be necessary to provide facilities, attorney per-
12 sonnel and support staff, and other resources needed to
13 support the increased number of inspectors, investigative
14 staff, and associated support staff.

15 **SEC. 1203. AUTHORIZATION OF APPROPRIATIONS FOR IM-**
16 **PROVEMENTS IN TECHNOLOGY FOR IMPROV-**
17 **ING BORDER SECURITY.**

18 (a) AUTHORIZATION OF APPROPRIATIONS.—In addi-
19 tion to funds otherwise available for such purpose, there
20 are authorized to be appropriated \$250,000,000 to the
21 Immigration and Naturalization Service for purposes of—

22 (1) making improvements in technology (includ-
23 ing infrastructure support, computer security, and
24 information technology development) for improving
25 border security;

1 (2) expanding, utilizing, and improving tech-
2 nology to improve border security; and

3 (3) facilitating the flow of commerce and per-
4 sons at ports of entry, including improving and ex-
5 panding programs for preenrollment and
6 preclearance.

7 (b) **WAIVER OF FEES.**—Federal agencies involved in
8 border security may waive all or part of enrollment fees
9 for technology-based programs to encourage participation
10 by United States citizens and aliens in such programs.
11 Any agency that waives any part of any such fee may es-
12 tablish its fees for other services at a level that will ensure
13 the recovery from other users of the amounts waived.

14 (c) **OFFSET OF INCREASES IN FEES.**—The Attorney
15 General may, to the extent reasonable, increase land bor-
16 der fees for the issuance of arrival-departure documents
17 to offset technology costs.

18 **SEC. 1204. REPORT ON BORDER SECURITY IMPROVEMENTS.**

19 The Attorney General shall submit a report to the
20 Committees on the Judiciary of the Senate and House of
21 Representatives within 60 days of enactment of this Act,
22 detailing all steps the Department of Justice has taken
23 to implement the increases in border security personnel
24 and improvements in border security technology and
25 equipment authorized in section 402 of the Uniting and

1 Strengthening America by Providing Appropriate Tools
2 Required to Intercept and Obstruct Terrorism (USA PA-
3 TRIOT ACT) Act of 2001 (Public Law 107–56) and sec-
4 tions 101 and 102 of the Enhanced Border Security and
5 Visa Entry Reform Act of 2002 (Public Law 107–173).
6 The report shall also include the Attorney General’s anal-
7 ysis of what additional personnel and other resources, if
8 any, are needed to improve the security of our borders,
9 particularly the United States-Canada border.

10 **Subtitle C—Military Tribunals** 11 **Authorization**

12 **SEC. 1301. SHORT TITLE.**

13 This subtitle may be cited as the “Military Tribunal
14 Authorization Act of 2003”.

15 **SEC. 1302. FINDINGS.**

16 Congress makes the following findings:

17 (1) The al Qaeda terrorist organization and its
18 leaders have committed unlawful attacks against the
19 United States, including the August 7, 1998 bomb-
20 ings of the United States embassies in Nairobi,
21 Kenya, and Dar es Salaam, Tanzania, the October
22 12, 2000 attack on the USS COLE and the Sep-
23 tember 11, 2001 attacks on the United States.

24 (2) The al Qaeda terrorist organization and its
25 leaders have threatened renewed attacks on the

1 United States and have threatened the use of weap-
2 ons of mass destruction.

3 (3) In violation of the resolutions of the United
4 Nations, the Taliban of Afghanistan provided a safe
5 haven to the al Qaeda terrorist organization and its
6 leaders and allowed the territory of that country to
7 be used as a base from which to sponsor inter-
8 national terrorist operations.

9 (4) The United Nations Security Council, in
10 Resolution 1267, declared in 1999 that the actions
11 of the Taliban constitute a threat to international
12 peace and security.

13 (5) The United Nations Security Council, in
14 Resolutions 1368 and 1373, declared in September
15 2001 that the September 11 attacks against the
16 United States constitute a threat to international
17 peace and security.

18 (6) The United States is justified in exercising
19 its right of self-defense pursuant to international law
20 and the United Nations Charter.

21 (7) Congress authorized the President on Sep-
22 tember 18, 2001, to use all necessary and appro-
23 priate force against those nations, organizations, or
24 persons that he determines to have planned, author-
25 ized, committed, or aided the September 11 terrorist

1 attacks or harbored such organizations or persons,
2 in order to prevent any future acts of international
3 terrorism against the United States, within the
4 meaning of section 5(b) of the War Powers Resolu-
5 tion.

6 (8) The United States and its allies are en-
7 gaged in armed conflict with al Qaeda and the
8 Taliban.

9 (9) Military trials of the terrorists may be ap-
10 propriate to protect the safety of the public and
11 those involved in the investigation and prosecution,
12 to facilitate the use of classified information as evi-
13 dence without compromising intelligence or military
14 efforts, and otherwise to protect national security in-
15 terests.

16 (10) Military trials that provide basic proce-
17 dural guarantees of fairness, consistent with the
18 international law of armed conflict and the Inter-
19 national Covenant on Civil and Political Rights
20 (opened for signature December 16, 1966), would
21 garner the support of the community of nations.

22 (11) Article I, section 8, of the Constitution
23 provides that the Congress, not the President, has
24 the power to “constitute Tribunals inferior to the
25 Supreme Court; . . . define and punish . . . Offenses

1 against the Law of Nations; ... make Rules con-
2 cerning Captures on Land and Water; ... make all
3 Laws which shall be necessary and proper for car-
4 rying into Execution the foregoing Powers and all
5 other Powers vested by this Constitution in the Gov-
6 ernment of the United States, or in any Department
7 or Officer thereof.”.

8 (12) Congressional authorization is necessary
9 for the establishment of extraordinary tribunals to
10 adjudicate and punish offenses arising from the Sep-
11 tember 11, 2001 attacks against the United States
12 and to provide a clear and unambiguous legal foun-
13 dation for such trials.

14 **SEC. 1303. ESTABLISHMENT OF EXTRAORDINARY TRIBU-**
15 **NALS.**

16 (a) **AUTHORITY.**—The President is hereby authorized
17 to establish tribunals for the trial of individuals who—

18 (1) are not United States persons;

19 (2) are members of al Qaeda or members of
20 other terrorist organizations knowingly cooperating
21 with members of al Qaeda in planning, authorizing,
22 committing, or aiding in the September 11, 2001 at-
23 tacks against the United States, or, although not
24 members of any such organization, knowingly aided

1 and abetted members of al Qaeda in such terrorist
2 activities against the United States;

3 (3) are apprehended in Afghanistan, fleeing
4 from Afghanistan, or in or fleeing from any other
5 place outside the United States where there is armed
6 conflict involving the Armed Forces of the United
7 States; and

8 (4) are not prisoners of war within the meaning
9 of the Geneva Convention Relative to the Treatment
10 of Prisoners of War, done on August 12, 1949, or
11 any protocol relating thereto.

12 (b) JURISDICTION.—Tribunals established under
13 subsection (a) may adjudicate violations of the law of war,
14 international laws of armed conflict, and crimes against
15 humanity targeted against United States persons.

16 (c) AUTHORITY TO ESTABLISH PROCEDURAL
17 RULES.—The Secretary of Defense, in consultation with
18 the Secretary of State and the Attorney General, shall pre-
19 scribe and publish in the Federal Register, and report to
20 the Committees on the Judiciary of the Senate and the
21 House of Representatives, the rules of evidence and proce-
22 dure that are to apply to tribunals established under sub-
23 section (a).

1 **SEC. 1304. PROCEDURAL REQUIREMENTS.**

2 (a) IN GENERAL.—The rules prescribed for a tri-
3 bunal under section 1303(c) shall be designed to ensure
4 a full and fair hearing of the charges against the accused.
5 The rules shall require the following:

6 (1) That the tribunal be independent and im-
7 partial.

8 (2) That the accused be notified of the particu-
9 lars of the offense charged or alleged without delay.

10 (3) That the proceedings be made simulta-
11 neously intelligible for participants not conversant in
12 the English language by including translation or in-
13 terpretation.

14 (4) That the evidence supporting each alleged
15 offense be given to the accused.

16 (5) That the accused have the opportunity to be
17 present at trial.

18 (6) That the accused have a right to be rep-
19 resented by counsel.

20 (7) That the accused have the opportunity—

21 (A) to respond to the evidence supporting
22 each alleged offense;

23 (B) to obtain exculpatory evidence from
24 the prosecution; and

25 (C) to present exculpatory evidence.

1 (8) That the accused have the opportunity to
2 confront and cross-examine adverse witnesses and to
3 offer witnesses.

4 (9) That the proceeding and disposition be ex-
5 peditious.

6 (10) That the tribunal apply reasonable rules of
7 evidence designed to ensure admission only of reli-
8 able information or material with probative value.

9 (11) That the accused be afforded all necessary
10 means of defense before and after the trial.

11 (12) That conviction of an alleged offense be
12 based only upon proof of individual responsibility for
13 the offense.

14 (13) That conviction of an alleged offense not
15 be based upon an act, offense, or omission that was
16 not an offense under law when it was committed.

17 (14) That the penalty for an offense not be
18 greater than it was when the offense was committed.

19 (15) That the accused—

20 (A) be presumed innocent until proven
21 guilty, and

22 (B) not be found guilty except upon proof
23 beyond a reasonable doubt.

24 (16) That the accused not be compelled to con-
25 fess guilt or testify against himself.

1 (17) That, subject to subsections (c) and (d),
2 the trial be open and public and include public avail-
3 ability of the transcripts of the trial and the pro-
4 nouncement of judgment.

5 (18) That a convicted person be informed of
6 remedies and appeals and the time limits for the ex-
7 ercise of the person's rights to the remedies and ap-
8 peals under the rules.

9 (b) IMPOSITION OF THE DEATH PENALTY.—The re-
10 quirements of the Uniform Code of Military Justice for
11 the imposition of the death penalty shall apply in any case
12 in which a tribunal established under section 1303 is re-
13 quested to adjudge the death penalty.

14 (c) PUBLIC PROCEEDINGS.—Any proceedings con-
15 ducted by a tribunal established under section 1303, and
16 the proceedings on any appeal of an action of the tribunal,
17 shall be accessible to the public consistent with any de-
18 monstrable necessity to secure the safety of observers, wit-
19 nesses, tribunal judges, counsel, or other persons.

20 (d) CONFIDENTIALITY OF EVIDENCE.—Evidence
21 available from an agency of the Federal Government that
22 is offered in a trial by a tribunal established under section
23 1303 may be kept secret from the public only when the
24 head of the agency personally certifies in writing that dis-
25 closure will cause—

1 (1) identifiable harm to the prosecution of mili-
2 tary objectives or interfere with the capture of mem-
3 bers of al Qaeda anywhere;

4 (2) significant, identifiable harm to intelligence
5 sources or methods; or

6 (3) substantial risk that such evidence could be
7 used for planning future terrorist attacks.

8 (e) REVIEW.—

9 (1) PROCEDURES REQUIRED.—The Secretary of
10 Defense shall provide for prompt review of convic-
11 tions by tribunals established under section 1303 to
12 ensure that the procedural requirements of a full
13 and fair hearing have been met and that the evi-
14 dence reasonably supports the convictions.

15 (2) UNITED STATES COURT OF APPEALS FOR
16 THE ARMED FORCES.—The procedures established
17 under paragraph (1) shall, at a minimum, allow for
18 review of the proceedings of the tribunals by the
19 United States Court of Appeals for the Armed
20 Forces established under the Uniform Code of Mili-
21 tary Justice.

22 (3) SUPREME COURT.—The decisions of the
23 United States Court of Appeals for the Armed
24 Forces regarding proceedings of tribunals estab-

1 lished under section 1303 shall be subject to review
2 by the Supreme Court by writ of certiorari.

3 **SEC. 1305. DETENTION.**

4 (a) IN GENERAL.—The President may direct the Sec-
5 retary of Defense to detain any person who is subject to
6 a tribunal established under section 1303 pursuant to
7 rules and regulations that are promulgated by the Sec-
8 retary and are consistent with the rules of international
9 law.

10 (b) DURATION OF DETENTION.—

11 (1) LIMITATION.—A person may be detained
12 under subsection (a) only while—

13 (A) there is in effect for the purposes of
14 this section a certification by the President that
15 the United States Armed Forces are engaged in
16 a state of armed conflict with al Qaeda or
17 Taliban forces in the region of Afghanistan or
18 with al Qaeda forces elsewhere; or

19 (B) an investigation with a view toward
20 prosecution, a prosecution, or a post-trial pro-
21 ceeding in the case of such person, pursuant to
22 the provisions of this Act, is ongoing.

23 (2) CERTIFICATION AND RECERTIFICATION.—A
24 certification of circumstances made under paragraph
25 (1) shall be effective for 180 days. The President

1 may make successive certifications of the cir-
2 cumstances.

3 (c) DISCLOSURE OF EVIDENCE.—Evidence that may
4 establish that an accused is not a person described in sub-
5 section (a) shall be disclosed to the accused and his coun-
6 sel, except that a summary of such evidence shall be pro-
7 vided to the accused and his counsel when the Attorney
8 General personally certifies that disclosure of the evidence
9 would cause identifiable harm to the prosecution of mili-
10 tary objectives in Afghanistan, to the capture of other per-
11 sons who are subject to this subtitle or reside outside the
12 United States, or to the prevention of future terrorist acts
13 directed against Americans. A summary of evidence shall
14 be as complete as is possible in order to provide the ac-
15 cused with an evidentiary basis to seek release from deten-
16 tion.

17 (d) DETENTION REVIEW.—The United States Court
18 of Appeals for the District of Columbia Circuit shall have
19 exclusive jurisdiction to review any determination under
20 this section that the requirements of this section for de-
21 taining an accused are satisfied.

22 (e) CONDITIONS OF DETENTION.—A person detained
23 under this section shall be—

24 (1) detained at an appropriate location des-
25 igned by the Secretary of Defense;

1 (2) treated humanely, without any adverse dis-
2 tinction based on race, color, religion, gender, birth,
3 wealth, or any similar criteria;

4 (3) afforded adequate food, drinking water,
5 shelter, clothing, and medical treatment;

6 (4) sheltered under hygienic conditions and pro-
7 vided necessary means of personal hygiene; and

8 (5) allowed the free exercise of religion con-
9 sistent with the requirements of such detention.

10 **SEC. 1306. SENSE OF CONGRESS.**

11 It is the sense of Congress that the President should
12 seek the cooperation of United States allies and other na-
13 tions in conducting the investigations and prosecutions, in-
14 cluding extraditions, of the persons who are responsible
15 for the September 11, 2001 attacks on the United States,
16 and use to the fullest extent possible multilateral institu-
17 tions and mechanisms for carrying out such investigations
18 and prosecutions.

19 **SEC. 1307. DEFINITIONS.**

20 In this subtitle:

21 (1) **SEPTEMBER 11, 2001 ATTACKS ON THE**
22 **UNITED STATES.**—The term “September 11, 2001
23 attacks on the United States” means the attacks on
24 the Pentagon in the metropolitan area of Wash-
25 ington, District of Columbia, and the World Trade

1 Center, New York, New York, on September 11,
2 2001, and includes the hijackings of American Air-
3 lines flights 77 and 11 and United Airlines flights
4 175 and 93 on that date.

5 (2) UNITED STATES PERSON.—The term
6 “United States person” has the meaning given that
7 term in section 101(i) of the Foreign Intelligence
8 Surveillance Act of 1978 (50 U.S.C. 1801(i)).

9 **SEC. 1308. TERMINATION OF AUTHORITY.**

10 The authority under this subtitle shall terminate at
11 the end of December 31, 2005.

12 **Subtitle D—Anti Terrorist Hoaxes**
13 **and False Reports**

14 **SEC. 1401. SHORT TITLE.**

15 This subtitle may be cited as the “Anti Terrorist
16 Hoax and False Report Act of 2003”.

17 **SEC. 1402. FINDINGS.**

18 Congress makes the following findings:

19 (1) The expert resources available to the Gov-
20 ernment to deal with Federal crimes involving ac-
21 tual, potential or threatened use of chemical, biologi-
22 cal, and nuclear weapons and weapons of mass de-
23 struction are limited.

24 (2) False reporting of such crimes and actual
25 hoaxes involving such crimes almost invariably re-

1 quire the attention of Federal investigative, sci-
2 entific, and public health officers and employees.

3 (3) Recent episodes demonstrate that even iso-
4 lated false reports and hoaxes present a serious
5 threat to the Nation and can have a substantial ad-
6 verse effect on interstate and foreign commerce,
7 causing needless worry or even panic in the general
8 public, interrupting vital interstate and foreign trav-
9 el and communications facilities, disrupting commer-
10 cial and business activities that depend on interstate
11 travel and communications, and encouraging copycat
12 episodes.

13 (4) State and local law enforcement and govern-
14 ment agencies are often the first responders to any
15 report of a chemical, biological, or nuclear threat or
16 to a report of a weapon of mass destruction, whether
17 real or a hoax, and Federal law enforcement authori-
18 ties often work closely with, and depend upon, State
19 and local first responders in deploying scarce Fed-
20 eral resources after such a report.

21 (5) A comprehensive prohibition on such false
22 reports and hoaxes is necessary to preserve scarce
23 and vital Federal resources, avoid substantial ad-
24 verse effects on interstate and foreign commerce,

1 and to protect the national security of the United
2 States.

3 **SEC. 1403. HOAXES, FALSE REPORTS AND REIMBURSE-**
4 **MENT.**

5 (a) IN GENERAL.—Chapter 41 of title 18, United
6 States Code, is amended by inserting after section 880 the
7 following:

8 **“§ 881. False information and hoaxes.**

9 “(a) UNLAWFUL ACTS.—It shall be unlawful for any
10 person—

11 “(1) to impart or convey or cause to be im-
12 parted or conveyed false information, knowing the
13 information is false, concerning an attempt or al-
14 leged attempt being made, or to be made, to do any
15 act which would be a crime under section 175, 229,
16 831, or 2332a of this title, and under circumstances
17 where such information may reasonably be believed;
18 or

19 “(2) to transfer or distribute or cause to be
20 transferred or distributed any device or material,
21 knowing or intending that the device or material re-
22 sembles a nuclear, chemical, or biological weapon, or
23 other weapon of mass destruction (as defined in sec-
24 tion 2332a(c)(2) of this title), and under cir-
25 cumstances where such device or material may rea-

1 sonably be believed to involve an attempt or alleged
2 attempt to do an act which would be a crime under
3 section 175, 229, 831, or 2332a of this title.

4 “(b) CRIMINAL PENALTIES.—

5 “(1) Any person who violates subsection (a)(1)
6 or (a)(2) shall—

7 “(A) in the case of a first violation, be
8 fined under this title, or imprisoned not more
9 than one year, or both; and

10 “(B) in the case of subsequent violations,
11 be fined under this title, or imprisoned not
12 more than five years, or both; and

13 “(2) Any person who willfully and maliciously,
14 or with reckless disregard for the safety of human
15 life, violates subsection (a)(1) or (a)(2) shall be fined
16 under this title, or imprisoned not more than five
17 years, or both.

18 “(b) REIMBURSEMENT.—

19 “(1) Notwithstanding and in addition to sec-
20 tions 3663 and 3663A of this title and any other
21 civil or criminal penalty authorized by law, the court
22 shall order any person convicted of an offense under
23 subsection (a)(1) or (a)(2) to reimburse—

1 “(A) any person injured by the offense for
2 any losses and expenses incurred as a direct or
3 proximate result of such offense; and

4 “(B) any Federal, State, or local govern-
5 ment entity for any losses and expenses in-
6 curred incident to an emergency or investigative
7 response to the offense.

8 “(2) A person who is subject to an order of re-
9 imbursement under this subsection shall be jointly
10 and severally liable with each other person, if any,
11 who is subject to an order of reimbursement for the
12 same losses and expenses.

13 “(3) An order of reimbursement under this sub-
14 section shall, for purposes of enforcement, be treated
15 as a civil judgment.

16 “(c) CIVIL REMEDIES.—

17 “(1) Any person aggrieved by reason of the con-
18 duct prohibited by subsection (a)(1) or (a)(2) may
19 commence a civil action. In such an action, the court
20 may award appropriate relief, including injunctive
21 relief and compensatory and punitive damages, as
22 well as the costs of suit and reasonable fees for at-
23 torneys and expert witnesses. With respect to com-
24 pensatory damages, the plaintiff may elect, at any
25 time prior to the rendering of final judgment, to re-

1 cover, in lieu of actual damages, an award of statu-
2 tory damages in the amount of \$5,000 per violation.

3 “(2) If the Attorney General of the United
4 States has reasonable cause to believe that any per-
5 son or group of persons has been injured by conduct
6 prohibited by subsection (a)(1) or (a)(2), the Attor-
7 ney General may commence a civil action. In such
8 an action, the court may award appropriate relief,
9 including injunctive relief and compensatory dam-
10 ages to persons aggrieved as described in paragraph
11 (1) and to any Federal, State, or local government
12 entity that would be entitled to reimbursement
13 under subsection (b). The court, to vindicate the
14 public interest, may also assess a civil penalty in an
15 amount not exceeding \$5,000 for a first violation,
16 or \$10,000 for any subsequent violation.

17 “(3) The imposition of a civil penalty under
18 paragraph (2) does not preclude any other criminal
19 or civil statutory, common law, or administrative
20 remedy, which is available by law to the United
21 States or any other person.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of chapter 41 of title 18, United States
24 Code, is amended by adding after the item for section 880
25 the following:

“881. False information and hoaxes.”.

1 **Subtitle E—Amendments to**
2 **Federal Antiterrorism Laws**

3 **SEC. 1501. ATTACKS AGAINST MASS TRANSIT CLARIFICA-**
4 **TION OF DEFINITION.**

5 Section 1993(c) of title 18, United States Code, is
6 amended—

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

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

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

12 “(9) the term ‘vehicle’ means any carriage or
13 other contrivance used, or capable of being used, as
14 a means of transportation on land, water, or
15 through the air.”.

16 **SEC. 1502. RELEASE OR DETENTION OF A MATERIAL WIT-**
17 **NESS.**

18 Section 3144 of title 18, United States Code, is
19 amended to read as follows:

20 “(a) ARREST OF MATERIAL WITNESS.—Upon an ap-
21 plication by a party in any criminal case or by an attorney
22 for the government in any Federal grand jury proceeding,
23 supported by affidavits showing probable cause to believe
24 that the testimony of a person is material to any matter
25 in such case or proceeding and that it may become imprac-

1 ticable to secure the presence of the person by subpoena,
2 a judicial officer may order the arrest of that person as
3 a material witness.

4 “(b) RELEASE OR DETENTION.—A person who is ar-
5 rested pursuant to an order issued under subsection (a)
6 shall be treated in accordance with section 3142, and may
7 be detained only upon satisfaction of the conditions in sec-
8 tion 3142(f)(2), except that no material witness may be
9 detained because of inability to comply with any condition
10 of release if the testimony of that person can adequately
11 be secured by deposition or, in a matter before a grand
12 jury, by appearance before the grand jury.

13 “(c) DELAY OF RELEASE.—The release of a person
14 who is arrested or detained under this section may be de-
15 layed for a reasonable period of time until the deposition
16 of the person can be taken pursuant to the Federal Rules
17 of Criminal Procedure or the person appears before the
18 grand jury, in a matter before a grand jury.

19 “(d) RESIDUAL HEARSAY EXCEPTION.—If a person
20 who is arrested or detained under this section is released,
21 and the appearance of that person cannot be obtained
22 through the reasonable diligence of the United States at
23 trial, the United States may seek admission of grand jury
24 testimony of that material witness given pursuant to this
25 section, and that testimony shall be deemed to satisfy the

1 requirements of rule 807(C) of the Federal Rules of Evi-
2 dence.

3 “(e) RIGHTS AND PRIVILEGES.—Except as otherwise
4 provided in this section, if a person is arrested pursuant
5 to an order issued under subsection (a), that person shall
6 have the same rights and privileges as a person who is
7 arrested pursuant to a warrant issued for an offense
8 against the United States until the person is no longer
9 detained or subject to any condition of release imposed
10 under this section.”.

11 **SEC. 1503. CLARIFICATION OF SUNSET PROVISION IN USA**
12 **PATRIOT ACT.**

13 Section 224(a) of the USA PATRIOT ACT (Public
14 Law 107–56) is amended by inserting before the period
15 the following: “and any provision of law amended or modi-
16 fied by this title and the amendments made by this title
17 (except for the sections excepted) shall take effect January
18 1, 2006, as in effect on the day before the effective date
19 of this Act”.

1 **TITLE II—PROTECTING AMER-**
2 **ICA’S CHILDREN AND SEN-**
3 **IORS**

4 **Subtitle A—Children’s Safety**

5 **PART 1—NATIONAL AMBER ALERT NETWORK**

6 **SEC. 2111. SHORT TITLE.**

7 This part may be cited as the “National AMBER
8 Alert Network Act of 2003”.

9 **SEC. 2112. NATIONAL COORDINATION OF AMBER ALERT**
10 **COMMUNICATIONS NETWORK.**

11 (a) **COORDINATION WITHIN DEPARTMENT OF JUS-**
12 **TICE.**—The Attorney General shall assign an officer of the
13 Department of Justice to act as the national coordinator
14 of the AMBER Alert communications network regarding
15 abducted children. The officer so designated shall be
16 known as the AMBER Alert Coordinator of the Depart-
17 ment of Justice.

18 (b) **DUTIES.**—In acting as the national coordinator
19 of the AMBER Alert communications network, the Coor-
20 dinator shall—

21 (1) seek to eliminate gaps in the network, in-
22 cluding gaps in areas of interstate travel;

23 (2) work with States to encourage the develop-
24 ment of additional elements (known as local
25 AMBER plans) in the network;

1 (3) work with States to ensure appropriate re-
2 gional coordination of various elements of the net-
3 work; and

4 (4) act as the nationwide point of contact for—

5 (A) the development of the network; and

6 (B) regional coordination of alerts on ab-
7 ducted children through the network.

8 (c) CONSULTATION AND COOPERATION.—(1) In car-
9 rying out duties under subsection (b), the Coordinator
10 shall notify and consult with the Director of the Federal
11 Bureau of Investigation concerning each child abduction
12 for which an alert is issued through the AMBER Alert
13 communications network.

14 (2) The Coordinator shall cooperate with the Sec-
15 retary of Transportation and the Federal Communications
16 Commission in carrying out activities under this section.

17 (3) In preparation for carrying out duties under sub-
18 section (b), the Coordinator shall consult with the Na-
19 tional Center for Missing and Exploited Children and
20 other private sector entities and organizations (including
21 non-profit organizations) having expertise in matters re-
22 lating to such duties.

1 **SEC. 2113. MINIMUM STANDARDS FOR ISSUANCE AND DIS-**
2 **SEMINATION OF ALERTS THROUGH AMBER**
3 **ALERT COMMUNICATIONS NETWORK.**

4 (a) ESTABLISHMENT OF MINIMUM STANDARDS.—
5 Subject to subsection (b), the AMBER Alert Coordinator
6 of the Department of Justice shall establish minimum
7 standards for—

8 (1) the issuance of alerts through the AMBER
9 Alert communications network; and

10 (2) the extent of the dissemination of alerts
11 issued through the network.

12 (b) LIMITATIONS.—(1) The minimum standards es-
13 tablished under subsection (a) shall be adoptable on a vol-
14 untary basis only.

15 (2) The minimum standards shall, to the maximum
16 extent practicable (as determined by the Coordinator in
17 consultation with State and local law enforcement agen-
18 cies), provide that the dissemination of an alert through
19 the AMBER Alert communications network be limited to
20 the geographic areas most likely to facilitate the recovery
21 of the abducted child concerned.

22 (3) In carrying out activities under subsection (a),
23 the Coordinator may not interfere with the current system
24 of voluntary coordination between local broadcasters and
25 State and local law enforcement agencies for purposes of
26 the AMBER Alert communications network.

1 (c) COOPERATION AND CONSULTATION.—(1) The
2 Coordinator shall cooperate with the Secretary of Trans-
3 portation and the Federal Communications Commission in
4 carrying out activities under this section.

5 (2) The Coordinator shall also cooperate with local
6 broadcasters and State and local law enforcement agencies
7 in establishing minimum standards under this section.

8 (3) The Coordinator shall also consult with the Na-
9 tional Center for Missing and Exploited Children and
10 other private sector entities and organizations (including
11 non-profit organizations) having an expertise in matters
12 relating to the minimum standards to be established under
13 this section in establishing the minimum standards.

14 **SEC. 2114. GRANT PROGRAM FOR NOTIFICATION AND COM-**
15 **MUNICATIONS SYSTEMS ALONG HIGHWAYS**
16 **FOR RECOVERY OF ABDUCTED CHILDREN.**

17 (a) PROGRAM REQUIRED.—The Secretary of Trans-
18 portation shall carry out a program to provide grants to
19 States for the development or enhancement of notification
20 or communications systems along highways for alerts and
21 other information for the recovery of abducted children.

22 (b) ACTIVITIES.—Activities funded by grants under
23 the program under subsection (a) may include—

1 (1) the development or enhancement of elec-
2 tronic message boards along highways and the place-
3 ment of additional signage along highways; and

4 (2) the development or enhancement of other
5 means of disseminating along highways alerts and
6 other information for the recovery of abducted chil-
7 dren.

8 (c) FEDERAL SHARE.—The Federal share of the cost
9 of any activities funded by a grant under the program
10 under subsection (a) may not exceed 50 percent.

11 (d) DISTRIBUTION OF GRANT AMOUNTS ON GEO-
12 GRAPHIC BASIS.—The Secretary shall, to the maximum
13 extent practicable, ensure the distribution of grants under
14 the program under subsection (a) on an equitable basis
15 throughout the various regions of the United States.

16 (e) ADMINISTRATION.—The Secretary shall prescribe
17 requirements, including application requirements, for
18 grants under the program under subsection (a).

19 (f) AUTHORIZATION OF APPROPRIATIONS.—(1)
20 There is authorized to be appropriated for the Department
21 of Transportation for fiscal years 2003 and 2004 such
22 sums as may be necessary to carry out this section.

23 (2) Amounts appropriated pursuant to the authoriza-
24 tion of appropriations in paragraph (1) shall remain avail-
25 able until expended.

1 **SEC. 2115. GRANT PROGRAM FOR SUPPORT OF AMBER**
2 **ALERT COMMUNICATIONS PLANS.**

3 (a) PROGRAM REQUIRED.—The Attorney General
4 shall carry out a program to provide grants to States for
5 the development or enhancement of programs and activi-
6 ties for the support of AMBER Alert communications
7 plans.

8 (b) ACTIVITIES.—Activities funded by grants under
9 the program under subsection (a) may include—

10 (1) the development and implementation of edu-
11 cation and training programs, and associated mate-
12 rials, relating to AMBER Alert communications
13 plans;

14 (2) the development and implementation of law
15 enforcement programs, and associated equipment,
16 relating to AMBER Alert communications plans;
17 and

18 (3) such other activities as the Attorney Gen-
19 eral considers appropriate for supporting the
20 AMBER Alert communications program.

21 (c) FEDERAL SHARE.—The Federal share of the cost
22 of any activities funded by a grant under the program
23 under subsection (a) may not exceed 50 percent.

24 (d) DISTRIBUTION OF GRANT AMOUNTS ON GEO-
25 GRAPHIC BASIS.—The Attorney General shall, to the max-
26 imum extent practicable, ensure the distribution of grants

1 under the program under subsection (a) on an equitable
2 basis throughout the various regions of the United States.

3 (e) ADMINISTRATION.—The Attorney General shall
4 prescribe requirements, including application require-
5 ments, for grants under the program under subsection (a).

6 (f) AUTHORIZATION OF APPROPRIATIONS.—(1)
7 There is authorized to be appropriated for the Department
8 of Justice for fiscal years 2003 and 2004 such sums as
9 may be necessary to carry out this section.

10 (2) Amounts appropriated pursuant to the authoriza-
11 tion of appropriations in paragraph (1) shall remain avail-
12 able until expended.

13 **PART 2—PROSECUTIONAL REMEDIES AND TOOLS**
14 **AGAINST THE EXPLOITATION OF CHILDREN**
15 **TODAY**

16 **SEC. 2121. SHORT TITLE.**

17 This part may be cited as the “Prosecutorial Rem-
18 edies and Tools Against the Exploitation of Children
19 Today Act of 2003” or “PROTECT Act”.

20 **SEC. 2122. FINDINGS.**

21 Congress finds the following:

22 (1) Obscenity and child pornography are not
23 entitled to protection under the First Amendment
24 under *Miller v. California*, 413 U.S. 15 (1973) (ob-
25 scenity), or *New York v. Ferber*, 458 U.S. 747

1 (1982) (child pornography) and thus may be prohib-
2 ited.

3 (2) The Government has a compelling state in-
4 terest in protecting children from those who sexually
5 exploit them, including both child molesters and
6 child pornographers. “The prevention of sexual ex-
7 ploitation and abuse of children constitutes a gov-
8 ernment objective of surpassing importance,” *New*
9 *York v. Ferber*, 458 U.S. 747, 757 (1982) (empha-
10 sis added), and this interest extends to stamping out
11 the vice of child pornography at all levels in the dis-
12 tribution chain. *Osborne v. Ohio*, 495 U.S. 103, 110
13 (1990).

14 (3) The Government thus has a compelling in-
15 terest in ensuring that the criminal prohibitions
16 against child pornography remain enforceable and
17 effective. “[T]he most expeditious if not the only
18 practical method of law enforcement may be to dry
19 up the market for this material by imposing severe
20 criminal penalties on persons selling, advertising, or
21 otherwise promoting the product.” *Ferber*, 458 U.S.
22 at 760.

23 (4) In 1982, when the Supreme Court decided
24 *Ferber*, the technology did not exist to: (A) create
25 depictions of virtual children that are indistinguish-

1 able from depictions of real children; (B) create de-
2 pictions of virtual children using compositions of real
3 children to create an unidentifiable child; or (C) dis-
4 guise pictures of real children being abused by mak-
5 ing the image look computer generated.

6 (5) Evidence submitted to the Congress, includ-
7 ing from the National Center for Missing and Ex-
8 ploited Children, demonstrates that technology al-
9 ready exists to disguise depictions of real children to
10 make them unidentifiable and to make depictions of
11 real children appear computer generated. The tech-
12 nology will soon exist, if it does not already, to make
13 depictions of virtual children look real.

14 (6) The vast majority of child pornography
15 prosecutions today involve images contained on com-
16 puter hard drives, computer disks, and/or related
17 media.

18 (7) There is no substantial evidence that any of
19 the child pornography images being trafficked today
20 were made other than by the abuse of real children.
21 Nevertheless, technological advances since Ferber
22 have led many criminal defendants to suggest that
23 the images of child pornography they possess are not
24 those of real children, insisting that the government
25 prove beyond a reasonable doubt that the images are

1 not computer-generated. Such challenges will likely
2 increase after the Ashcroft v. Free Speech Coalition
3 decision.

4 (8) Child pornography circulating on the Inter-
5 net has, by definition, been digitally uploaded or
6 scanned into computers and has been transferred
7 over the Internet, often in different file formats,
8 from trafficker to trafficker. An image seized from
9 a collector of child pornography is rarely a first-gen-
10 eration product, and the retransmission of images
11 can alter the image so as to make it difficult for
12 even an expert conclusively to opine that a particular
13 image depicts a real child. If the original image has
14 been scanned from a paper version into a digital for-
15 mat, this task can be even harder since proper fo-
16 rensic delineation may depend on the quality of the
17 image scanned and the tools used to scan it.

18 (9) The impact on the government's ability to
19 prosecute child pornography offenders is already evi-
20 dent. The Ninth Circuit has seen a significant ad-
21 verse effect on prosecutions since the 1999 Ninth
22 Circuit Court of Appeals decision in Free Speech
23 Coalition. After that decision, prosecutions generally
24 have been brought in the Ninth Circuit only in the
25 most clear-cut cases in which the government can

1 specifically identify the child in the depiction or oth-
2 erwise identify the origin of the image. This is a
3 fraction of meritorious child pornography cases. The
4 National Center for Missing and Exploited Children
5 testified that, in light of the Supreme Court's affir-
6 mation of the Ninth Circuit decision, prosecutors in
7 various parts of the country have expressed concern
8 about the continued viability of previously indicted
9 cases as well as declined potentially meritorious
10 prosecutions.

11 (10) In the absence of congressional action, this
12 problem will continue to grow increasingly worse.
13 The mere prospect that the technology exists to cre-
14 ate computer or computer-generated depictions that
15 are indistinguishable from depictions of real children
16 will allow defendants who possess images of real
17 children to escape prosecution, for it threatens to
18 create a reasonable doubt in every case of computer
19 images even when a real child was abused. This
20 threatens to render child pornography laws that pro-
21 tect real children unenforceable.

22 (11) To avoid this grave threat to the Govern-
23 ment's unquestioned compelling interest in effective
24 enforcement of the child pornography laws that pro-

1 tect real children, a statute must be adopted that
2 prohibits a narrowly-defined subcategory of images.

3 (12) The Supreme Court’s 1982 *Ferber v. New*
4 *York* decision holding that child pornography was
5 not protected drove child pornography off the shelves
6 of adult bookstores. Congressional action is nec-
7 essary to ensure that open and notorious trafficking
8 in such materials does not reappear.

9 **SEC. 2123. CERTAIN ACTIVITIES RELATING TO MATERIAL**
10 **CONSTITUTING OR CONTAINING CHILD POR-**
11 **NOGRAPHY.**

12 Section 2252A of title 18, United States Code, is
13 amended—

14 (1) in subsection (a)—

15 (A) by striking paragraph (3) and insert-
16 ing the following:

17 “(3) knowingly—

18 “(A) reproduces any child pornography for
19 distribution through the mails, or in interstate
20 or foreign commerce by any means, including
21 by computer; or

22 “(B) advertises, promotes, presents, dis-
23 tributes, or solicits through the mails, or in
24 interstate or foreign commerce by any means,
25 including by computer, any material in a man-

1 ner that conveys the impression that the mate-
2 rial is, or contains, an obscene visual depiction
3 of a minor engaging in sexually explicit con-
4 duct;”;

5 (B) in paragraph (4), by striking “or” at
6 the end;

7 (C) in paragraph (5), by striking the pe-
8 riod at the end and inserting “; or”; and

9 (D) by adding at the end the following:

10 “(6) knowingly distributes, offers, sends, or
11 provides to a minor any visual depiction, including
12 any photograph, film, video, picture, or computer
13 generated image or picture, whether made or pro-
14 duced by electronic, mechanical, or other means, of
15 sexually explicit conduct where such visual depiction
16 is, or appears to be, of a minor engaging in sexually
17 explicit conduct—

18 “(A) that has been mailed, shipped, or
19 transported in interstate or foreign commerce
20 by any means, including by computer;

21 “(B) that was produced using materials
22 that have been mailed, shipped, or transported
23 in interstate or foreign commerce by any
24 means, including by computer; or

1 “(C) which distribution, offer, sending, or
2 provision is accomplished using the mails or by
3 transmitting or causing to be transmitted any
4 wire communication in interstate or foreign
5 commerce, including by computer,
6 for purposes of inducing or persuading a minor to
7 participate in any activity that is illegal.”;

8 (2) in subsection (b)(1), by striking “(1), (2),
9 (3), or (4)” and inserting “(1), (2), (3), (4), or (6)”;
10 and

11 (3) by striking subsection (c) and inserting the
12 following:

13 “(c) It shall be an affirmative defense to a charge
14 of violating paragraph (1), (2), (3), (4), or (5) of sub-
15 section (a) that—

16 “(1)(A) the alleged child pornography was pro-
17 duced using an actual person or persons engaging in
18 sexually explicit conduct; and

19 “(B) each such person was an adult at the time
20 the material was produced; or

21 “(2) the alleged child pornography was not pro-
22 duced using any actual minor or minors.

23 No affirmative defense under paragraph (2) shall be avail-
24 able in any prosecution that involves obscene child pornog-
25 raphy or child pornography as described in section

1 2256(8)(D). A defendant may not assert an affirmative
2 defense to a charge of violating paragraph (1), (2), (3),
3 (4), or (5) of subsection (a) unless, within the time pro-
4 vided for filing pretrial motions or at such time prior to
5 trial as the judge may direct, but in no event later than
6 10 days before the commencement of the trial, the defend-
7 ant provides the court and the United States with notice
8 of the intent to assert such defense and the substance of
9 any expert or other specialized testimony or evidence upon
10 which the defendant intends to rely. If the defendant fails
11 to comply with this subsection, the court shall, absent a
12 finding of extraordinary circumstances that prevented
13 timely compliance, prohibit the defendant from asserting
14 such defense to a charge of violating paragraph (1), (2),
15 (3), (4), or (5) of subsection (a) or presenting any evi-
16 dence for which the defendant has failed to provide proper
17 and timely notice.”.

18 **SEC. 2124. ADMISSIBILITY OF EVIDENCE.**

19 Section 2252A of title 18, United States Code, is
20 amended by adding at the end the following:

21 “(e) ADMISSIBILITY OF EVIDENCE.—On motion of
22 the government, in any prosecution under this chapter, ex-
23 cept for good cause shown, the name, address, social secu-
24 rity number, or other nonphysical identifying information,
25 other than the age or approximate age, of any minor who

1 is depicted in any child pornography shall not be admis-
2 sible and may be redacted from any otherwise admissible
3 evidence, and the jury shall be instructed, upon request
4 of the United States, that it can draw no inference from
5 the absence of such evidence in deciding whether the child
6 pornography depicts an actual minor.”.

7 **SEC. 2125. DEFINITIONS.**

8 Section 2256 of title 18, United States Code, is
9 amended—

10 (1) in paragraph (1), by inserting before the
11 semicolon the following: “and shall not be construed
12 to require proof of the actual identity of the per-
13 son”;

14 (2) in paragraph (8)—

15 (A) in subparagraph (B), by inserting “is
16 obscene and” before “is”;

17 (B) in subparagraph (C), by striking “or”
18 at the end; and

19 (C) by striking subparagraph (D) and in-
20 serting the following:

21 “(D) such visual depiction—

22 “(i) is, or appears to be, of a minor
23 actually engaging in bestiality, sadistic or
24 masochistic abuse, or sexual intercourse,
25 including genital-genital, oral-genital, anal-

1 genital, or oral-anal, whether between per-
2 sons of the same or opposite sex; and

3 “(ii) lacks serious literary, artistic, po-
4 litical, or scientific value; or

5 “(E) the production of such visual depic-
6 tion involves the use of an identifiable minor
7 engaging in sexually explicit conduct; and”; and
8 (3) in paragraph (9)(A)(ii)—

9 (A) by striking “(ii) who is” and inserting
10 the following:

11 “(ii)(I) who is”; and

12 (B) by striking “and” at the end and in-
13 serting the following: “or

14 “(II) who is virtually indistinguishable
15 from an actual minor; and”.

16 **SEC. 2126. RECORDKEEPING REQUIREMENTS.**

17 Section 2257 of title 18, United States Code, is
18 amended—

19 (1) in subsection (d)(2), by striking “of this
20 section” and inserting “of this chapter or chapter
21 71,”;

22 (2) in subsection (h)(3), by inserting “, com-
23 puter generated image or picture,” after “video
24 tape”; and

25 (3) in subsection (i)—

- 1 (A) by striking “not more than 2 years”
2 and inserting “not more than 5 years”; and
3 (B) by striking “5 years” and inserting
4 “10 years”.

5 **SEC. 2127. EXTRATERRITORIAL PRODUCTION OF CHILD**
6 **PORNOGRAPHY FOR DISTRIBUTION IN THE**
7 **UNITED STATES.**

8 Section 2251 of title 18, United States Code, is
9 amended—

10 (1) by striking “subsection (d)” each place that
11 term appears and inserting “subsection (e)”;

12 (2) by redesignating subsections (c) and (d) as
13 subsections (d) and (e), respectively; and

14 (3) by inserting after subsection (b) the fol-
15 lowing:

16 “(c)(1) Any person who, in a circumstance described
17 in paragraph (2), employs, uses, persuades, induces, en-
18 tices, or coerces any minor to engage in, or who has a
19 minor assist any other person to engage in, any sexually
20 explicit conduct outside of the United States, its territories
21 or possessions, for the purpose of producing any visual de-
22 piction of such conduct, shall be punished as provided
23 under subsection (e).

24 “(2) The circumstance referred to in paragraph (1)
25 is that—

1 “(A) the person intends such visual depiction to
2 be transported to the United States, its territories or
3 possessions, by any means, including by computer or
4 mail; or

5 “(B) the person transports such visual depic-
6 tion to the United States, its territories or posses-
7 sions, by any means, including by computer or
8 mail.”.

9 **SEC. 2128. CIVIL REMEDIES.**

10 Section 2252A of title 18, United States Code, as
11 amended by this Act, is amended by adding at the end
12 the following:

13 “(f) CIVIL REMEDIES.—

14 “(1) IN GENERAL.—Any person aggrieved by
15 reason of the conduct prohibited under subsection
16 (a) or (b) may commence a civil action for the relief
17 set forth in paragraph (2).

18 “(2) RELIEF.—In any action commenced in ac-
19 cordance with paragraph (1), the court may award
20 appropriate relief, including—

21 “(A) temporary, preliminary, or permanent
22 injunctive relief;

23 “(B) compensatory and punitive damages;
24 and

1 “(C) the costs of the civil action and rea-
2 sonable fees for attorneys and expert wit-
3 nesses.”.

4 **SEC. 2129. ENHANCED PENALTIES FOR RECIDIVISTS.**

5 Sections 2251(d), 2252(b), and 2252A(b) of title 18,
6 United States Code, are amended by inserting “chapter
7 71,” before “chapter 109A,” each place it appears.

8 **SEC. 2130. SENTENCING ENHANCEMENTS FOR INTERSTATE**
9 **TRAVEL TO ENGAGE IN SEXUAL ACT WITH A**
10 **JUVENILE.**

11 Pursuant to its authority under section 994(p) of title
12 18, United States Code, and in accordance with this sec-
13 tion, the United States Sentencing Commission shall re-
14 view and, as appropriate, amend the Federal Sentencing
15 Guidelines and policy statements to ensure that guideline
16 penalties are adequate in cases that involve interstate
17 travel with the intent to engage in a sexual act with a
18 juvenile in violation of section 2423 of title 18, United
19 States Code, to deter and punish such conduct.

20 **SEC. 2131. MISCELLANEOUS PROVISIONS.**

21 (a) APPOINTMENT OF TRIAL ATTORNEYS.—

22 (1) IN GENERAL.—Not later than 6 months
23 after the date of enactment of this Act, the Attorney
24 General shall appoint 25 additional trial attorneys to
25 the Child Exploitation and Obscenity Section of the

1 Criminal Division of the Department of Justice or to
2 appropriate U.S. Attorney's Offices, and those trial
3 attorneys shall have as their primary focus, the in-
4 vestigation and prosecution of Federal child pornog-
5 raphy laws.

6 (2) AUTHORIZATION OF APPROPRIATIONS.—

7 There are authorized to be appropriated to the De-
8 partment of Justice such sums as may be necessary
9 to carry out this subsection.

10 (b) REPORT TO CONGRESSIONAL COMMITTEES.—

11 (1) IN GENERAL.—Not later than 9 months
12 after the date of enactment of this Act, and every
13 2 years thereafter, the Attorney General shall report
14 to the Chairpersons and Ranking Members of the
15 Committees on the Judiciary of the Senate and the
16 House of Representatives on the Federal enforce-
17 ment actions under chapter 110 of title 18, United
18 States Code.

19 (2) CONTENTS.—The report required under
20 paragraph (1) shall include—

21 (A) an evaluation of the prosecutions
22 brought under chapter 110 of title 18, United
23 States Code;

24 (B) an outcome-based measurement of per-
25 formance; and

1 (C) an analysis of the technology being
2 used by the child pornography industry.

3 (c) SENTENCING GUIDELINES.—Pursuant to its au-
4 thority under section 994(p) of title 18, United States
5 Code, and in accordance with this section, the United
6 States Sentencing Commission shall review and, as appro-
7 priate, amend the Federal Sentencing Guidelines and pol-
8 icy statements to ensure that the guidelines are adequate
9 to deter and punish conduct that involves a violation of
10 paragraph (3)(B) or (6) of section 2252A(a) of title 18,
11 United States Code, as created by this Act. With respect
12 to the guidelines for section 2252A(a)(3)(B), the Commis-
13 sion shall consider the relative culpability of promoting,
14 presenting, describing, or distributing material in violation
15 of that section as compared with solicitation of such mate-
16 rial.

17 **PART 3—REAUTHORIZATION OF THE NATIONAL**
18 **CENTER FOR MISSING AND EXPLOITED**
19 **CHILDREN**

20 **SEC. 2141. SHORT TITLE.**

21 This part may be cited as the “Protecting Our Chil-
22 dren Comes First Act of 2003”.

1 **SEC. 2142. ANNUAL GRANT TO THE NATIONAL CENTER FOR**
2 **MISSING AND EXPLOITED CHILDREN.**

3 Section 404(b)(2) of the Missing Childrens Assist-
4 ance Act (42 U.S.C. 5773(b)(2)) is amended by striking
5 “\$10,000,000 for each of fiscal years 2000, 2001, 2002,
6 and 2003” and inserting “\$20,000,000 for each of fiscal
7 years 2003, 2004, 2005, and 2006”.

8 **SEC. 2143. AUTHORIZATION OF APPROPRIATIONS.**

9 Section 408(a) of the Missing Childrens Assistance
10 Act (42 U.S.C. 5777(a)) is amended by striking “fiscal
11 years 2000 through 2003.” and inserting “fiscal years
12 2003 through 2006.”.

13 **SEC. 2144. FORENSIC AND INVESTIGATIVE SUPPORT OF**
14 **MISSING AND EXPLOITED CHILDREN.**

15 Section 3056 of title 18, United States Code, is
16 amended by adding at the end the following:

17 “(f) Under the direction of the Secretary of the
18 Treasury, officers and agents of the Secret Service are au-
19 thorized, at the request of any State or local law enforce-
20 ment agency or the National Center for Missing and Ex-
21 ploited Children, to provide forensic and investigative as-
22 sistance in support of any investigation involving missing
23 or exploited children.”.

24 **SEC. 2145. CREATION OF A CYBER-TIPLINE.**

25 Section 404(b)(1) of the Missing Children’s Assist-
26 ance Act (42 U.S.C. 5773(b)(1)) is amended—

1 (1) in subparagraph (F), by striking “and” at
2 the end;

3 (2) in subparagraph (G), by striking the period
4 at the end and inserting “; and”; and

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

6 “(H) coordinate the operation of a Cyber-
7 Tipline to provide online users an effective
8 means of reporting Internet-related child sexual
9 exploitation in the areas of distribution of child
10 pornography, online enticement of children for
11 sexual acts, and child prostitution.”.

12 **SEC. 2146. SERVICE PROVIDER REPORTING OF CHILD POR-**
13 **NOGRAPHY AND RELATED INFORMATION.**

14 Section 227 of the Victims of Child Abuse Act of
15 1990 (42 U.S.C. 13032) is amended—

16 (1) in subsection (b)—

17 (A) in paragraph (1), by inserting “, from
18 a nongovernmental source,” after “obtains”;

19 (B) by redesignating paragraph (3) as
20 paragraph (4); and

21 (C) by inserting after paragraph (2) the
22 following new paragraph:

23 “(3) In addition to forwarding reports of child
24 pornography to those agencies designated pursuant
25 to paragraph (2), the National Center for Missing

1 and Exploited Children is authorized to forward any
2 such report to an appropriate official of a state or
3 subdivision of a State for the purpose of enforcing
4 State criminal law.”;

5 (2) in subsection (c), by inserting “, or pursu-
6 ant to,” after “to comply with”; and

7 (3) by amending subsection (f)(1)(D) to read as
8 follows:

9 “(D) where the report discloses a violation
10 of State criminal law, to an appropriate official
11 of a State or subdivision of a State for the pur-
12 pose of enforcing such State law.”.

13 **SEC. 2147. CONTENTS DISCLOSURE OF STORED COMMU-
14 NICATIONS.**

15 Section 2702 of title 18, United States Code, is
16 amended—

17 (1) in subsection (b)—

18 (A) in paragraph (5), by striking “or” at
19 the end;

20 (B) in paragraph (6)—

21 (i) in subparagraph (A)(ii), by insert-
22 ing “or” at the end;

23 (ii) by striking subparagraph (B); and

24 (iii) by redesignating subparagraph
25 (C) as subparagraph (B);

1 (C) by redesignating paragraph (6) as
2 paragraph (7); and

3 (D) by inserting after paragraph (5) the
4 following:

5 “(6) to the National Center for Missing and
6 Exploited Children, in connection with a report sub-
7 mitted under section 227 of the Victims of Child
8 Abuse Act of 1990 (42 U.S.C. 13032); or”; and

9 (2) in subsection (c)—

10 (A) in paragraph (4), by striking “or” at
11 the end;

12 (B) by redesignating paragraph (5) as
13 paragraph (6); and

14 (C) by inserting after paragraph (4) the
15 following:

16 “(5) to the National Center for Missing and
17 Exploited Children, in connection with a report sub-
18 mitted under section 227 of the Victims of Child
19 Abuse Act of 1990 (42 U.S.C. 13032); or”.

20 **PART 4—NATIONAL CHILD PROTECTION AND**
21 **VOLUNTEERS FOR CHILDREN IMPROVEMENT**

22 **SEC. 2151. SHORT TITLE.**

23 This part may be cited as the “National Child Protec-
24 tion and Volunteers for Children Improvement Act of
25 2003”.

1 **SEC. 2152. DEFINITIONS.**

2 Section 5 of the National Child Protection Act of
3 1993 (42 U.S.C. 5119c) is amended—

4 (1) in paragraph (10), by striking “and” at the
5 end; and

6 (2) by inserting after paragraph (10) the fol-
7 lowing:

8 “(10A) the term ‘qualified State program’
9 means the policies and procedures referred to in sec-
10 tion 3(a)(1) of a State that are in place in order to
11 implement this Act, including policies and proce-
12 dures that require—

13 “(A) requests for national criminal history
14 background checks to be routinely returned to
15 a qualified entity not later than 20 business
16 days after the date on which the request was
17 made;

18 “(B) authorized agencies to charge not
19 more than \$18 for State background checks;

20 “(C) the designation of the authorized
21 agencies that may receive national criminal his-
22 tory background check requests from qualified
23 entities; and

24 “(D) the designation of the qualified enti-
25 ties that shall submit background check re-
26 quests to an authorized agency;

1 “(10B) the term ‘routinely’ means—

2 “(A) instances where 85 percent or more
3 of nationwide background check requests are
4 returned to qualified entities within 20 business
5 days; or

6 “(B) instances where 90 percent or more
7 of nationwide background check requests are
8 returned to qualified entities within 30 business
9 days; and”.

10 **SEC. 2153. STRENGTHENING AND ENFORCING THE NA-**
11 **TIONAL CHILD PROTECTION ACT AND THE**
12 **VOLUNTEERS FOR CHILDREN ACT.**

13 Section 3 of the National Child Protection Act of
14 1993 (42 U.S.C. 5119a) is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (1)—

17 (i) by striking “A State may” and in-
18 serting the following: “REQUEST.—A State
19 may”;

20 (ii) by inserting after “procedures”
21 the following: “meeting the guidelines set
22 forth in subsection (b)”;

23 (iii) by inserting after “regulation”
24 the following: “or a qualified State pro-
25 gram”; and

1 (iv) by striking “convicted of” and all
2 that follows through the period and insert-
3 ing “convicted of, or is under pending ar-
4 rest or indictment for, a crime that renders
5 the provider unfit to provide care to chil-
6 dren, the elderly, or individuals with dis-
7 abilities.”;

8 (B) in paragraph (2)—

9 (i) by striking “The authorized agen-
10 cy” and inserting the following: “RE-
11 SPONSE.—The authorized agency”;

12 (ii) by striking “make reasonable ef-
13 forts to”;

14 (iii) by striking “15” and inserting
15 “20”; and

16 (iv) by adding at the end the fol-
17 lowing: “The Attorney General shall re-
18 spond to the inquiry of the State author-
19 ized agency within 15 business days of the
20 request. A State is not in violation of this
21 section if the Attorney General fails to re-
22 spond to the inquiry within 15 business
23 days of the request.”; and

24 (C) by striking paragraph (3), and insert-
25 ing the following:

1 “(3) ABSENCE OF QUALIFIED STATE PRO-
2 GRAM.—

3 “(A) REQUEST.—Not later than 12
4 months after the date of enactment of the Na-
5 tional Child Protection and Volunteers for Chil-
6 dren Improvement Act of 2002, a qualified enti-
7 ty doing business in a State that does not have
8 a qualified State program may request a na-
9 tional criminal background check from the At-
10 torney General for the purpose of determining
11 whether a provider has been convicted of, or is
12 under pending arrest or indictment for, a crime
13 that renders the provider unfit to provide care
14 to children, the elderly, or individuals with dis-
15 abilities.

16 “(B) REVIEW AND RESPONSE.—The Attor-
17 ney General shall respond to the request of a
18 qualified entity made under subparagraph (A)
19 not later than 20 business days after the re-
20 quest is made.”; and

21 (2) in subsection (b)—

22 (A) in paragraph (4), by striking “shall
23 make” and inserting “may make”; and

24 (B) in paragraph (5)—

1 (i) by inserting after “qualified enti-
2 ty” the following: “or by a State author-
3 ized agency that disseminates criminal his-
4 tory records information directly to quali-
5 fied entities”; and

6 (ii) by striking “pursuant to sub-
7 section (a)(3)”.

8 **SEC. 2154. DISSEMINATION OF INFORMATION.**

9 The National Child Protection Act of 1993 (42
10 U.S.C. 5119 et seq.) is amended by adding at the end
11 the following:

12 **“SEC. 6. DISSEMINATION OF INFORMATION.**

13 “Notwithstanding any other provision of law, the At-
14 torney General and authorized agencies of States may dis-
15 seminate criminal history background check record infor-
16 mation to a qualified entity.

17 **“SEC. 7. OFFICE FOR VOLUNTEER AND PROVIDER SCREEN-**
18 **ING.**

19 “(a) IN GENERAL.—The Attorney General shall es-
20 tablish an Office for Volunteer and Provider Screening
21 (referred to in this Act as the ‘Office’) which shall serve
22 as a point of contact for qualified entities to request a
23 national criminal background check pursuant to section
24 3(a)(3).

1 “(b) MODEL GUIDELINES.—The Office shall provide
2 model guidelines concerning standards to guide qualified
3 entities in making fitness determinations regarding care
4 providers based upon the criminal history record informa-
5 tion of those providers.”.

6 **SEC. 2155. FEES.**

7 Section 3(e) of the National Child Protection Act of
8 1993 (42 U.S.C. 5119a(e)) is amended—

9 (1) by striking “In the case” and inserting the
10 following:

11 “(1) IN GENERAL.—In the case”; and

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

13 “(2) VOLUNTEER WITH QUALIFIED ENTITY.—

14 In the case of a national criminal fingerprint back-
15 ground check conducted pursuant to section 3(a)(3)
16 on a person who volunteers with a qualified entity,
17 the fee collected by the Federal Bureau of Investiga-
18 tion shall not exceed \$5.

19 “(3) PROVIDER.—In the case of a national
20 criminal fingerprint background check on a provider
21 who is employed by or applies for a position with a
22 qualified entity, the fee collected by the Federal Bu-
23 reau of Investigation shall not exceed \$18.”.

1 **SEC. 2156. STRENGTHENING STATE FINGERPRINT TECH-**
2 **NOLOGY.**

3 (a) ESTABLISHMENT OF MODEL PROGRAM IN EACH
4 STATE TO STRENGTHEN CRIMINAL DATA REPOSITORIES
5 AND FINGERPRINT TECHNOLOGY.—The Attorney General
6 shall establish a model program in each State and the Dis-
7 trict of Columbia for the purpose of improving
8 fingerprinting technology which shall grant to each State
9 funds to either—

10 (1) purchase Live-Scan fingerprint technology
11 and a State-vehicle to make such technology mobile
12 and these mobile units shall be used to travel within
13 the State to assist in the processing of fingerprint
14 background checks; or

15 (2) purchase electric fingerprint imaging ma-
16 chines for use throughout the State to send finger-
17 print images to the Attorney General to conduct
18 background checks.

19 (b) ADDITIONAL FUNDS.—In addition to funds pro-
20 vided in subsection (a), funds shall be provided to each
21 State and the District of Columbia to hire personnel to
22 provide information and training to each county law en-
23 forcement agency within the State regarding all require-
24 ments for input of criminal and disposition data into the
25 national criminal history background check system under

1 the National Child Protection Act of 1993 (42 U.S.C.
2 5119 et seq.).

3 (c) FUNDING ELIGIBILITY.—States with a qualified
4 State program shall be eligible for not more than
5 \$2,000,000 under this section.

6 (d) AUTHORIZATION OF APPROPRIATIONS.—

7 (1) IN GENERAL.—There is authorized to be
8 appropriated to carry out this section sums suffi-
9 cient to improve fingerprint technology units and
10 hire data entry improvement personnel in each of
11 the 50 States and the District of Columbia for each
12 of fiscal years 2003 through 2008.

13 (2) AVAILABILITY.—Sums appropriated in ac-
14 cordance with this section shall remain available
15 until expended.

16 **SEC. 2157. PRIVACY PROTECTIONS.**

17 (a) INFORMATION.—Information derived as a result
18 of a national criminal fingerprint background check re-
19 quest under section 3 of the National Child Protection Act
20 of 1993 (42 U.S.C. 5119a) shall not be adjusted, deleted,
21 or altered in any way except as required by law for na-
22 tional security purposes.

23 (b) DESIGNATED REPRESENTATIVE.—

24 (1) IN GENERAL.—Each qualified entity (as de-
25 fined in section 5 of the National Child Protection

1 Act of 1993 (42 U.S.C. 5119c)) shall assign a rep-
2 resentative in their respective organization to receive
3 and process information requested under section 3 of
4 the National Child Protection Act of 1993 (42
5 U.S.C. 5119a).

6 (2) DELETION OF INFORMATION.—Each rep-
7 resentative assigned under paragraph (1) shall re-
8 view the requested information and delete all infor-
9 mation that is not needed by the requesting entity
10 in making an employment decision.

11 (c) CRIMINAL PENALTIES.—Any person who know-
12 ingly releases information derived as a result of a national
13 criminal fingerprint background check to any person other
14 than the hiring authority or organizational leadership with
15 the qualified entity shall be—

16 (1) fined \$50,000 for each violation; or

17 (2) imprisoned not more than 1 year.

18 **SEC. 2158. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) IN GENERAL.—There is authorized to be appro-
20 priated to carry out this part—

21 (1) \$100,000,000 for fiscal years 2003 and
22 2004; and

23 (2) such sums as may be necessary for each of
24 fiscal years 2005 through 2008.

1 (b) AVAILABILITY OF FUNDS.—Sums appropriated in
2 accordance with this section shall remain available until
3 expended.

4 **PART 5—CHILDREN’S CONFINEMENT**
5 **CONDITIONS IMPROVEMENT**

6 **SEC. 2161. FINDINGS.**

7 Congress finds that—

8 (1) recent studies have established that youth
9 are developmentally different from adults, and these
10 developmental differences need to be taken into ac-
11 count at all stages and in all aspects of the adult
12 criminal justice system;

13 (2) pretrial release or detention of juveniles
14 awaiting trial in adult criminal court should only
15 occur after consideration of their special characteris-
16 tics and the nature of their offenses;

17 (3)(A) if detained or incarcerated, juveniles
18 under the jurisdiction of an adult criminal court
19 should be housed in institutions or facilities separate
20 from adult facilities until their eighteenth birthday;
21 and

22 (B) those juveniles should not have sight or
23 sound contact with adult inmates;

24 (4) juveniles detained or incarcerated under the
25 jurisdiction of an adult criminal court should be pro-

1 vided access to programs that address their edu-
2 cational, substance abuse treatment, health, mental
3 health, and vocational needs;

4 (5) juveniles detained or incarcerated under the
5 jurisdiction of an adult criminal court should be pro-
6 vided with the mechanisms to report instances of
7 physical, mental, or psychological abuse or intimidat-
8 ion, and allegations of such abuse or intimidation
9 should be promptly investigated, and if proven cor-
10 rect, should be properly remedied;

11 (6) transfer to and sentencing of juveniles in
12 the adult criminal court system should be based on
13 consideration of the individual characteristics of the
14 juvenile and the nature of the offense committed;

15 (7) according to recent studies, juveniles who
16 are placed in adult facilities are more likely to com-
17 mit future crimes;

18 (8) housing juveniles with, or in close proximity
19 to, adult inmates creates difficulties and potentially
20 unsafe conditions for jail and prison personnel, and
21 juveniles and adult inmates, since many adult jails
22 and prisons lack the physical structure, program-
23 ming, and trained personnel to manage juveniles ef-
24 fectively;

1 (9) according to the Department of Justice, the
2 suicide rate for juveniles in adult jails is nearly 8
3 times higher than the rate in juvenile detention, and
4 the highest rate of suicide in jail occurs during the
5 first 24 hours of commitment;

6 (10) according to the Department of Justice,
7 juveniles in adult facilities are 5 times more likely to
8 be sexually assaulted, twice as likely to be beaten by
9 staff, and 50 percent more likely to be attacked with
10 a weapon than adolescents in a juvenile facility; and

11 (11) rural States and economically depressed
12 communities have pronounced difficulties in pro-
13 viding secure custody for juvenile offenders apart
14 from adult inmates.

15 **SEC. 2162. PURPOSE.**

16 The purpose of this part is to provide incentives and
17 funding assistance for States to reduce dangerous and un-
18 safe conditions in the detention and incarceration of juve-
19 nile offenders under the jurisdiction of an adult criminal
20 court, including separating those juvenile offenders from
21 adult prisoners and ensuring that corrections officers who
22 supervise them receive training in supervision issues
23 unique to juveniles.

1 **SEC. 2163. DEFINITION.**

2 In this part, the term “juvenile” means an individual
3 who has not reached the age of 18.

4 **SEC. 2164. JUVENILE SAFE INCARCERATION GRANT PRO-**
5 **GRAM.**

6 (a) GRANT AUTHORITY.—The Assistant Attorney
7 General for the Office of Justice Programs, established
8 under section 101 of title I of the Omnibus Crime Control
9 and Safe Streets Act of 1968, in consultation with the Of-
10 fice of Juvenile Justice and Delinquency Prevention, may
11 make grants to States, units of local government, and In-
12 dian tribes for the development and implementation of
13 programs designed to—

14 (1) alter existing correctional facilities, or de-
15 velop separate facilities, to provide separate facilities
16 for juveniles who are detained or are serving sen-
17 tences in adult prisons or jails under the jurisdiction
18 of an adult criminal court;

19 (2) provide correctional staff who are respon-
20 sible for supervising juveniles who are detained or
21 are serving sentences in adult prisons or jails under
22 the jurisdiction of an adult criminal court with ori-
23 entation and ongoing training to address the devel-
24 opmental, educational, vocational, and mental and
25 physical health needs of those offenders;

1 (3) provide ombudsmen to monitor the treat-
2 ment of juveniles who are detained or are serving
3 sentences in adult prisons or jails under the jurisdic-
4 tion of an adult criminal court;

5 (4) provide access to educational programs, vo-
6 cational training, mental and physical health assess-
7 ment and treatment, and drug treatment for juve-
8 niles who are serving sentences under the jurisdic-
9 tion of an adult criminal court; or

10 (5) seek alternatives, including the expansion of
11 juvenile facilities, to housing juveniles under the ju-
12 risdiction of an adult criminal court with adult in-
13 mates.

14 (b) ADMINISTRATION.—

15 (1) GUIDELINES.—The Assistant Attorney Gen-
16 eral may issue guidelines necessary to carry out this
17 section.

18 (2) APPLICATIONS.—In addition to any other
19 requirements that may be specified by the Assistant
20 Attorney General, an application for a grant under
21 this section shall—

22 (A) include a detailed implementation plan
23 addressing each of the purposes in subsection
24 (a) and a timeline for the implementation of
25 those purposes;

1 (B) address the capability of the applicant
2 to continue the proposed program following the
3 conclusion of Federal support;

4 (C) describe the methodology that will be
5 used in evaluating the program; and

6 (D) certify that the State applicant (or the
7 State in which the applicant is located) has de-
8 veloped guidelines on the use of isolation and
9 separation and on the appropriate use of force
10 against incarcerated juveniles, and has prohib-
11 ited the use of electroshock devices, 4-point re-
12 straints, chemical restraints, and restraint
13 chairs.

14 (c) APPLICATIONS.—

15 (1) IN GENERAL.—To request funds under this
16 section, applicants shall submit an application to the
17 Assistant Attorney General in such form and con-
18 taining such information as the Assistant Attorney
19 General may reasonably require.

20 (2) COMPETITIVE GRANTS.—Funding under
21 this section shall be awarded on a competitive basis
22 based on criteria established by the Assistant Attor-
23 ney General and specified in program guidelines.

24 (d) FEDERAL SHARE.—

1 (1) IN GENERAL.—The Federal share of a
2 grant made under this section may not exceed 75
3 percent of the total cost of the program described in
4 the application submitted for the fiscal year for
5 which the program receives assistance under sub-
6 section (a), unless the Assistant Attorney General
7 waives, wholly or in part, the requirement of a
8 matching contribution under this subsection.

9 (2) IN-KIND CONTRIBUTIONS.—In-kind con-
10 tributions may constitute a portion of the non-Fed-
11 eral share of a grant under this section.

12 (e) GEOGRAPHIC DISTRIBUTION.—

13 (1) IN GENERAL.—The Assistant Attorney Gen-
14 eral shall ensure that, to the extent practicable, an
15 equitable geographic distribution of grant awards
16 under this section is made, with rural representa-
17 tion.

18 (2) MINIMUM ALLOCATION.—Unless all eligible
19 applications submitted by any State or unit of local
20 government within such State for a grant under this
21 section have been funded, that State, together with
22 grantees within the State, shall be allocated in each
23 fiscal year not less than 0.75 percent of the total
24 amount appropriated in the fiscal year for grants
25 under this section.

1 (3) INDIAN TRIBES.—Indian tribes shall receive
2 0.75 percent of the total amount appropriated in the
3 fiscal year for grants under this section.

4 (f) TECHNICAL ASSISTANCE, TRAINING, AND EVAL-
5 UATION.—

6 (1) TECHNICAL ASSISTANCE AND TRAINING.—
7 The Assistant Attorney General may provide tech-
8 nical assistance and training in furtherance of the
9 purposes of this section.

10 (2) EVALUATION.—In addition to any evalua-
11 tion requirements that may be prescribed for grant-
12 ees, the Assistant Attorney General may carry out
13 or make arrangements for a rigorous evaluation of
14 the programs that receive support under this sec-
15 tion.

16 (3) ADMINISTRATION.—The technical assist-
17 ance, training, and evaluations authorized by this
18 subsection may be carried out directly by the Assist-
19 ant Attorney General or through grants, contracts,
20 or cooperative arrangements with other entities.

21 (g) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—There are authorized to be
23 appropriated to carry out this section such sums as
24 may be necessary for fiscal years 2003 through
25 2007.

1 (2) PERMANENT SET-ASIDE FOR RESEARCH
2 AND EVALUATION.—The Assistant Attorney General
3 shall reserve not less than 1 percent and not more
4 than 3 percent of the sums appropriated under this
5 subsection in each fiscal year for research and eval-
6 uation of this program.

7 **SEC. 2165. RURAL STATE FUNDING.**

8 (a) IN GENERAL.—The Assistant Attorney General,
9 in consultation with the Office of Juvenile Justice and De-
10 linquency Prevention, shall provide grants to provide cus-
11 todial facilities appropriate for violent juvenile offenders
12 in rural States and economically distressed communities
13 that lack the resources to provide secure custody.

14 (b) DEFINITION OF RURAL STATE.—In this section,
15 the term “rural State” has the same meaning as in section
16 1501(b) of the Omnibus Crime Control and Safe Streets
17 Act of 1968 (42 U.S.C. 3796bb(B)).

18 (c) EQUITABLE ALLOCATION OF AWARDS.—In mak-
19 ing awards under subsection (a), the Assistant Attorney
20 General shall ensure that the awards are equitably allo-
21 cated among the principal geographic regions of the
22 United States, subject to the availability of qualified appli-
23 cants for the awards.

24 (d) EVALUATIONS; DISSEMINATION OF FINDINGS.—

1 (1) EVALUATIONS.—The Assistant Attorney
2 General shall, directly or through contract, provide
3 for the conduct of evaluations of programs carried
4 out pursuant to subsection (a).

5 (2) DISSEMINATION OF FINDINGS.—The Assist-
6 ant Attorney General shall disseminate the findings
7 made as a result of the evaluation to the States and
8 the Committees on the Judiciary of the Senate and
9 the House of Representatives.

10 (e) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to carry out this section
12 \$20,000,000 for each of the fiscal years 2003 through
13 2006.

14 **SEC. 2166. GAO STUDY.**

15 Not later than 1 year after the date of enactment
16 of this part, the General Accounting Office shall conduct
17 a study and report to the Committees of the Judiciary
18 of the House of Representatives and the Senate on the
19 prevalence and effects of the use of electroshock weapons,
20 4-point restraints, chemical restraints, restraint chairs,
21 and solitary confinement against juvenile offenders in the
22 Federal and State criminal and juvenile corrections sys-
23 tems.

1 **SEC. 2167. FAMILY UNITY DEMONSTRATION PROJECT.**

2 Section 31904(a) of the Family Unity Demonstration
3 Project Act (42 U.S.C. 13883(a)) is amended by striking
4 paragraphs (1) through (5) and inserting the following:

5 “(1) \$5,400,000 for fiscal years 2003 and
6 2004; and

7 “(2) such sums as may be necessary for each
8 of fiscal years 2005 through 2007.”.

9 **Subtitle B—Senior’s Safety**

10 **SEC. 2201. SHORT TITLE.**

11 This subtitle may be cited as the “Seniors Safety Act
12 of 2003”.

13 **SEC. 2202. FINDINGS AND PURPOSES.**

14 (a) FINDINGS.—Congress makes the following find-
15 ings:

16 (1) The number of older Americans is rapidly
17 growing in the United States. According to the 2000
18 census, 21 percent of the United States population
19 is 55 years of age or older.

20 (2) In 1997, 7 percent of victims of serious vio-
21 lent crime were 50 years of age or older.

22 (3) In 1997, 17.7 percent of murder victims
23 were 55 years of age or older.

24 (4) According to the Department of Justice,
25 persons 65 years of age and older experienced ap-

1 proximately 2,700,000 crimes a year between 1992
2 and 1997.

3 (5) Older victims of violent crime are almost
4 twice as likely as younger victims to be raped,
5 robbed, or assaulted at or in their own homes.

6 (6) Approximately half of all Americans who
7 are 50 years of age or older are afraid to walk alone
8 at night in their own neighborhoods.

9 (7) Seniors over 50 years of age reportedly ac-
10 count for 37 percent of the estimated
11 \$40,000,000,000 in losses each year due to tele-
12 marketing fraud.

13 (8) A 1996 American Association of Retired
14 Persons survey of people 50 years of age and older
15 showed that 57 percent were likely to receive calls
16 from telemarketers at least once a week.

17 (9) In 1998, Congress enacted legislation to
18 provide for increased penalties for telemarketing
19 fraud that targets seniors.

20 (10) It has been estimated that—

21 (A) approximately 43 percent of persons
22 turning 65 years of age can expect to spend
23 some time in a long-term care facility; and

24 (B) approximately 20 percent can expect
25 to spend 5 years or more in a such a facility.

1 (11) In 1997, approximately \$82,800,000,000
2 was spent on nursing home care in the United
3 States and over half of this amount was spent by the
4 Medicaid and Medicare programs.

5 (12) Losses to fraud and abuse in health care
6 reportedly cost the United States an estimated
7 \$100,000,000,000 in 1996.

8 (13) The Inspector General for the Department
9 of Health and Human Services has estimated that
10 about \$12,600,000,000 in improper Medicare benefit
11 payments, due to inadvertent mistake, fraud, and
12 abuse were made during fiscal year 1998.

13 (14) Incidents of health care fraud and abuse
14 remain common despite awareness of the problem.

15 (b) PURPOSES.—The purposes of this subtitle are
16 to—

17 (1) combat nursing home fraud and abuse;

18 (2) enhance safeguards for pension plans and
19 health care programs;

20 (3) develop strategies for preventing and pun-
21 ishing crimes that target or otherwise disproportion-
22 ately affect seniors by collecting appropriate data—

23 (A) to measure the extent of crimes com-
24 mitted against seniors; and

1 (B) to determine the extent of domestic
2 and elder abuse of seniors; and

3 (4) prevent and deter criminal activity, such as
4 telemarketing fraud, that results in economic and
5 physical harm against seniors, and ensure appro-
6 priate restitution.

7 **SEC. 2203. DEFINITIONS.**

8 In this subtitle:

9 (1) CRIME.—The term “crime” means any
10 criminal offense under Federal or State law.

11 (2) NURSING HOME.—The term “nursing
12 home” means any institution or residential care fa-
13 cility defined as such for licensing purposes under
14 State law, or if State law does not employ the term
15 nursing home, the equivalent term or terms as deter-
16 mined by the Secretary of Health and Human Serv-
17 ices, pursuant to section 1908(e) of the Social Secu-
18 rity Act (42 U.S.C. 1396g(e)).

19 (3) SENIOR.—The term “senior” means an in-
20 dividual who is more than 55 years of age.

21 **PART 1—COMBATING CRIMES AGAINST SENIORS**

22 **SEC. 2211. ENHANCED SENTENCING PENALTIES BASED ON**
23 **AGE OF VICTIM.**

24 (a) DIRECTIVE TO THE UNITED STATES SEN-
25 TENCING COMMISSION.—Pursuant to its authority under

1 section 994(p) of title 28, United States Code, and in ac-
2 cordance with this section, the United States Sentencing
3 Commission (referred to in this section as the “Commis-
4 sion”) shall review and, if appropriate, amend section
5 3A1.1(a) of the Federal sentencing guidelines to include
6 the age of a crime victim as one of the criteria for deter-
7 mining whether the application of a sentencing enhance-
8 ment is appropriate.

9 (b) REQUIREMENTS.—In carrying out this section,
10 the Commission shall—

11 (1) ensure that the Federal sentencing guide-
12 lines and the policy statements of the Commission
13 reflect the serious economic and physical harms as-
14 sociated with criminal activity targeted at seniors
15 due to their particular vulnerability;

16 (2) consider providing increased penalties for
17 persons convicted of offenses in which the victim was
18 a senior in appropriate circumstances;

19 (3) consult with individuals or groups rep-
20 resenting seniors, law enforcement agencies, victims
21 organizations, and the Federal judiciary as part of
22 the review described in subsection (a);

23 (4) ensure reasonable consistency with other
24 Federal sentencing guidelines and directives;

1 (5) account for any aggravating or mitigating
2 circumstances that may justify exceptions, including
3 circumstances for which the Federal sentencing
4 guidelines provide sentencing enhancements;

5 (6) make any necessary conforming changes to
6 the Federal sentencing guidelines; and

7 (7) ensure that the Federal sentencing guide-
8 lines adequately meet the purposes of sentencing set
9 forth in section 3553(a)(2) of title 18, United States
10 Code.

11 (c) REPORT.—Not later than December 31, 2003, the
12 Commission shall submit to Congress a report on issues
13 relating to the age of crime victims, which shall include—

14 (1) an explanation of any changes to sentencing
15 policy made by the Commission under this section;
16 and

17 (2) any recommendations of the Commission for
18 retention or modification of penalty levels, including
19 statutory penalty levels, for offenses involving sen-
20 iors.

21 **SEC. 2212. STUDY AND REPORT ON HEALTH CARE FRAUD**
22 **SENTENCES.**

23 (a) DIRECTIVE TO THE UNITED STATES SEN-
24 TENCING COMMISSION.—Pursuant to its authority under
25 section 994(p) of title 28, United States Code, and in ac-

1 cordance with this section, the United States Sentencing
2 Commission (referred to in this section as the “Commis-
3 sion”) shall review and, if appropriate, amend the Federal
4 sentencing guidelines and the policy statements of the
5 Commission with respect to persons convicted of offenses
6 involving fraud in connection with a health care benefit
7 program (as defined in section 24(b) of title 18, United
8 States Code).

9 (b) REQUIREMENTS.—In carrying out this section,
10 the Commission shall—

11 (1) ensure that the Federal sentencing guide-
12 lines and the policy statements of the Commission
13 reflect the serious harms associated with health care
14 fraud and the need for aggressive and appropriate
15 law enforcement action to prevent such fraud;

16 (2) consider providing increased penalties for
17 persons convicted of health care fraud in appropriate
18 circumstances;

19 (3) consult with individuals or groups rep-
20 resenting victims of health care fraud, law enforce-
21 ment agencies, the health care industry, and the
22 Federal judiciary as part of the review described in
23 subsection (a);

24 (4) ensure reasonable consistency with other
25 Federal sentencing guidelines and directives;

1 (5) account for any aggravating or mitigating
2 circumstances that might justify exceptions, includ-
3 ing circumstances for which the Federal sentencing
4 guidelines provide sentencing enhancements;

5 (6) make any necessary conforming changes to
6 the Federal sentencing guidelines; and

7 (7) ensure that the Federal sentencing guide-
8 lines adequately meet the purposes of sentencing as
9 set forth in section 3553(a)(2) of title 18, United
10 States Code.

11 (c) REPORT.—Not later than December 31, 2003, the
12 Commission shall submit to Congress a report on issues
13 relating to offenses described in subsection (a), which shall
14 include—

15 (1) an explanation of any changes to sentencing
16 policy made by the Commission under this section;
17 and

18 (2) any recommendations of the Commission for
19 retention or modification of penalty levels, including
20 statutory penalty levels, for those offenses.

21 **SEC. 2213. INCREASED PENALTIES FOR FRAUD RESULTING**
22 **IN SERIOUS INJURY OR DEATH.**

23 Sections 1341 and 1343 of title 18, United States
24 Code, are each amended by inserting before the last sen-
25 tence the following: “If the violation results in serious bod-

1 ily injury (as defined in section 1365), such person shall
 2 be fined under this title, imprisoned not more than 20
 3 years, or both, and if the violation results in death, such
 4 person shall be fined under this title, imprisoned for any
 5 term of years or life, or both.”.

6 **SEC. 2214. SAFEGUARDING PENSION PLANS FROM FRAUD**
 7 **AND THEFT.**

8 (a) IN GENERAL.—Chapter 63 of title 18, United
 9 States Code, is amended by adding at the end the fol-
 10 lowing:

11 **“§ 1348. Fraud in relation to retirement arrange-**
 12 **ments**

13 “(a) DEFINITION.—

14 “(1) RETIREMENT ARRANGEMENT.—In this
 15 section, the term ‘retirement arrangement’ means—

16 “(A) any employee pension benefit plan
 17 subject to any provision of title I of the Em-
 18 ployee Retirement Income Security Act of 1974;

19 “(B) any qualified retirement plan within
 20 the meaning of section 4974(c) of the Internal
 21 Revenue Code of 1986;

22 “(C) any medical savings account de-
 23 scribed in section 220 of the Internal Revenue
 24 Code of 1986; or

1 “(D) a fund established within the Thrift
2 Savings Fund by the Federal Retirement Thrift
3 Investment Board pursuant to subchapter III of
4 chapter 84 of title 5.

5 “(2) CERTAIN ARRANGEMENTS INCLUDED.—
6 The term ‘retirement arrangement’ shall include any
7 arrangement that has been represented to be an ar-
8 rangement described in any subparagraph of para-
9 graph (1) (whether or not so described).

10 “(3) EXCEPTION FOR GOVERNMENTAL PLAN.—
11 Except as provided in paragraph (1)(D), the term
12 ‘retirement arrangement’ shall not include any gov-
13 ernmental plan (as defined in section 3(32) of title
14 I of the Employee Retirement Income Security Act
15 of 1974 (29 U.S.C. 1002(32))).

16 “(b) PROHIBITION AND PENALTIES.—Whoever exe-
17 cutes, or attempts to execute, a scheme or artifice—

18 “(1) to defraud any retirement arrangement or
19 other person in connection with the establishment or
20 maintenance of a retirement arrangement; or

21 “(2) to obtain, by means of false or fraudulent
22 pretenses, representations, or promises, any of the
23 money or property owned by, or under the custody
24 or control of, any retirement arrangement or other

1 person in connection with the establishment or main-
 2 tenance of a retirement arrangement;
 3 shall be fined under this title, imprisoned not more than
 4 10 years, or both.

5 “(c) ENFORCEMENT.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
 7 the Attorney General may investigate any violation
 8 of, and otherwise enforce, this section.

9 “(2) EFFECT ON OTHER AUTHORITY.—Nothing
 10 in this subsection may be construed to preclude the
 11 Secretary of Labor or the head of any other appro-
 12 priate Federal agency from investigating a violation
 13 of this section in relation to a retirement arrange-
 14 ment subject to title I of the Employee Retirement
 15 Income Security Act of 1974 (29 U.S.C. 1001 et
 16 seq.) or any other provision of Federal law.”.

17 (b) TECHNICAL AMENDMENT.—Section 24(a)(1) of
 18 title 18, United States Code, is amended by inserting
 19 “1348,” after “1347,”.

20 (c) CONFORMING AMENDMENT.—The analysis for
 21 chapter 63 of title 18, United States Code, is amended
 22 by adding at the end the following:

“1348. Fraud in relation to retirement arrangements.”.

23 **SEC. 2215. ADDITIONAL CIVIL PENALTIES FOR DEFRAUD-**
 24 **ING PENSION PLANS.**

25 (a) IN GENERAL.—

1 (1) ACTION BY ATTORNEY GENERAL.—Except
2 as provided in subsection (b)—

3 (A) the Attorney General may bring a civil
4 action in the appropriate district court of the
5 United States against any person who engages
6 in conduct constituting an offense under section
7 1348 of title 18, United States Code, or con-
8 spiracy to violate such section 1348; and

9 (B) upon proof of such conduct by a pre-
10 ponderance of the evidence, such person shall
11 be subject to a civil penalty in an amount equal
12 to the greatest of—

13 (i) the amount of pecuniary gain to
14 that person;

15 (ii) the amount of pecuniary loss sus-
16 tained by the victim; or

17 (iii) not more than—

18 (I) \$50,000 for each such viola-
19 tion in the case of an individual; or

20 (II) \$100,000 for each such vio-
21 lation in the case of a person other
22 than an individual.

23 (2) NO EFFECT ON OTHER REMEDIES.—The
24 imposition of a civil penalty under this subsection
25 does not preclude any other statutory, common law,

1 or administrative remedy available by law to the
2 United States or any other person.

3 (b) EXCEPTION.—No civil penalty may be imposed
4 pursuant to subsection (a) with respect to conduct involv-
5 ing a retirement arrangement that—

6 (1) is an employee pension benefit plan subject
7 to title I of the Employee Retirement Income Secu-
8 rity Act of 1974; and

9 (2) for which the civil penalties may be imposed
10 under section 502 of the Employee Retirement In-
11 come Security Act of 1974 (29 U.S.C. 1132).

12 (c) DETERMINATION OF PENALTY AMOUNT.—In de-
13 termining the amount of the penalty under subsection (a),
14 the district court may consider the effect of the penalty
15 on the violator or other person’s ability to—

16 (1) restore all losses to the victims; or

17 (2) provide other relief ordered in another civil
18 or criminal prosecution related to such conduct, in-
19 cluding any penalty or tax imposed on the violator
20 or other person pursuant to the Internal Revenue
21 Code of 1986.

22 **SEC. 2216. PUNISHING BRIBERY AND GRAFT IN CONNEC-**
23 **TION WITH EMPLOYEE BENEFIT PLANS.**

24 (a) IN GENERAL.—Section 1954 of title 18, United
25 States Code, is amended to read as follows:

1 **“§ 1954. Bribery and graft in connection with em-**
2 **ployee benefit plans**

3 “(a) DEFINITIONS.—In this section—

4 “(1) the term ‘employee benefit plan’ means
5 any employee welfare benefit plan or employee pen-
6 sion benefit plan subject to any provision of title I
7 of the Employee Retirement Income Security Act of
8 1974;

9 “(2) the terms ‘employee organization’, ‘admin-
10 istrator’, and ‘employee benefit plan sponsor’ mean
11 any employee organization, administrator, or plan
12 sponsor, as defined in title I of the Employment Re-
13 tirement Income Security Act of 1974; and

14 “(3) the term ‘applicable person’ means—

15 “(A) an administrator, officer, trustee,
16 custodian, counsel, agent, or employee of any
17 employee benefit plan;

18 “(B) an officer, counsel, agent, or em-
19 ployee of an employer or an employer any of
20 whose employees are covered by such plan;

21 “(C) an officer, counsel, agent, or em-
22 ployee of an employee organization any of
23 whose members are covered by such plan;

24 “(D) a person who, or an officer, counsel,
25 agent, or employee of an organization that, pro-
26 vides benefit plan services to such plan; or

1 “(E) a person with actual or apparent in-
2 fluence or decisionmaking authority in regard
3 to such plan.

4 “(b) BRIBERY AND GRAFT.—Whoever—

5 “(1) being an applicable person, receives or
6 agrees to receive or solicits, any fee, kickback, com-
7 mission, gift, loan, money, or thing of value, person-
8 ally or for any other person, because of or with the
9 intent to be corruptly influenced with respect to any
10 action, decision, or duty of that applicable person re-
11 lating to any question or matter concerning an em-
12 ployee benefit plan;

13 “(2) directly or indirectly, gives or offers, or
14 promises to give or offer, any fee, kickback, commis-
15 sion, gift, loan, money, or thing of value, to any ap-
16 plicable person, because of or with the intent to be
17 corruptly influenced with respect to any action, deci-
18 sion, or duty of that applicable person relating to
19 any question or matter concerning an employee ben-
20 efit plan; or

21 “(3) attempts to give, accept, or receive any
22 thing of value with the intent to be corruptly influ-
23 enced in violation of this section;

24 shall be fined under this title, imprisoned not more than
25 5 years, or both.

1 “(c) EXCEPTIONS.—Nothing in this section may be
2 construed to apply to any—

3 “(1) payment to, or acceptance by, any person
4 of bona fide salary, compensation, or other payments
5 made for goods or facilities actually furnished or for
6 services actually performed in the regular course of
7 his duties as an applicable person; or

8 “(2) payment to, or acceptance in good faith
9 by, any employee benefit plan sponsor, or person
10 acting on behalf of the sponsor, of anything of value
11 relating to the decision or action of the sponsor to
12 establish, terminate, or modify the governing instru-
13 ments of an employee benefit plan in a manner that
14 does not violate—

15 “(A) title I of the Employee Retirement
16 Income Security Act of 1974;

17 “(B) any regulation or order promulgated
18 under title I of the Employee Retirement In-
19 come Security Act of 1974; or

20 “(C) any other provision of law governing
21 the plan.”.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 chapter 95 of title 18, United States Code, is amended
24 by striking the item relating to section 1954 and inserting
25 the following:

“1954. Bribery and graft in connection with employee benefit plans.”.

1 **PART 2—PREVENTING TELEMARKETING FRAUD**
2 **SEC. 2221. CENTRALIZED COMPLAINT AND CONSUMER**
3 **EDUCATION SERVICE FOR VICTIMS OF TELE-**
4 **MARKETING FRAUD.**

5 (a) CENTRALIZED SERVICE.—

6 (1) REQUIREMENT.—The Federal Trade Com-
7 mission shall, after consultation with the Attorney
8 General, establish procedures to—

9 (A) log and acknowledge the receipt of
10 complaints by individuals who certify that they
11 have a reasonable belief that they have been the
12 victim of fraud in connection with the conduct
13 of telemarketing (as that term is defined in sec-
14 tion 2325 of title 18, United States Code, as
15 amended by section 2222(a) of this Act);

16 (B) provide to individuals described in sub-
17 paragraph (A), and to any other persons, infor-
18 mation on telemarketing fraud, including—

19 (i) general information on tele-
20 marketing fraud, including descriptions of
21 the most common telemarketing fraud
22 schemes;

23 (ii) information on means of referring
24 complaints on telemarketing fraud to ap-
25 propriate law enforcement agencies, includ-
26 ing the Director of the Federal Bureau of

1 Investigation, the attorneys general of the
2 States, and the national toll-free telephone
3 number on telemarketing fraud established
4 by the Attorney General; and

5 (iii) information, if available, on the
6 number of complaints of telemarketing
7 fraud against particular companies and
8 any record of convictions for telemarketing
9 fraud by particular companies for which a
10 specific request has been made; and

11 (C) refer complaints described in subpara-
12 graph (A) to appropriate entities, including
13 State consumer protection agencies or entities
14 and appropriate law enforcement agencies, for
15 potential law enforcement action.

16 (2) CENTRAL LOCATION.—The service under
17 the procedures under paragraph (1) shall be pro-
18 vided at and through a single site selected by the
19 Commission for that purpose.

20 (3) COMMENCEMENT.—The Federal Trade
21 Commission shall commence carrying out the service
22 not later than 1 year after the date of enactment of
23 this Act.

24 (b) CREATION OF FRAUD CONVICTION DATABASE.—

1 (1) ESTABLISHMENT.—The Attorney General
2 shall establish and maintain a computer database
3 containing information on the corporations and com-
4 panies convicted of offenses for telemarketing fraud
5 under Federal and State law.

6 (2) DATABASE.—The database established
7 under paragraph (1) shall include a description of
8 the type and method of the fraud scheme for which
9 each corporation or company covered by the data-
10 base was convicted.

11 (3) USE OF DATABASE.—The Attorney General
12 shall make information in the database available to
13 the Federal Trade Commission for purposes of pro-
14 viding information as part of the service under sub-
15 section (a).

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated such sums as may be nec-
18 essary to carry out this section.

19 **SEC. 2222. BLOCKING OF TELEMARKETING SCAMS.**

20 (a) EXPANSION OF SCOPE OF TELEMARKETING
21 FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—
22 Section 2325(1) of title 18, United States Code, is amend-
23 ed by striking “telephone calls” and inserting “wire com-
24 munications utilizing a telephone service”.

1 (b) BLOCKING OR TERMINATION OF TELEPHONE
2 SERVICE ASSOCIATED WITH TELEMARKETING FRAUD.—

3 (1) IN GENERAL.—Chapter 113A of title 18,
4 United States Code, is amended by adding at the
5 end the following:

6 **“§ 2328. Blocking or termination of telephone service**

7 “(a) DEFINITIONS.—In this section:

8 “(1) REASONABLE NOTICE TO THE SUB-
9 SCRIBER.—

10 “(A) IN GENERAL.—The term ‘reasonable
11 notice to the subscriber’, in the case of a sub-
12 scriber of a common carrier, means any infor-
13 mation necessary to provide notice to the sub-
14 scriber that—

15 “(i) the wire communications facilities
16 furnished by the common carrier may not
17 be used for the purpose of transmitting,
18 receiving, forwarding, or delivering a wire
19 communication in interstate or foreign
20 commerce for the purpose of executing any
21 scheme or artifice to defraud in connection
22 with the conduct of telemarketing; and

23 “(ii) such use constitutes sufficient
24 grounds for the immediate discontinuance
25 or refusal of the leasing, furnishing, or

1 maintaining of the facilities to or for the
2 subscriber.

3 “(B) INCLUDED MATTER.—The term in-
4 cludes any tariff filed by the common carrier
5 with the Federal Communications Commission
6 that contains the information specified in sub-
7 paragraph (A).

8 “(2) WIRE COMMUNICATION.—The term ‘wire
9 communication’ has the same meaning given that
10 term in section 2510(1).

11 “(3) WIRE COMMUNICATIONS FACILITY.—The
12 term ‘wire communications facility’ means any facil-
13 ity (including instrumentalities, personnel, and serv-
14 ices) used by a common carrier for purposes of the
15 transmission, receipt, forwarding, or delivery of wire
16 communications.

17 “(b) BLOCKING OR TERMINATING TELEPHONE
18 SERVICE.—If a common carrier subject to the jurisdiction
19 of the Federal Communications Commission is notified in
20 writing by the Attorney General, acting within the juris-
21 diction of the Attorney General, that any wire communica-
22 tions facility furnished by that common carrier is being
23 used or will be used by a subscriber for the purpose of
24 transmitting or receiving a wire communication in inter-
25 state or foreign commerce for the purpose of executing any

1 scheme or artifice to defraud, or for obtaining money or
2 property by means of false or fraudulent pretenses, rep-
3 resentations, or promises, in connection with the conduct
4 of telemarketing, the common carrier shall discontinue or
5 refuse the leasing, furnishing, or maintaining of the facil-
6 ity to or for the subscriber after reasonable notice to the
7 subscriber.

8 “(c) PROHIBITION ON DAMAGES.—No damages, pen-
9 alty, or forfeiture, whether civil or criminal, shall be found
10 or imposed against any common carrier for any act done
11 by the common carrier in compliance with a notice re-
12 ceived from the Attorney General under this section.

13 “(d) RELIEF.—

14 “(1) IN GENERAL.—Nothing in this section
15 may be construed to prejudice the right of any per-
16 son affected thereby to secure an appropriate deter-
17 mination, as otherwise provided by law, in a Federal
18 court, that—

19 “(A) the leasing, furnishing, or maintain-
20 ing of a facility should not be discontinued or
21 refused under this section; or

22 “(B) the leasing, furnishing, or maintain-
23 ing of a facility that has been so discontinued
24 or refused should be restored.

1 “(2) SUPPORTING INFORMATION.—In any ac-
 2 tion brought under this subsection, the court may
 3 direct that the Attorney General present evidence in
 4 support of the notice made under subsection (b) to
 5 which such action relates.”.

6 (2) CONFORMING AMENDMENT.—The analysis
 7 for chapter 113A of title 18, United States Code, is
 8 amended by adding at the end the following:

“2328. Blocking or termination of telephone service.”.

9 **PART 3—PREVENTING HEALTH CARE FRAUD**

10 **SEC. 2231. INJUNCTIVE AUTHORITY RELATING TO FALSE**
 11 **CLAIMS AND ILLEGAL KICKBACK SCHEMES**
 12 **INVOLVING FEDERAL HEALTH CARE PRO-**
 13 **GRAMS.**

14 (a) IN GENERAL.—Section 1345(a) of title 18,
 15 United States Code, is amended—

16 (1) in paragraph (1)—

17 (A) in subparagraph (B), by striking “,
 18 or” and inserting a semicolon;

19 (B) in subparagraph (C), by striking the
 20 period at the end and inserting “; or”; and

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

22 “(D) committing or about to commit an offense
 23 under section 1128B of the Social Security Act (42
 24 U.S.C. 1320a-7b),”; and

1 (2) in paragraph (2), by inserting “a violation
2 of paragraph (1)(D), or” before “a banking”.

3 (b) CIVIL ACTIONS.—

4 (1) IN GENERAL.—Section 1128B of the Social
5 Security Act (42 U.S.C. 1320a–7b) is amended by
6 adding at the end the following:

7 “(g) CIVIL ACTIONS.—

8 “(1) IN GENERAL.—The Attorney General may
9 bring an action in the appropriate district court of
10 the United States to impose upon any person who
11 carries out any activity in violation of this section
12 with respect to a Federal health care program a civil
13 penalty of not more than \$50,000 for each such vio-
14 lation, or damages of 3 times the total remuneration
15 offered, paid, solicited, or received, whichever is
16 greater.

17 “(2) EXISTENCE OF VIOLATION.—A violation
18 exists under paragraph (1) if 1 or more purposes of
19 the remuneration is unlawful, and the damages shall
20 be the full amount of such remuneration.

21 “(3) PROCEDURES.—An action under para-
22 graph (1) shall be governed by—

23 “(A) the procedures with regard to sub-
24 poenas, statutes of limitations, standards of

1 proof, and collateral estoppel set forth in sec-
2 tion 3731 of title 31, United States Code; and

3 “(B) the Federal Rules of Civil Procedure.

4 “(4) NO EFFECT ON OTHER REMEDIES.—Noth-
5 ing in this section may be construed to affect the
6 availability of any other criminal or civil remedy.

7 “(h) INJUNCTIVE RELIEF.—The Attorney General
8 may commence a civil action in an appropriate district
9 court of the United States to enjoin a violation of this
10 section, as provided in section 1345 of title 18, United
11 States Code.”.

12 (2) CONFORMING AMENDMENT.—The heading
13 of section 1128B of the Social Security Act (42
14 U.S.C. 1320a–7b) is amended by inserting “AND
15 CIVIL” after “CRIMINAL”.

16 **SEC. 2232. AUTHORIZED INVESTIGATIVE DEMAND PROCE-**
17 **DURES.**

18 Section 3486 of title 18, United States Code, is
19 amended—

20 (1) in subsection (a), by inserting “, or any al-
21 legation of fraud or false claims (whether criminal or
22 civil) in connection with a Federal health care pro-
23 gram (as defined in section 1128B(f) of the Social
24 Security Act (42 U.S.C. 1320a–7b(f))),” after “Fed-
25 eral health care offense” each place it appears; and

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

2 “(f) PRIVACY PROTECTION.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), any record (including any book, paper,
5 document, electronic medium, or other object or tan-
6 gible thing) produced pursuant to a subpoena issued
7 under this section that contains personally identifi-
8 able health information may not be disclosed to any
9 person, except pursuant to a court order under sub-
10 section (e)(1).

11 “(2) EXCEPTIONS.—A record described in para-
12 graph (1) may be disclosed—

13 “(A) to an attorney for the Government
14 for use in the performance of the official duty
15 of the attorney (including presentation to a
16 Federal grand jury);

17 “(B) to government personnel (including
18 personnel of a State or subdivision of a State)
19 as are determined to be necessary by an attor-
20 ney for the Government to assist an attorney
21 for the Government in the performance of the
22 official duty of that attorney to enforce Federal
23 criminal law;

24 “(C) as directed by a court preliminarily
25 to, or in connection with, a judicial proceeding;

1 “(D) as permitted by a court at the re-
2 quest of a defendant in an administrative, civil,
3 or criminal action brought by the United
4 States, upon a showing that grounds may exist
5 for a motion to exclude evidence obtained under
6 this section; or

7 “(E) at the request of an attorney for the
8 Government, upon a showing that such matters
9 may disclose a violation of State criminal law,
10 to an appropriate official of a State or subdivi-
11 sion of a State for the purpose of enforcing
12 such law.

13 “(3) MANNER OF COURT ORDERED DISCLO-
14 SURES.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), if a court orders the disclo-
17 sure of any record described in paragraph (1),
18 the disclosure—

19 “(i) shall be made in such manner, at
20 such time, and under such conditions as
21 the court may direct; and

22 “(ii) shall be undertaken in a manner
23 that preserves the confidentiality and pri-
24 vacy of individuals who are the subject of
25 the record.

1 “(B) EXCEPTION.—If disclosure is re-
2 quired by the nature of the proceedings, the at-
3 torney for the Government shall request that
4 the presiding judicial or administrative officer
5 enter an order limiting the disclosure of the
6 record to the maximum extent practicable, in-
7 cluding redacting the personally identifiable
8 health information from publicly disclosed or
9 filed pleadings or records.

10 “(4) DESTRUCTION OF RECORDS.—Any record
11 described in paragraph (1), and all copies of that
12 record, in whatever form (including electronic), shall
13 be destroyed not later than 90 days after the date
14 on which the record is produced, unless otherwise or-
15 dered by a court of competent jurisdiction, upon a
16 showing of good cause.

17 “(5) EFFECT OF VIOLATION.—Any person who
18 knowingly fails to comply with this subsection may
19 be punished as in contempt of court.

20 “(g) PERSONALLY IDENTIFIABLE HEALTH INFORMA-
21 TION DEFINED.—In this section, the term ‘personally
22 identifiable health information’ means any information, in-
23 cluding genetic information, demographic information,
24 and tissue samples collected from an individual, whether
25 oral or recorded in any form or medium, that—

1 “(1) relates to the past, present, or future phys-
2 ical or mental health or condition of an individual,
3 the provision of health care to an individual, or the
4 past, present, or future payment for the provision of
5 health care to an individual; and

6 “(2) either—

7 “(A) identifies an individual; or

8 “(B) with respect to which there is a rea-
9 sonable basis to believe that the information
10 can be used to identify an individual.”.

11 **SEC. 2233. EXTENDING ANTIFRAUD SAFEGUARDS TO THE**
12 **FEDERAL EMPLOYEE HEALTH BENEFITS**
13 **PROGRAM.**

14 Section 1128B(f)(1) of the Social Security Act (42
15 U.S.C. 1320a-7b(f)(1)) is amended by striking “(other
16 than the health insurance program under chapter 89 of
17 title 5, United States Code)”.

18 **SEC. 2234. GRAND JURY DISCLOSURE.**

19 Section 3322 of title 18, United States Code, is
20 amended—

21 (1) by redesignating subsections (c) and (d) as
22 subsections (d) and (e), respectively; and

23 (2) by inserting after subsection (b) the fol-
24 lowing:

1 “(c) GRAND JURY DISCLOSURE.—Subject to section
 2 3486(f), upon ex parte motion of an attorney for the Gov-
 3 ernment showing that a disclosure in accordance with that
 4 subsection would be of assistance to enforce any provision
 5 of Federal law, a court may direct the disclosure of any
 6 matter occurring before a grand jury during an investiga-
 7 tion of a Federal health care offense (as defined in section
 8 24(a) of this title) to an attorney for the Government to
 9 use in any investigation or civil proceeding relating to
 10 fraud or false claims in connection with a Federal health
 11 care program (as defined in section 1128B(f) of the Social
 12 Security Act (42 U.S.C. 1320a–7b(f))).”.

13 **SEC. 2235. INCREASING THE EFFECTIVENESS OF CIVIL IN-**
 14 **VESTIGATIVE DEMANDS IN FALSE CLAIMS IN-**
 15 **VESTIGATIONS.**

16 Section 3733 of title 31, United States Code, is
 17 amended—

18 (1) in subsection (a)(1), in the second sentence,
 19 by inserting “, except to the Deputy Attorney Gen-
 20 eral or to an Assistant Attorney General” before the
 21 period at the end; and

22 (2) in subsection (i)(2)(C), by adding at the end
 23 the following: “Disclosure of information to a person
 24 who brings a civil action under section 3730, or the
 25 counsel of that person, shall be allowed only upon

1 application to a United States district court showing
 2 that such disclosure would assist the Department of
 3 Justice in carrying out its statutory responsibil-
 4 ities.”.

5 **PART 4—PROTECTING RESIDENTS OF NURSING**
 6 **HOMES**

7 **SEC. 2241. NURSING HOME RESIDENT PROTECTION.**

8 (a) PROTECTION OF RESIDENTS IN NURSING HOMES
 9 AND OTHER RESIDENTIAL HEALTH CARE FACILITIES.—
 10 Chapter 63 of title 18, United States Code, is amended
 11 by adding at the end the following:

12 **“§ 1349. Pattern of violations resulting in harm to**
 13 **residents of nursing homes and related**
 14 **facilities**

15 “(a) DEFINITIONS.—In this section:

16 “(1) ENTITY.—The term ‘entity’ means—

17 “(A) any residential health care facility
 18 (including facilities that do not exclusively pro-
 19 vide residential health care services);

20 “(B) any entity that manages a residential
 21 health care facility; or

22 “(C) any entity that owns, directly or indi-
 23 rectly, a controlling interest or a 50 percent or
 24 greater interest in 1 or more residential health

1 care facilities including States, localities, and
2 political subdivisions thereof.

3 “(2) FEDERAL HEALTH CARE PROGRAM.—The
4 term ‘Federal health care program’ has the same
5 meaning given that term in section 1128B(f) of the
6 Social Security Act.

7 “(3) PATTERN OF VIOLATIONS.—The term
8 ‘pattern of violations’ means multiple violations of a
9 single Federal or State law, regulation, or rule or
10 single violations of multiple Federal or State laws,
11 regulations, or rules, that are widespread, systemic,
12 repeated, similar in nature, or result from a policy
13 or practice.

14 “(4) RESIDENTIAL HEALTH CARE FACILITY.—
15 The term ‘residential health care facility’ means any
16 facility (including any facility that does not exclu-
17 sively provide residential health care services), in-
18 cluding skilled and unskilled nursing facilities and
19 mental health and mental retardation facilities,
20 that—

21 “(A) receives Federal funds, directly from
22 the Federal Government or indirectly from a
23 third party on contract with or receiving a
24 grant or other monies from the Federal Govern-
25 ment, to provide health care; or

1 “(B) provides health care services in a res-
2 idential setting and, in any calendar year in
3 which a violation occurs, is the recipient of ben-
4 efits or payments in excess of \$10,000 from a
5 Federal health care program.

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

10 “(b) PROHIBITION AND PENALTIES.—Whoever
11 knowingly and willfully engages in a pattern of violations
12 that affects the health, safety, or care of individuals resid-
13 ing in a residential health care facility or facilities, and
14 that results in significant physical or mental harm to 1
15 or more of such residents, shall be punished as provided
16 in section 1347, except that any organization shall be
17 fined not more than \$2,000,000 per residential health care
18 facility.

19 “(c) CIVIL PROVISIONS.—

20 “(1) IN GENERAL.—The Attorney General may
21 bring an action in a district court of the United
22 States to impose on any individual or entity that en-
23 gages in a pattern of violations that affects the
24 health, safety, or care of individuals residing in a
25 residential health care facility, and that results in

1 physical or mental harm to 1 or more such resi-
2 dents—

3 “(A) a civil penalty; or

4 “(B) in the case of—

5 “(i) an individual (other than an
6 owner, operator, officer, or manager of
7 such a residential health care facility), not
8 more than \$10,000;

9 “(ii) an individual who is an owner,
10 operator, officer, or manager of such a res-
11 idential health care facility, not more than
12 \$100,000 for each separate facility in-
13 volved in the pattern of violations under
14 this section;

15 “(iii) a residential health care facility,
16 not more than \$1,000,000 for each pattern
17 of violations; or

18 “(iv) an entity, not more than
19 \$1,000,000 for each separate residential
20 health care facility involved in the pattern
21 of violations owned or managed by that en-
22 tity.

23 “(2) OTHER APPROPRIATE RELIEF.—If the At-
24 torney General has reason to believe that an indi-
25 vidual or entity is engaging in or is about to engage

1 in a pattern of violations that would affect the
2 health, safety, or care of individuals residing in a
3 residential health care facility, and that results in or
4 has the potential to result in physical or mental
5 harm to 1 or more such residents, the Attorney Gen-
6 eral may petition an appropriate district court of the
7 United States for appropriate equitable and declara-
8 tory relief to eliminate the pattern of violations.

9 “(3) PROCEDURES.—In any action under this
10 subsection—

11 “(A) a subpoena requiring the attendance
12 of a witness at a trial or hearing may be served
13 at any place in the United States;

14 “(B) the action may not be brought more
15 than 6 years after the date on which the viola-
16 tion occurred;

17 “(C) the United States shall be required to
18 prove each charge by a preponderance of the
19 evidence;

20 “(D) the civil investigative demand proce-
21 dures set forth in the Antitrust Civil Process
22 Act (15 U.S.C. 1311 et seq.) and regulations
23 promulgated pursuant to that Act shall apply to
24 any investigation; and

1 “(E) the filing or resolution of a matter
2 shall not preclude any other remedy that is
3 available to the United States or any other per-
4 son.

5 “(d) PROHIBITION AGAINST RETALIATION.—Any
6 person who is the subject of retaliation, either directly or
7 indirectly, for reporting a condition that may constitute
8 grounds for relief under this section may bring an action
9 in an appropriate district court of the United States for
10 damages, attorneys’ fees, and other relief.”.

11 (b) AUTHORIZED INVESTIGATIVE DEMAND PROCE-
12 DURES.—Section 3486(a)(1) of title 18, United States
13 Code, as amended by section 2232 of this Act, is amended
14 by inserting “, act or activity involving section 1349 of
15 this title” after “Federal health care offense”.

16 (c) CONFORMING AMENDMENT.—The analysis for
17 chapter 63 of title 18, United States Code, is amended
18 by adding at the end the following:

 “1349. Pattern of violations resulting in harm to residents of nursing homes and
 related facilities.”.

1 **PART 5—PROTECTING THE RIGHTS OF ELDERLY**

2 **CRIME VICTIMS**

3 **SEC. 2251. USE OF FORFEITED FUNDS TO PAY RESTITUTION**

4 **TO CRIME VICTIMS AND REGULATORY AGEN-**

5 **CIES.**

6 Section 981(e) of title 18, United States Code, is
7 amended—

8 (1) in each of paragraphs (3), (4), and (5), by
9 striking “in the case of property referred to in sub-
10 section (a)(1)(C)” and inserting “in the case of
11 property forfeited in connection with an offense re-
12 sulting in a pecuniary loss to a financial institution
13 or regulatory agency,”; and

14 (2) in paragraph (7), by striking “In the case
15 of property referred to in subsection (a)(1)(D)” and
16 inserting “in the case of property forfeited in con-
17 nection with an offense relating to the sale of assets
18 acquired or held by any Federal financial institution
19 or regulatory agency, or person appointed by such
20 agency, as receiver, conservator, or liquidating agent
21 for a financial institution”.

22 **SEC. 2252. VICTIM RESTITUTION.**

23 Section 413 of the Controlled Substances Act (21
24 U.S.C. 853) is amended by adding at the end the fol-
25 lowing:

26 “(r) VICTIM RESTITUTION.—

1 “(1) SATISFACTION OF ORDER OF RESTITU-
2 TION.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), a defendant may not use
5 property subject to forfeiture under this section
6 to satisfy an order of restitution.

7 “(B) EXCEPTION.—If there are 1 or more
8 identifiable victims entitled to restitution from a
9 defendant, and the defendant has no assets
10 other than the property subject to forfeiture
11 with which to pay restitution to the victim or
12 victims, the attorney for the Government may
13 move to dismiss a forfeiture allegation against
14 the defendant before entry of a judgment of
15 forfeiture in order to allow the property to be
16 used by the defendant to pay restitution in
17 whatever manner the court determines to be ap-
18 propriate if the court grants the motion. In
19 granting a motion under this subparagraph, the
20 court shall include a provision ensuring that
21 costs associated with the identification, seizure,
22 management, and disposition of the property
23 are recovered by the United States.

24 “(2) RESTORATION OF FORFEITED PROP-
25 ERTY.—

1 “(A) IN GENERAL.—If an order of for-
2 feiture is entered pursuant to this section and
3 the defendant has no assets other than the for-
4 feited property to pay restitution to 1 or more
5 identifiable victims who are entitled to restitu-
6 tion, the Government shall restore the forfeited
7 property to the victims pursuant to subsection
8 (i)(1) once the ancillary proceeding under sub-
9 section (n) has been completed and the costs
10 of the forfeiture action have been deducted.

11 “(B) DISTRIBUTION OF PROPERTY.—On a
12 motion of the attorney for the Government, the
13 court may enter any order necessary to facili-
14 tate the distribution of any property restored
15 under this paragraph.

16 “(3) VICTIM DEFINED.—In this subsection, the
17 term ‘victim’—

18 “(A) means a person other than a person
19 with a legal right, title, or interest in the for-
20 feited property sufficient to satisfy the standing
21 requirements of subsection (n)(2) who may be
22 entitled to restitution from the forfeited funds
23 pursuant to section 9.8 of part 9 of title 28,
24 Code of Federal Regulations (or any successor
25 to that regulation); and

1 “(B) includes any person who is the victim
 2 of the offense giving rise to the forfeiture, or of
 3 any offense that was part of the same scheme,
 4 conspiracy, or pattern of criminal activity, in-
 5 cluding, in the case of a money laundering of-
 6 fense, any offense constituting the underlying
 7 specified unlawful activity.”.

8 **SEC. 2253. BANKRUPTCY PROCEEDINGS NOT USED TO**
 9 **SHIELD ILLEGAL GAINS FROM FALSE**
 10 **CLAIMS.**

11 (a) CERTAIN ACTIONS NOT STAYED BY BANK-
 12 RUPTCY PROCEEDINGS.—

13 (1) IN GENERAL.—Notwithstanding any other
 14 provision of law, the commencement or continuation
 15 of an action under section 3729 of title 31, United
 16 States Code, does not operate as a stay under sec-
 17 tion 105(a) or 362(a)(1) of title 11, United States
 18 Code.

19 (2) CONFORMING AMENDMENT.—Section
 20 362(b) of title 11, United States Code, is amend-
 21 ed—

22 (A) in paragraph (17), by striking “or” at
 23 the end;

24 (B) in paragraph (18), by striking the pe-
 25 riod at the end and inserting “; or”; and

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

2 “(19) the commencement or continuation of an
3 action under section 3729 of title 31.”.

4 (b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANK-
5 RUPTCY.—Section 523 of title 11, United States Code, is
6 amended by adding at the end the following:

7 “(f) A discharge under section 727, 1141, 1228(a),
8 1228(b), or 1328(b) does not discharge a debtor from a
9 debt owed for violating section 3729 of title 31.”.

10 (c) REPAYMENT OF CERTAIN DEBTS CONSIDERED
11 FINAL.—

12 (1) IN GENERAL.—Chapter 1 of title 11, United
13 States Code, is amended by adding at the end the
14 following:

15 **“§ 111. False claims**

16 “No transfer on account of a debt owed to the United
17 States for violating section 3729 of title 31, or under a
18 compromise order or other agreement resolving such a
19 debt may be avoided under section 544, 545, 547, 548,
20 549, 553(b), or 742(a).”.

21 (2) CONFORMING AMENDMENT.—The analysis
22 for chapter 1 of title 11, United States Code, is
23 amended by adding at the end the following:

“111. False claims.”.

1 **SEC. 2254. FORFEITURE FOR RETIREMENT OFFENSES.**

2 (a) **CRIMINAL FORFEITURE.**—Section 982(a) of title
3 18, United States Code, is amended by adding at the end
4 the following:

5 “(9) **CRIMINAL FORFEITURE.**—

6 “(A) **IN GENERAL.**—The court, in imposing a
7 sentence on a person convicted of a retirement of-
8 fense, shall order the person to forfeit property, real
9 or personal, that constitutes or that is derived, di-
10 rectly or indirectly, from proceeds traceable to the
11 commission of the offense.

12 “(B) **RETIREMENT OFFENSE DEFINED.**—In
13 this paragraph, if a violation, conspiracy, or sollicita-
14 tion relates to a retirement arrangement (as defined
15 in section 1348 of title 18, United States Code), the
16 term ‘retirement offense’ means a violation of—

17 “(i) section 664, 1001, 1027, 1341, 1343,
18 1348, 1951, 1952, or 1954 of title 18, United
19 States Code; or

20 “(ii) section 411, 501, or 511 of the Em-
21 ployee Retirement Income Security Act of 1974
22 (29 U.S.C. 1111, 1131, 1141).”.

23 (b) **CIVIL FORFEITURE.**—Section 981(a)(1) of title
24 18, United States Code, is amended by adding at the end
25 the following:

1 “(H) Any property, real or personal, that con-
 2 stitutes or is derived, directly or indirectly, from pro-
 3 ceeds traceable to the commission of, criminal con-
 4 spiracy to violate, or solicitation to commit a crime
 5 of violence involving, a retirement offense (as de-
 6 fined in section 982(a)(9)(B)).”.

7 **TITLE III—DETECTING IDENTITY**
 8 **THEFT AND ASSISTING VIC-**
 9 **TIMS OF CRIME AND DOMES-**
 10 **TIC VIOLENCE**

11 **Subtitle A—Deterring Identity**
 12 **Theft**

13 **PART 1—IDENTITY THEFT VICTIMS ASSISTANCE**

14 **SEC. 3111. SHORT TITLE.**

15 This part may be cited as the “Identity Theft Victims
 16 Assistance Act of 2003”.

17 **SEC. 3112. FINDINGS.**

18 Congress finds that—

19 (1) the crime of identity theft is the fastest
 20 growing crime in the United States;

21 (2) victims of identity theft often have extraor-
 22 dinary difficulty restoring their credit and regaining
 23 control of their identity because of the viral nature
 24 of identity theft;

1 (3) identity theft may be ruinous to the good
2 name and credit of consumers whose identities are
3 misappropriated, and victims of identity theft may
4 be denied otherwise well-deserved credit, may have
5 to spend enormous time, effort, and sums of money
6 to remedy their circumstances, and may suffer ex-
7 treme emotional distress including deep depression
8 founded in profound frustration as they address the
9 array of problems that may arise as a result of iden-
10 tity theft;

11 (4) victims are often required to contact numer-
12 ous Federal, State, and local law enforcement agen-
13 cies, consumer credit reporting agencies, and credi-
14 tors over many years, as each event of fraud arises;

15 (5) the Government, business entities, and cred-
16 it reporting agencies have a shared responsibility to
17 assist identity theft victims, to mitigate the harm
18 that results from fraud perpetrated in the victim's
19 name;

20 (6) victims of identity theft need a nationally
21 standardized means of—

22 (A) reporting identity theft to consumer
23 credit reporting agencies and business entities;
24 and

1 (B) evidencing their true identity and
2 claim of identity theft to consumer credit re-
3 porting agencies and business entities;

4 (7) one of the greatest law enforcement chal-
5 lenges posed by identity theft is that stolen identities
6 are often used to perpetrate crimes in many dif-
7 ferent localities in different States, and although
8 identity theft is a Federal crime, most often, State
9 and local law enforcement agencies are responsible
10 for investigating and prosecuting the crimes; and

11 (8) the Federal Government should assist State
12 and local law enforcement agencies to effectively
13 combat identity theft and the associated fraud.

14 **SEC. 3113. TREATMENT OF IDENTITY THEFT MITIGATION.**

15 (a) IN GENERAL.—Chapter 47 title 18, United States
16 Code, is amended by adding after section 1028 the fol-
17 lowing:

18 **“§ 1028A. Treatment of identity theft mitigation**

19 “(a) DEFINITIONS.—As used in this section—

20 “(1) the term ‘business entity’ means any cor-
21 poration, trust, partnership, sole proprietorship, or
22 unincorporated association, including any financial
23 service provider, financial information repository,
24 creditor (as that term is defined in section 103 of

1 the Truth in Lending Act (15 U.S.C. 1602)), tele-
2 communications, utilities, or other service provider;

3 “(2) the term ‘consumer’ means an individual;

4 “(3) the term ‘financial information’ means in-
5 formation identifiable as relating to an individual
6 consumer that concerns the amount and conditions
7 of the assets, liabilities, or credit of the consumer,
8 including—

9 “(A) account numbers and balances;

10 “(B) nonpublic personal information, as
11 that term is defined in section 509 of the
12 Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

13 “(C) codes, passwords, social security
14 numbers, tax identification numbers, State
15 identifier numbers issued by a State depart-
16 ment of licensing, and other information used
17 for the purpose of account access or transaction
18 initiation;

19 “(4) the term ‘financial information repository’
20 means a person engaged in the business of providing
21 services to consumers who have a credit, deposit,
22 trust, stock, or other financial services account or
23 relationship with that person;

1 “(5) the term ‘identity theft’ means an actual
2 or potential violation of section 1028 or any other
3 similar provision of Federal or State law;

4 “(6) the term ‘means of identification’ has the
5 same meaning given the term in section 1028; and

6 “(7) the term ‘victim’ means a consumer whose
7 means of identification or financial information has
8 been used or transferred (or has been alleged to
9 have been used or transferred) without the authority
10 of that consumer with the intent to commit, or to
11 aid or abet, identity theft or any other violation of
12 law.

13 “(b) INFORMATION AVAILABLE TO VICTIMS.—

14 “(1) IN GENERAL.—A business entity that pos-
15 sesses information relating to an alleged identity
16 theft, or that has entered into a transaction, pro-
17 vided credit, products, goods, or services, accepted
18 payment, or otherwise done business with a person
19 that has made unauthorized use of the means of
20 identification of the victim, shall, not later than 20
21 days after the receipt of a written request by the vic-
22 tim, meeting the requirements of subsection (c), pro-
23 vide, without charge, a copy of all application and
24 transaction information related to the transaction
25 being alleged as an identity theft to—

1 “(A) the victim;

2 “(B) any Federal, State, or local governing
3 law enforcement agency or officer specified by
4 the victim; or

5 “(C) any law enforcement agency inves-
6 tigating the identity theft and authorized by the
7 victim to take receipt of records provided under
8 this section.

9 “(2) RULE OF CONSTRUCTION.—

10 “(A) IN GENERAL.—No provision of Fed-
11 eral or State law prohibiting the disclosure of
12 financial information by a business entity to
13 third parties shall be used to deny disclosure of
14 information to the victim under this section.

15 “(B) LIMITATION.—Except as provided in
16 subparagraph (A), nothing in this section re-
17 quires a business entity to disclose information
18 that the business entity is otherwise prohibited
19 from disclosing under any other provision of
20 Federal or State law.

21 “(c) VERIFICATION OF IDENTITY AND CLAIM.—Un-
22 less a business entity, at its discretion, is otherwise able
23 to verify the identity of a victim making a request under
24 subsection (b)(1), the victim shall provide to the business
25 entity—

1 “(1) as proof of positive identification—

2 “(A) the presentation of a government-
3 issued identification card;

4 “(B) if providing proof by mail, a copy of
5 a government-issued identification card; or

6 “(C) upon the request of the person seek-
7 ing business records, the business entity may
8 inform the requesting person of the categories
9 of identifying information that the unauthorized
10 person provided the business entity as person-
11 ally identifying information, and may require
12 the requesting person to provide identifying in-
13 formation in those categories; and

14 “(2) as proof of a claim of identity theft, at the
15 election of the business entity—

16 “(A) a copy of a police report evidencing
17 the claim of the victim of identity theft;

18 “(B) a copy of a standardized affidavit of
19 identity theft developed and made available by
20 the Federal Trade Commission; or

21 “(C) any affidavit of fact that is acceptable
22 to the business entity for that purpose.

23 “(d) LIMITATION ON LIABILITY.—No business entity
24 may be held liable for a disclosure, made in good faith
25 and reasonable judgment, to provide information under

1 this section with respect to an individual in connection
2 with an identity theft to other business entities, law en-
3 forcement authorities, victims, or any person alleging to
4 be a victim, if—

5 “(1) the business entity complies with sub-
6 section (c); and

7 “(2) such disclosure was made—

8 “(A) for the purpose of detection, inves-
9 tigation, or prosecution of identity theft; or

10 “(B) to assist a victim in recovery of fines,
11 restitution, rehabilitation of the credit of the
12 victim, or such other relief as may be appro-
13 priate.

14 “(e) **AUTHORITY TO DECLINE TO PROVIDE INFOR-**
15 **MATION.**—A business entity may decline to provide infor-
16 mation under subsection (b) if, in the exercise of good
17 faith and reasonable judgment, the business entity believes
18 that—

19 “(1) this section does not require disclosure of
20 the information; or

21 “(2) the request for the information is based on
22 a misrepresentation of fact by the victim relevant to
23 the request for information.

24 “(f) **NO NEW RECORDKEEPING OBLIGATION.**—Noth-
25 ing in this section creates an obligation on the part of a

1 business entity to obtain, retain, or maintain information
2 or records that are not otherwise required to be obtained,
3 retained, or maintained in the ordinary course of its busi-
4 ness or under other applicable law.

5 “(g) AFFIRMATIVE DEFENSE.—In any civil action
6 brought to enforce this section, it is an affirmative defense
7 (which the defendant must establish by a preponderance
8 of the evidence) for a business entity to file an affidavit
9 or answer stating that—

10 “(1) the business entity has made a reasonably
11 diligent search of its available business records; and

12 “(2) the records requested under this section do
13 not exist or are not available.

14 “(h) NO PRIVATE RIGHT OF ACTION.—Nothing in
15 this section shall be construed to provide a private right
16 of action or claim for relief.

17 “(i) ENFORCEMENT.—

18 “(1) CIVIL ACTIONS.—

19 “(A) IN GENERAL.—In any case in which
20 the attorney general of a State has reason to
21 believe that an interest of the residents of that
22 State has been, or is threatened to be, adversely
23 affected by a violation of this section by any
24 business entity, the State, as *parens patriae*,
25 may bring a civil action on behalf of the resi-

1 dents of the State in a district court of the
2 United States of appropriate jurisdiction to—

3 “(i) enjoin that practice;

4 “(ii) enforce compliance of this sec-
5 tion;

6 “(iii) obtain damages—

7 “(I) in the sum of actual dam-
8 ages, restitution, and other compensa-
9 tion on behalf of the residents of the
10 State; and

11 “(II) punitive damages, if the
12 violation is willful or intentional; and

13 “(iv) obtain such other equitable relief
14 as the court may consider to be appro-
15 priate.

16 “(B) NOTICE.—Before bringing an action
17 under subparagraph (A), the attorney general
18 of the State involved shall provide to the Attor-
19 ney General of the United States—

20 “(i) written notice of the action; and

21 “(ii) a copy of the complaint for the
22 action.

23 “(2) INTERVENTION.—

24 “(A) IN GENERAL.—On receiving notice of
25 an action under paragraph (1)(B), the Attorney

1 General of the United States shall have the
2 right to intervene in that action.

3 “(B) EFFECT OF INTERVENTION.—If the
4 Attorney General of the United States inter-
5 venes in an action under this subsection, the
6 Attorney General shall have the right to be
7 heard with respect to any matter that arises in
8 that action.

9 “(C) SERVICE OF PROCESS.—Upon request
10 of the Attorney General of the United States,
11 the attorney general of a State that has filed an
12 action under this subsection shall, pursuant to
13 Rule 4(d)(4) of the Federal Rules of Civil Pro-
14 cedure, serve the Government with—

15 “(i) a copy of the complaint; and

16 “(ii) written disclosure of substan-
17 tially all material evidence and information
18 in the possession of the attorney general of
19 the State.

20 “(3) CONSTRUCTION.—For purposes of bring-
21 ing any civil action under this subsection, nothing in
22 this section shall be construed to prevent an attor-
23 ney general of a State from exercising the powers
24 conferred on such attorney general by the laws of
25 that State—

1 “(A) to conduct investigations;

2 “(B) to administer oaths or affirmations;

3 or

4 “(C) to compel the attendance of witnesses
5 or the production of documentary and other evi-
6 dence.

7 “(4) ACTIONS BY THE ATTORNEY GENERAL OF
8 THE UNITED STATES.—In any case in which an ac-
9 tion is instituted by or on behalf of the Attorney
10 General of the United States for a violation of this
11 section, no State may, during the pendency of that
12 action, institute an action under this subsection
13 against any defendant named in the complaint in
14 that action for violation of that practice.

15 “(5) VENUE; SERVICE OF PROCESS.—

16 “(A) VENUE.—Any action brought under
17 this subsection may be brought in the district
18 court of the United States—

19 “(i) where the defendant resides;

20 “(ii) where the defendant is doing
21 business; or

22 “(iii) that meets applicable require-
23 ments relating to venue under section 1391
24 of title 28.

1 “(B) SERVICE OF PROCESS.—In an action
2 brought under this subsection, process may be
3 served in any district in which the defendant—

4 “(i) resides;

5 “(ii) is doing business; or

6 “(iii) may be found.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 47 of title 18, United States
9 Code, is amended by inserting after the item relating to
10 section 1028 the following new item:

 “1028A. Treatment of identity theft mitigation.”.

11 **SEC. 3114. AMENDMENTS TO THE FAIR CREDIT REPORTING**

12 **ACT.**

13 (a) CONSUMER REPORTING AGENCY BLOCKING OF
14 INFORMATION RESULTING FROM IDENTITY THEFT.—
15 Section 611 of the Fair Credit Reporting Act (15 U.S.C.
16 1681i) is amended by adding at the end the following:

17 “(e) BLOCK OF INFORMATION RESULTING FROM
18 IDENTITY THEFT.—

19 “(1) BLOCK.—Except as provided in paragraph
20 (3) and not later than 30 days after the date of re-
21 ceipt of proof of the identity of a consumer and an
22 official copy of a police report evidencing the claim
23 of the consumer of identity theft, a consumer report-
24 ing agency shall block the reporting of any informa-
25 tion identified by the consumer in the file of the con-

1 consumer resulting from the identity theft, so that the
2 information cannot be reported.

3 “(2) NOTIFICATION.—A consumer reporting
4 agency shall promptly notify the furnisher of infor-
5 mation identified by the consumer under paragraph
6 (1)—

7 “(A) that the information may be a result
8 of identity theft;

9 “(B) that a police report has been filed;

10 “(C) that a block has been requested under
11 this subsection; and

12 “(D) of the effective date of the block.

13 “(3) AUTHORITY TO DECLINE OR RESCIND.—

14 “(A) IN GENERAL.—A consumer reporting
15 agency may decline to block, or may rescind
16 any block, of consumer information under this
17 subsection if—

18 “(i) in the exercise of good faith and
19 reasonable judgment, the consumer report-
20 ing agency finds that—

21 “(I) the information was blocked
22 due to a misrepresentation of fact by
23 the consumer relevant to the request
24 to block; or

1 “(II) the consumer knowingly ob-
2 tained possession of goods, services, or
3 moneys as a result of the blocked
4 transaction or transactions, or the
5 consumer should have known that the
6 consumer obtained possession of
7 goods, services, or moneys as a result
8 of the blocked transaction or trans-
9 actions; or

10 “(ii) the consumer agrees that the
11 blocked information or portions of the
12 blocked information were blocked in error.

13 “(B) NOTIFICATION TO CONSUMER.—If
14 the block of information is declined or rescinded
15 under this paragraph, the affected consumer
16 shall be notified promptly, in the same manner
17 as consumers are notified of the reinsertion of
18 information under subsection (a)(5)(B).

19 “(C) SIGNIFICANCE OF BLOCK.—For pur-
20 poses of this paragraph, if a consumer report-
21 ing agency rescinds a block, the presence of in-
22 formation in the file of a consumer prior to the
23 blocking of such information is not evidence of
24 whether the consumer knew or should have
25 known that the consumer obtained possession of

1 any goods, services, or monies as a result of the
2 block.

3 “(4) EXCEPTIONS.—

4 “(A) NEGATIVE INFORMATION DATA.—A
5 consumer reporting agency shall not be required
6 to comply with this subsection when such agen-
7 cy is issuing information for authorizations, for
8 the purpose of approving or processing nego-
9 tiable instruments, electronic funds transfers,
10 or similar methods of payment, based solely on
11 negative information, including—

12 “(i) dishonored checks;

13 “(ii) accounts closed for cause;

14 “(iii) substantial overdrafts;

15 “(iv) abuse of automated teller ma-
16 chines; or

17 “(v) other information which indicates
18 a risk of fraud occurring.

19 “(B) RESELLERS.—

20 “(i) NO RESELLER FILE.—The provi-
21 sions of this subsection do not apply to a
22 consumer reporting agency if the consumer
23 reporting agency—

1 “(I) does not maintain a file on
2 the consumer from which consumer
3 reports are produced;

4 “(II) is not, at the time of the re-
5 quest of the consumer under para-
6 graph (1), otherwise furnishing or re-
7 selling a consumer report concerning
8 the information identified by the con-
9 sumer; and

10 “(III) informs the consumer, by
11 any means, that the consumer may re-
12 port the identity theft to the Federal
13 Trade Commission to obtain consumer
14 information regarding identity theft.

15 “(ii) RESELLER WITH FILE.—The
16 sole obligation of the consumer reporting
17 agency under this subsection, with regard
18 to any request of a consumer under this
19 subsection, shall be to block the consumer
20 report maintained by the consumer report-
21 ing agency from any subsequent use if—

22 “(I) the consumer, in accordance
23 with the provisions of paragraph (1),
24 identifies, to a consumer reporting
25 agency, information in the file of the

1 consumer that resulted from identity
2 theft;

3 “(II) the consumer reporting
4 agency is acting as a reseller of the
5 identified information by assembling
6 or merging information about that
7 consumer which is contained in the
8 database of not less than 1 other con-
9 sumer reporting agency; and

10 “(III) the consumer reporting
11 agency does not store or maintain a
12 database of information obtained for
13 resale from which new consumer re-
14 ports are produced.

15 “(iii) NOTICE.—In carrying out its
16 obligation under clause (ii), the consumer
17 reporting agency shall provide a notice to
18 the consumer of the decision to block the
19 file. Such notice shall contain the name,
20 address, and telephone number of each
21 consumer reporting agency from which the
22 consumer information was obtained for re-
23 sale.”.

1 (b) FALSE CLAIMS.—Section 1028 of title 18, United
2 States Code, is amended by adding at the end the fol-
3 lowing:

4 “(j) Any person who knowingly falsely claims to be
5 a victim of identity theft for the purpose of obtaining the
6 blocking of information by a consumer reporting agency
7 under section 611(e)(1) of the Fair Credit Reporting Act
8 (15 U.S.C. 1681i(e)(1)) shall be fined under this title, im-
9 prisoned not more than 3 years, or both.”.

10 (c) STATUTE OF LIMITATIONS.—Section 618 of the
11 Fair Credit Reporting Act (15 U.S.C. 1681p) is amended
12 to read as follows:

13 **“SEC. 618. JURISDICTION OF COURTS; LIMITATION ON AC-**
14 **TIONS.**

15 “(a) IN GENERAL.—Except as provided in sub-
16 sections (b) and (c), an action to enforce any liability cre-
17 ated under this title may be brought in any appropriate
18 United States district court without regard to the amount
19 in controversy, or in any other court of competent jurisdic-
20 tion, not later than 2 years from the date of the defend-
21 ant’s violation of any requirement under this title.

22 “(b) WILLFUL MISREPRESENTATION.—In any case
23 in which the defendant has materially and willfully mis-
24 represented any information required to be disclosed to an
25 individual under this title, and the information misrepre-

1 sented is material to the establishment of the liability of
 2 the defendant to that individual under this title, an action
 3 to enforce a liability created under this title may be
 4 brought at any time within 2 years after the date of dis-
 5 covery by the individual of the misrepresentation.

6 “(c) IDENTITY THEFT.—An action to enforce a liabil-
 7 ity created under this title may be brought not later than
 8 4 years from the date of the defendant’s violation if—

9 “(1) the plaintiff is the victim of an identity
 10 theft; or

11 “(2) the plaintiff—

12 “(A) has reasonable grounds to believe
 13 that the plaintiff is the victim of an identity
 14 theft; and

15 “(B) has not materially and willfully mis-
 16 represented such a claim.”.

17 **SEC. 3115. COORDINATING COMMITTEE STUDY OF COORDI-**
 18 **NATION AMONG FEDERAL, STATE, AND**
 19 **LOCAL AUTHORITIES IN ENFORCING IDEN-**
 20 **TITY THEFT LAWS.**

21 (a) MEMBERSHIP; TERM.—Section 2 of the Internet
 22 False Identification Prevention Act of 2000 (18 U.S.C.
 23 1028 note) is amended—

24 (1) in subsection (b), by striking “and the Com-
 25 missioner of Immigration and Naturalization” and

1 inserting “the Commissioner of Immigration and
2 Naturalization, the Chairman of the Federal Trade
3 Commission, the Postmaster General, and the Com-
4 missioner of the United States Customs Service,”;
5 and

6 (2) in subsection (c), by striking “2 years after
7 the effective date of this Act.” and inserting “on De-
8 cember 28, 2004.”.

9 (b) CONSULTATION.—Section 2 of the Internet False
10 Identification Prevention Act of 2000 (18 U.S.C. 1028
11 note) is amended—

12 (1) by redesignating subsection (d) as sub-
13 section (e); and

14 (2) by inserting after subsection (c) the fol-
15 lowing:

16 “(d) CONSULTATION.—In discharging its duties, the
17 coordinating committee shall consult with interested par-
18 ties, including State and local law enforcement agencies,
19 State attorneys general, representatives of business enti-
20 ties, including telecommunications and utility companies,
21 and organizations representing consumers.”.

22 (c) REPORT DISTRIBUTION AND CONTENTS.—Sec-
23 tion 2(e) of the Internet False Identification Prevention
24 Act of 2000 (18 U.S.C. 1028 note) (as redesignated by
25 subsection (b)) is amended—

1 (1) by striking paragraph (1) and inserting the
2 following:

3 “(1) IN GENERAL.—The Attorney General and
4 the Secretary of the Treasury, at the end of each
5 year of the existence of the coordinating committee,
6 shall report on the activities of the coordinating
7 committee to—

8 “(A) the Committee on the Judiciary of
9 the Senate;

10 “(B) the Committee on the Judiciary of
11 the House of Representatives;

12 “(C) the Committee on Banking, Housing,
13 and Urban Affairs of the Senate; and

14 “(D) the Committee on Financial Services
15 of the House of Representatives.”;

16 (2) in subparagraph (E), by striking “and” at
17 the end; and

18 (3) by striking subparagraph (F) and inserting
19 the following:

20 “(F) a comprehensive description of Fed-
21 eral assistance provided to State and local law
22 enforcement agencies to address identity theft;

23 “(G) a comprehensive description of co-
24 ordination activities between Federal, State,

1 and local law enforcement agencies that address
 2 identity theft; and

3 “(H) recommendations in the discretion of
 4 the President, if any, for legislative or adminis-
 5 trative changes that would—

6 “(i) facilitate more effective investiga-
 7 tion and prosecution of cases involving—

8 “(I) identity theft; and

9 “(II) the creation and distribu-
 10 tion of false identification documents;

11 “(ii) improve the effectiveness of Fed-
 12 eral assistance to State and local law en-
 13 forcement agencies and coordination be-
 14 tween Federal, State, and local law en-
 15 forcement agencies; and

16 “(iii) simplify efforts by a person nec-
 17 essary to rectify the harm that results
 18 from the theft of the identity of such per-
 19 son.”.

20 **PART 2—IDENTITY THEFT PREVENTION**

21 **SEC. 3121. SHORT TITLE.**

22 This part may be cited as the “Identity Theft Preven-
 23 tion Act of 2003”.

24 **SEC. 3122. FINDINGS.**

25 Congress finds that—

1 (1) the crime of identity theft has become one
2 of the major law enforcement challenges of the new
3 economy, as vast quantities of sensitive, personal in-
4 formation are now vulnerable to criminal intercep-
5 tion and misuse;

6 (2) in November 2002, Americans were alerted
7 to the dangers of identity theft when Federal pros-
8 ecutors announced that 3 individuals had allegedly
9 sold the credit and personal information of 30,000
10 people, the largest single identity theft case in
11 United States history;

12 (3) hundreds of thousands of Americans are
13 victims of identity theft each year, resulting in an
14 annual cost to industry of more than
15 \$3,500,000,000.

16 (4) several indicators reveal that despite in-
17 creased public awareness of the crime, the number
18 of incidents of identity theft continues to rise;

19 (5) in December 2001, the Federal Trade Com-
20 mission received an average of more than 3,000
21 identity theft calls per week, a 700 percent increase
22 since the Identity Theft Data Clearinghouse began
23 operation in November 1999;

1 (6) allegations of social security number fraud
2 increased by 500 percent between 1998 and 2001,
3 from 11,000 to 65,000;

4 (7) a national credit reporting agency reported
5 that consumer requests for fraud alerts increased by
6 53 percent during fiscal year 2001;

7 (8) identity theft violates the privacy of Amer-
8 ican citizens and ruins their good names;

9 (9) victims of identity theft may suffer re-
10 stricted access to credit and diminished employment
11 opportunities, and may spend years repairing the
12 damage to credit histories caused by identity theft;

13 (10) businesses and government agencies that
14 handle sensitive personal information of consumers
15 have a responsibility to protect this information from
16 identity thieves; and

17 (11) the private sector can better protect con-
18 sumers by implementing effective fraud alerts, af-
19 fording greater consumer access to credit reports,
20 truncating of credit card numbers, and establishing
21 other prevention measures.

22 **SEC. 3123. IDENTITY THEFT PREVENTION.**

23 (a) CHANGES OF ADDRESS.—

1 (1) DUTY OF ISSUERS OF CREDIT.—Section
2 132 of the Truth in Lending Act (15 U.S.C. 1642)
3 is amended—

4 (A) by inserting “(a) IN GENERAL.—” be-
5 fore “No credit”; and

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

7 “(b) CONFIRMATION OF CHANGES OF ADDRESS.—If
8 a card issuer receives a request for an additional credit
9 card with respect to an existing credit account not later
10 than 30 days after receiving notification of a change of
11 address for that account, the card issuer shall—

12 “(1) not later than 5 days after sending the ad-
13 ditional card to the new address, notify the card-
14 holder of the request at both the new address and
15 the former address; and

16 “(2) provide to the cardholder a means of
17 promptly reporting incorrect changes.”.

18 (2) ENFORCEMENT.—

19 (A) FEDERAL TRADE COMMISSION.—Ex-
20 cept as provided in subparagraph (B), compli-
21 ance with section 132(b) of the Truth in Lend-
22 ing Act (as added by this subsection) shall be
23 enforced by the Federal Trade Commission in
24 the same manner and with the same power and
25 authority as the Commission has under the

1 Fair Debt Collection Practices Act to enforce
2 compliance with that Act.

3 (B) OTHER AGENCIES IN CERTAIN
4 CASES.—

5 (i) IN GENERAL.—Compliance with
6 section 132(b) of the Truth in Lending Act
7 shall be enforced under—

8 (I) section 8 of the Federal De-
9 posit Insurance Act, in the case of a
10 card issuer that is—

11 (aa) a national bank or a
12 Federal branch or Federal agen-
13 cy of a foreign bank, by the Of-
14 fice of the Comptroller of the
15 Currency;

16 (bb) a member bank of the
17 Federal Reserve System (other
18 than a national bank), a branch
19 or agency of a foreign bank
20 (other than a Federal branch,
21 Federal agency, or insured State
22 branch of a foreign bank), a com-
23 mercial lending company owned
24 or controlled by a foreign bank,
25 or an organization operating

1 under section 25 or 25A of the
2 Federal Reserve Act, by the
3 Board of Governors of the Fed-
4 eral Reserve System;

5 (cc) a bank insured by the
6 Federal Deposit Insurance Cor-
7 poration (other than a member of
8 the Federal Reserve System or a
9 national nonmember bank) or an
10 insured State branch of a foreign
11 bank, by the Board of Directors
12 of the Federal Deposit Insurance
13 Corporation; and

14 (dd) a savings association,
15 the deposits of which are insured
16 by the Federal Deposit Insurance
17 Corporation, by the Director of
18 the Office of Thrift Supervision;
19 and

20 (II) the Federal Credit Union
21 Act, by the Administrator of the Na-
22 tional Credit Union Administration in
23 the case of a card issuer that is a
24 Federal credit union, as defined in
25 that Act.

1 (C) VIOLATIONS TREATED AS VIOLATIONS
2 OF OTHER LAWS.—

3 (i) IN GENERAL.—For the purpose of
4 the exercise by any agency referred to in
5 this paragraph of its powers under any Act
6 referred to in this paragraph, a violation of
7 section 132(b) of the Truth in Lending Act
8 (as added by this subsection) shall be
9 deemed to be a violation of a requirement
10 imposed under that Act.

11 (ii) AGENCY AUTHORITY.—In addition
12 to its powers under any provision of law
13 specifically referred to in subparagraph (A)
14 or (B), each of the agencies referred to in
15 those subparagraphs may exercise, for the
16 purpose of enforcing compliance with sec-
17 tion 132(b) of the Truth in Lending Act,
18 any other authority conferred on such
19 agency by law.

20 (b) FRAUD ALERTS.—Section 605 of the Fair Credit
21 Reporting Act (15 U.S.C. 1681e) is amended by adding
22 at the end the following:

23 “(g) FRAUD ALERTS.—

24 “(1) DEFINED TERM.—In this subsection, the
25 term ‘fraud alert’ means a statement in the file of

1 a consumer that notifies all prospective users of a
2 consumer report made with respect to that consumer
3 that—

4 “(A) the consumer’s identity may have
5 been used, without the consumer’s consent, to
6 fraudulently obtain goods or services in the con-
7 sumer’s name; and

8 “(B) the consumer does not authorize the
9 issuance or extension of credit in the name of
10 the consumer unless the issuer of such credit—

11 “(i) obtains express preauthorization
12 from the consumer at a telephone number
13 designated by the consumer; or

14 “(ii) utilizes another reasonable means
15 of communications to obtain the express
16 preauthorization of the consumer.

17 “(2) INCLUSION OF FRAUD ALERT IN CON-
18 SUMER FILE.—Upon the request of a consumer and
19 upon receiving proper identification, a consumer re-
20 porting agency shall include a fraud alert in the file
21 of that consumer.

22 “(3) NOTICE SENT BY CONSUMER REPORTING
23 AGENCIES.—A consumer reporting agency shall no-
24 tify each person procuring consumer credit informa-
25 tion with respect to a consumer of the existence of

1 a fraud alert in the file of that consumer, regardless
2 of whether a full credit report, credit score, or sum-
3 mary report is requested.

4 “(4) PROCEDURES TO RECEIVE FRAUD
5 ALERTS.—Any person who uses a consumer credit
6 report in connection with a credit transaction shall
7 establish reasonable procedures to receive fraud
8 alerts transmitted by consumer reporting agencies.

9 “(5) VIOLATIONS.—

10 “(A) CONSUMER REPORTING AGENCY.—
11 Any consumer reporting agency that fails to no-
12 tify any user of a consumer credit report of the
13 existence of a fraud alert in that report shall be
14 in violation of this section.

15 “(B) USER OF A CONSUMER REPORT.—
16 Any user of a consumer report that fails to
17 comply with preauthorization procedures con-
18 tained in a fraud alert and issues or extends
19 credit in the name of the consumer to a person
20 other than the consumer shall be in violation of
21 this section.

22 “(6) EXCEPTIONS.—

23 “(A) RESELLERS.—

24 “(i) IN GENERAL.—The provisions of
25 this subsection do not apply to a consumer

1 reporting agency that acts as a reseller of
2 information by assembling and merging in-
3 formation contained in the database of an-
4 other consumer reporting agency or mul-
5 tiple consumer reporting agencies, and
6 does not maintain a permanent database of
7 the assembled or merged information from
8 which new consumer reports are produced.

9 “(ii) LIMITATION.—A reseller of as-
10 sembled or merged information shall pre-
11 serve any fraud alert placed on a consumer
12 report by another consumer reporting
13 agency.

14 “(B) EXEMPT INSTITUTIONS.—The re-
15 quirement under this subsection to place a
16 fraud alert in a consumer file shall not apply
17 to—

18 “(i) a check services company, which
19 issues authorizations for the purpose of ap-
20 proving or processing negotiable instru-
21 ments, electronic funds transfers, or simi-
22 lar methods of payments; or

23 “(ii) a demand deposit account infor-
24 mation service company, which issues re-
25 ports regarding account closures due to

1 fraud, substantial overdrafts, ATM abuse,
2 or similar negative information regarding a
3 consumer, to inquiring banks or other fi-
4 nancial institutions for use only in review-
5 ing a consumer request for a demand de-
6 posit account at the inquiring bank or fi-
7 nancial institution.”.

8 **SEC. 3124. TRUNCATION OF CREDIT CARD ACCOUNT NUM-**
9 **BERS.**

10 (a) IN GENERAL.—Except as provided in this section,
11 no person, firm, partnership, association, corporation, or
12 limited liability company that accepts credit cards for the
13 transaction of business shall print more than the last 5
14 digits of the credit card account number or the expiration
15 date upon any receipt provided to the cardholder.

16 (b) LIMITATION.—This section—

17 (1) applies only to receipts that are electroni-
18 cally printed; and

19 (2) does not apply to transactions in which the
20 sole means of recording the cardholder’s credit card
21 account number is by handwriting or by an imprint
22 or copy of the credit card.

23 (c) EFFECTIVE DATE.—This section shall take ef-
24 fect—

1 (1) on the date that is 4 years after the date
2 of enactment of this Act, with respect to any cash
3 register or other machine or device that electroni-
4 cally prints receipts for credit card transactions that
5 is in use prior to the date of enactment of this Act;
6 and

7 (2) on the date that is 18 months after the date
8 of enactment of this Act, with respect to any cash
9 register or other machine or device that electroni-
10 cally prints receipts for credit card transactions that
11 is first put into use on or after the date of enact-
12 ment of this Act.

13 (d) EFFECT ON STATE LAW.—Nothing in this sec-
14 tion prevents a State from imposing requirements that are
15 the same or substantially similar to the requirements of
16 this section at any time before the effective date of this
17 section.

18 **SEC. 3125. FREE ANNUAL CREDIT REPORT.**

19 Section 612(c) of the Fair Credit Reporting Act (15
20 U.S.C. 1681j(e)) is amended to read as follows:

21 “(c) FREE ANNUAL DISCLOSURE.—Upon the request
22 of the consumer and without charge to the consumer, a
23 consumer reporting agency shall make all the disclosures
24 listed under section 609 once during any 12-month pe-
25 riod.”.

1 **PART 3—SOCIAL SECURITY NUMBER MISUSE**

2 **PREVENTION**

3 **SEC. 3131. SHORT TITLE.**

4 This part may be cited as the “Social Security Num-
5 ber Misuse Prevention Act of 2003”.

6 **SEC. 3132. FINDINGS.**

7 Congress makes the following findings:

8 (1) The inappropriate display, sale, or purchase
9 of social security numbers has contributed to a
10 growing range of illegal activities, including fraud,
11 identity theft, and, in some cases, stalking and other
12 violent crimes.

13 (2) While financial institutions, health care pro-
14 viders, and other entities have often used social se-
15 curity numbers to confirm the identity of an indi-
16 vidual, the general display to the public, sale, or pur-
17 chase of these numbers has been used to commit
18 crimes, and also can result in serious invasions of in-
19 dividual privacy.

20 (3) The Federal Government requires virtually
21 every individual in the United States to obtain and
22 maintain a social security number in order to pay
23 taxes, to qualify for social security benefits, or to
24 seek employment. An unintended consequence of
25 these requirements is that social security numbers
26 have become one of the tools that can be used to fa-

1 cilitate crime, fraud, and invasions of the privacy of
2 the individuals to whom the numbers are assigned.
3 Because the Federal Government created and main-
4 tains this system, and because the Federal Govern-
5 ment does not permit individuals to exempt them-
6 selves from those requirements, it is appropriate for
7 the Federal Government to take steps to stem the
8 abuse of social security numbers.

9 (4) The display, sale, or purchase of social secu-
10 rity numbers in no way facilitates uninhibited, ro-
11 bust, and wide-open public debate, and restrictions
12 on such display, sale, or purchase would not affect
13 public debate.

14 (5) No one should seek to profit from the dis-
15 play, sale, or purchase of social security numbers in
16 circumstances that create a substantial risk of phys-
17 ical, emotional, or financial harm to the individuals
18 to whom those numbers are assigned.

19 (6) Consequently, this part provides each indi-
20 vidual that has been assigned a social security num-
21 ber some degree of protection from the display, sale,
22 and purchase of that number in any circumstance
23 that might facilitate unlawful conduct.

1 **SEC. 3133. PROHIBITION OF THE DISPLAY, SALE, OR PUR-**
2 **CHASE OF SOCIAL SECURITY NUMBERS.**

3 (a) PROHIBITION.—

4 (1) IN GENERAL.—Chapter 47 of title 18,
5 United States Code, is amended by inserting after
6 section 1028 the following:

7 **“§ 1028A. Prohibition of the display, sale, or purchase**
8 **of social security numbers**

9 “(a) DEFINITIONS.—In this section:

10 “(1) DISPLAY.—The term ‘display’ means to in-
11 tentiously communicate or otherwise make available
12 (on the Internet or in any other manner) to the gen-
13 eral public an individual’s social security number.

14 “(2) PERSON.—The term ‘person’ means any
15 individual, partnership, corporation, trust, estate, co-
16 operative, association, or any other entity.

17 “(3) PURCHASE.—The term ‘purchase’ means
18 providing directly or indirectly, anything of value in
19 exchange for a social security number.

20 “(4) SALE.—The term ‘sale’ means obtaining,
21 directly or indirectly, anything of value in exchange
22 for a social security number.

23 “(5) STATE.—The term ‘State’ means any
24 State of the United States, the District of Columbia,
25 Puerto Rico, the Northern Mariana Islands, the
26 United States Virgin Islands, Guam, American

1 Samoa, and any territory or possession of the
2 United States.

3 “(b) LIMITATION ON DISPLAY.—Except as provided
4 in section 1028B, no person may display any individual’s
5 social security number to the general public without the
6 affirmatively expressed consent of the individual.

7 “(c) LIMITATION ON SALE OR PURCHASE.—Except
8 as otherwise provided in this section, no person may sell
9 or purchase any individual’s social security number with-
10 out the affirmatively expressed consent of the individual.

11 “(d) PREREQUISITES FOR CONSENT.—In order for
12 consent to exist under subsection (b) or (c), the person
13 displaying or seeking to display, selling or attempting to
14 sell, or purchasing or attempting to purchase, an individ-
15 ual’s social security number shall—

16 “(1) inform the individual of the general pur-
17 pose for which the number will be used, the types of
18 persons to whom the number may be available, and
19 the scope of transactions permitted by the consent;
20 and

21 “(2) obtain the affirmatively expressed consent
22 (electronically or in writing) of the individual.

23 “(e) EXCEPTIONS.—Nothing in this section shall be
24 construed to prohibit or limit the display, sale, or purchase
25 of a social security number—

1 “(1) required, authorized, or excepted under
2 any Federal law;

3 “(2) for a public health purpose, including the
4 protection of the health or safety of an individual in
5 an emergency situation;

6 “(3) for a national security purpose;

7 “(4) for a law enforcement purpose, including
8 the investigation of fraud and the enforcement of a
9 child support obligation;

10 “(5) if the display, sale, or purchase of the
11 number is for a use occurring as a result of an inter-
12 action between businesses, governments, or business
13 and government (regardless of which entity initiates
14 the interaction), including, but not limited to—

15 “(A) the prevention of fraud (including
16 fraud in protecting an employee’s right to em-
17 ployment benefits);

18 “(B) the facilitation of credit checks or the
19 facilitation of background checks of employees,
20 prospective employees, or volunteers;

21 “(C) the retrieval of other information
22 from other businesses, commercial enterprises,
23 government entities, or private nonprofit orga-
24 nizations; or

1 “(D) when the transmission of the number
2 is incidental to, and in the course of, the sale,
3 lease, franchising, or merger of all, or a portion
4 of, a business;

5 “(6) if the transfer of such a number is part of
6 a data matching program involving a Federal, State,
7 or local agency; or

8 “(7) if such number is required to be submitted
9 as part of the process for applying for any type of
10 Federal, State, or local government benefit or pro-
11 gram;

12 except that, nothing in this subsection shall be construed
13 as permitting a professional or commercial user to display
14 or sell a social security number to the general public.

15 “(f) LIMITATION.—Nothing in this section shall pro-
16 hibit or limit the display, sale, or purchase of social secu-
17 rity numbers as permitted under title V of the Gramm-
18 Leach-Bliley Act, or for the purpose of affiliate sharing
19 as permitted under the Fair Credit Reporting Act, except
20 that no entity regulated under such Acts may make social
21 security numbers available to the general public, as may
22 be determined by the appropriate regulators under such
23 Acts. For purposes of this subsection, the general public
24 shall not include affiliates or unaffiliated third-party busi-

1 ness entities as may be defined by the appropriate regu-
2 lators.”.

3 (2) CONFORMING AMENDMENT.—The chapter
4 analysis for chapter 47 of title 18, United States
5 Code, is amended by inserting after the item relating
6 to section 1028 the following:

“1028A. Prohibition of the display, sale, or purchase of social security num-
bers.”.

7 (b) STUDY; REPORT.—

8 (1) IN GENERAL.—The Attorney General shall
9 conduct a study and prepare a report on all of the
10 uses of social security numbers permitted, required,
11 authorized, or excepted under any Federal law. The
12 report shall include a detailed description of the uses
13 allowed as of the date of enactment of this Act and
14 shall evaluate whether such uses should be continued
15 or discontinued by appropriate legislative action.

16 (2) REPORT.—Not later than 1 year after the
17 date of enactment of this Act, the Attorney General
18 shall report to Congress findings under this sub-
19 section. The report shall include such recommenda-
20 tions for legislation based on criteria the Attorney
21 General determines to be appropriate.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date that is 30 days

1 after the date on which the final regulations promulgated
2 under section 3135 are published in the Federal Register.

3 **SEC. 3134. APPLICATION OF PROHIBITION OF THE DISPLAY,**
4 **SALE, OR PURCHASE OF SOCIAL SECURITY**
5 **NUMBERS TO PUBLIC RECORDS.**

6 (a) PUBLIC RECORDS EXCEPTION.—

7 (1) IN GENERAL.—Chapter 47 of title 18,
8 United States Code (as amended by section 3(a)(1)),
9 is amended by inserting after section 1028A the fol-
10 lowing:

11 **“§ 1028B. Display, sale, or purchase of public records**
12 **containing social security numbers**

13 “(a) DEFINITION.—In this section, the term ‘public
14 record’ means any governmental record that is made avail-
15 able to the general public.

16 “(b) IN GENERAL.—Except as provided in sub-
17 sections (c), (d), and (e), section 1028A shall not apply
18 to a public record.

19 “(c) PUBLIC RECORDS ON THE INTERNET OR IN AN
20 ELECTRONIC MEDIUM.—

21 “(1) IN GENERAL.—Section 1028A shall apply
22 to any public record first posted onto the Internet
23 or provided in an electronic medium by, or on behalf
24 of a government entity after the date of enactment

1 of this section, except as limited by the Attorney
2 General in accordance with paragraph (2).

3 “(2) EXCEPTION FOR GOVERNMENT ENTITIES
4 ALREADY PLACING PUBLIC RECORDS ON THE INTER-
5 NET OR IN ELECTRONIC FORM.—Not later than 60
6 days after the date of enactment of this section, the
7 Attorney General shall issue regulations regarding
8 the applicability of section 1028A to any record of
9 a category of public records first posted onto the
10 Internet or provided in an electronic medium by, or
11 on behalf of a government entity prior to the date
12 of enactment of this section. The regulations will de-
13 termine which individual records within categories of
14 records of these government entities, if any, may
15 continue to be posted on the Internet or in electronic
16 form after the effective date of this section. In pro-
17 mulgating these regulations, the Attorney General
18 may include in the regulations a set of procedures
19 for implementing the regulations and shall consider
20 the following:

21 “(A) The cost and availability of tech-
22 nology available to a governmental entity to re-
23 dact social security numbers from public
24 records first provided in electronic form after
25 the effective date of this section.

1 “(B) The cost or burden to the general
2 public, businesses, commercial enterprises, non-
3 profit organizations, and to Federal, State, and
4 local governments of complying with section
5 1028A with respect to such records.

6 “(C) The benefit to the general public,
7 businesses, commercial enterprises, non-profit
8 organizations, and to Federal, State, and local
9 governments if the Attorney General were to
10 determine that section 1028A should apply to
11 such records.

12 Nothing in the regulation shall permit a public enti-
13 ty to post a category of public records on the Inter-
14 net or in electronic form after the effective date of
15 this section if such category had not been placed on
16 the Internet or in electronic form prior to such effec-
17 tive date.

18 “(d) HARVESTED SOCIAL SECURITY NUMBERS.—
19 Section 1028A shall apply to any public record of a gov-
20 ernment entity which contains social security numbers ex-
21 tracted from other public records for the purpose of dis-
22 playing or selling such numbers to the general public.

23 “(e) ATTORNEY GENERAL RULEMAKING ON PAPER
24 RECORDS.—

1 “(1) IN GENERAL.—Not later than 60 days
2 after the date of enactment of this section, the At-
3 torney General shall determine the feasibility and
4 advisability of applying section 1028A to the records
5 listed in paragraph (2) when they appear on paper
6 or on another nonelectronic medium. If the Attorney
7 General deems it appropriate, the Attorney General
8 may issue regulations applying section 1028A to
9 such records.

10 “(2) LIST OF PAPER AND OTHER NONELEC-
11 TRONIC RECORDS.—The records listed in this para-
12 graph are as follows:

13 “(A) Professional or occupational licenses.

14 “(B) Marriage licenses.

15 “(C) Birth certificates.

16 “(D) Death certificates.

17 “(E) Other short public documents that
18 display a social security number in a routine
19 and consistent manner on the face of the docu-
20 ment.

21 “(3) CRITERIA FOR ATTORNEY GENERAL RE-
22 VIEW.—In determining whether section 1028A
23 should apply to the records listed in paragraph (2),
24 the Attorney General shall consider the following:

1 “(A) The cost or burden to the general
2 public, businesses, commercial enterprises, non-
3 profit organizations, and to Federal, State, and
4 local governments of complying with section
5 1028A.

6 “(B) The benefit to the general public,
7 businesses, commercial enterprises, non-profit
8 organizations, and to Federal, State, and local
9 governments if the Attorney General were to
10 determine that section 1028A should apply to
11 such records.”.

12 (2) CONFORMING AMENDMENT.—The chapter
13 analysis for chapter 47 of title 18, United States
14 Code (as amended by section 3(a)(2)), is amended
15 by inserting after the item relating to section 1028A
16 the following:

 “1028B. Display, sale, or purchase of public records containing social security
 numbers.”.

17 (b) STUDY AND REPORT ON SOCIAL SECURITY NUM-
18 BERS IN PUBLIC RECORDS.—

19 (1) STUDY.—The Comptroller General of the
20 United States shall conduct a study and prepare a
21 report on social security numbers in public records.
22 In developing the report, the Comptroller General
23 shall consult with the Administrative Office of the
24 United States Courts, State and local governments

1 that store, maintain, or disseminate public records,
2 and other stakeholders, including members of the
3 private sector who routinely use public records that
4 contain social security numbers.

5 (2) REPORT.—Not later than 1 year after the
6 date of enactment of this Act, the Comptroller Gen-
7 eral of the United States shall submit to Congress
8 a report on the study conducted under paragraph
9 (1). The report shall include a detailed description
10 of the activities and results of the study and rec-
11 ommendations for such legislative action as the
12 Comptroller General considers appropriate. The re-
13 port, at a minimum, shall include—

14 (A) a review of the uses of social security
15 numbers in non-federal public records;

16 (B) a review of the manner in which public
17 records are stored (with separate reviews for
18 both paper records and electronic records);

19 (C) a review of the advantages or utility of
20 public records that contain social security num-
21 bers, including the utility for law enforcement,
22 and for the promotion of homeland security;

23 (D) a review of the disadvantages or draw-
24 backs of public records that contain social secu-
25 rity numbers, including criminal activity, com-

1 promised personal privacy, or threats to home-
2 land security;

3 (E) the costs and benefits for State and
4 local governments of removing social security
5 numbers from public records, including a review
6 of current technologies and procedures for re-
7 moving social security numbers from public
8 records; and

9 (F) an assessment of the benefits and
10 costs to businesses, their customers, and the
11 general public of prohibiting the display of so-
12 cial security numbers on public records (with
13 separate assessments for both paper records
14 and electronic records).

15 (c) EFFECTIVE DATE.—The prohibition with respect
16 to electronic versions of new classes of public records
17 under section 1028B(b) of title 18, United States Code
18 (as added by subsection (a)(1)) shall not take effect until
19 the date that is 60 days after the date of enactment of
20 this Act.

21 **SEC. 3135. RULEMAKING AUTHORITY OF THE ATTORNEY**

22 **GENERAL.**

23 (a) IN GENERAL.—Except as provided in subsection
24 (b), the Attorney General may prescribe such rules and
25 regulations as the Attorney General deems necessary to

1 carry out the provisions of section 1028A(e)(5) of title 18,
2 United States Code (as added by section 3133(a)(1)).

3 (b) DISPLAY, SALE, OR PURCHASE RULEMAKING
4 WITH RESPECT TO INTERACTIONS BETWEEN BUSI-
5 NESSES, GOVERNMENTS, OR BUSINESS AND GOVERN-
6 MENT.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of this Act, the Attorney Gen-
9 eral, in consultation with the Commissioner of Social
10 Security, the Chairman of the Federal Trade Com-
11 mission, and such other heads of Federal agencies as
12 the Attorney General determines appropriate, shall
13 conduct such rulemaking procedures in accordance
14 with subchapter II of chapter 5 of title 5, United
15 States Code, as are necessary to promulgate regula-
16 tions to implement and clarify the uses occurring as
17 a result of an interaction between businesses, gov-
18 ernments, or business and government (regardless of
19 which entity initiates the interaction) permitted
20 under section 1028A(e)(5) of title 18, United States
21 Code (as added by section 3133(a)(1)).

22 (2) FACTORS TO BE CONSIDERED.—In promul-
23 gating the regulations required under paragraph (1),
24 the Attorney General shall, at a minimum, consider
25 the following:

1 (A) The benefit to a particular business, to
2 customers of the business, and to the general
3 public of the display, sale, or purchase of an in-
4 dividual's social security number.

5 (B) The costs that businesses, customers
6 of businesses, and the general public may incur
7 as a result of prohibitions on the display, sale,
8 or purchase of social security numbers.

9 (C) The risk that a particular business
10 practice will promote the use of a social security
11 number to commit fraud, deception, or crime.

12 (D) The presence of adequate safeguards
13 and procedures to prevent—

14 (i) misuse of social security numbers
15 by employees within a business; and

16 (ii) misappropriation of social security
17 numbers by the general public, while per-
18 mitting internal business uses of such
19 numbers.

20 (E) The presence of procedures to prevent
21 identity thieves, stalkers, and other individuals
22 with ill intent from posing as legitimate busi-
23 nesses to obtain social security numbers.

1 **SEC. 3136. TREATMENT OF SOCIAL SECURITY NUMBERS ON**
2 **GOVERNMENT DOCUMENTS.**

3 (a) PROHIBITION OF USE OF SOCIAL SECURITY AC-
4 COUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY
5 GOVERNMENTAL AGENCIES.—

6 (1) IN GENERAL.—Section 205(c)(2)(C) of the
7 Social Security Act (42 U.S.C. 405(c)(2)(C)) is
8 amended by adding at the end the following:

9 “(x) No Federal, State, or local agency may display
10 the social security account number of any individual, or
11 any derivative of such number, on any check issued for
12 any payment by the Federal, State, or local agency.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by this subsection shall apply with respect to viola-
15 tions of section 205(c)(2)(C)(x) of the Social Secu-
16 rity Act (42 U.S.C. 405(c)(2)(C)(x)), as added by
17 paragraph (1), occurring after the date that is 3
18 years after the date of enactment of this Act.

19 (b) PROHIBITION OF APPEARANCE OF SOCIAL SECU-
20 RITY ACCOUNT NUMBERS ON DRIVER’S LICENSES OR
21 MOTOR VEHICLE REGISTRATION.—

22 (1) IN GENERAL.—Section 205(c)(2)(C)(vi) of
23 the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi))
24 is amended—

25 (A) by inserting “(I)” after “(vi)”; and

26 (B) by adding at the end the following:

1 “(II)(aa) An agency of a State (or political subdivi-
2 sion thereof), in the administration of any driver’s license
3 or motor vehicle registration law within its jurisdiction,
4 may not display the social security account numbers
5 issued by the Commissioner of Social Security, or any de-
6 rivative of such numbers, on the face of any driver’s li-
7 cense or motor vehicle registration or any other document
8 issued by such State (or political subdivision thereof) to
9 an individual for purposes of identification of such indi-
10 vidual.

11 “(bb) Nothing in this subclause shall be construed
12 as precluding an agency of a State (or political subdivision
13 thereof), in the administration of any driver’s license or
14 motor vehicle registration law within its jurisdiction, from
15 using a social security account number for an internal use
16 or to link with the database of an agency of another State
17 that is responsible for the administration of any driver’s
18 license or motor vehicle registration law.”.

19 (2) EFFECTIVE DATE.—The amendments made
20 by this subsection shall apply with respect to li-
21 censes, registrations, and other documents issued or
22 reissued after the date that is 1 year after the date
23 of enactment of this Act.

24 (c) PROHIBITION OF INMATE ACCESS TO SOCIAL SE-
25 CURITY ACCOUNT NUMBERS.—

1 (1) IN GENERAL.—Section 205(c)(2)(C) of the
2 Social Security Act (42 U.S.C. 405(c)(2)(C)) (as
3 amended by subsection (b)) is amended by adding at
4 the end the following:

5 “(xi) No Federal, State, or local agency may employ,
6 or enter into a contract for the use or employment of, pris-
7 oners in any capacity that would allow such prisoners ac-
8 cess to the social security account numbers of other indi-
9 viduals. For purposes of this clause, the term ‘prisoner’
10 means an individual confined in a jail, prison, or other
11 penal institution or correctional facility pursuant to such
12 individual’s conviction of a criminal offense.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by this subsection shall apply with respect to em-
15 ployment of prisoners, or entry into contract with
16 prisoners, after the date that is 1 year after the date
17 of enactment of this Act.

18 **SEC. 3137. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL**
19 **SECURITY NUMBER FOR CONSUMER TRANS-**
20 **ACTIONS.**

21 (a) IN GENERAL.—Part A of title XI of the Social
22 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
23 ing at the end the following:

1 **“SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SO-**
2 **CIAL SECURITY NUMBER FOR CONSUMER**
3 **TRANSACTIONS.**

4 “(a) IN GENERAL.—A commercial entity may not re-
5 quire an individual to provide the individual’s social secu-
6 rity number when purchasing a commercial good or service
7 or deny an individual the good or service for refusing to
8 provide that number except—

9 “(1) for any purpose relating to—

10 “(A) obtaining a consumer report for any
11 purpose permitted under the Fair Credit Re-
12 porting Act;

13 “(B) a background check of the individual
14 conducted by a landlord, lessor, employer, vol-
15 untary service agency, or other entity as deter-
16 mined by the Attorney General;

17 “(C) law enforcement; or

18 “(D) a Federal, State, or local law require-
19 ment; or

20 “(2) if the social security number is necessary
21 to verify the identity of the consumer to effect, ad-
22 minister, or enforce the specific transaction re-
23 quested or authorized by the consumer, or to prevent
24 fraud.

1 “(b) APPLICATION OF CIVIL MONEY PENALTIES.—
2 A violation of this section shall be deemed to be a violation
3 of section 1129(a)(3)(F).

4 “(c) APPLICATION OF CRIMINAL PENALTIES.—A vio-
5 lation of this section shall be deemed to be a violation of
6 section 208(a)(8).

7 “(d) LIMITATION ON CLASS ACTIONS.—No class ac-
8 tion alleging a violation of this section shall be maintained
9 under this section by an individual or any private party
10 in Federal or State court.

11 “(e) STATE ATTORNEY GENERAL ENFORCEMENT.—

12 “(1) IN GENERAL.—

13 “(A) CIVIL ACTIONS.—In any case in
14 which the attorney general of a State has rea-
15 son to believe that an interest of the residents
16 of that State has been or is threatened or ad-
17 versely affected by the engagement of any per-
18 son in a practice that is prohibited under this
19 section, the State, as *parens patriae*, may bring
20 a civil action on behalf of the residents of the
21 State in a district court of the United States of
22 appropriate jurisdiction to—

23 “(i) enjoin that practice;

24 “(ii) enforce compliance with such
25 section;

1 “(iii) obtain damages, restitution, or
2 other compensation on behalf of residents
3 of the State; or

4 “(iv) obtain such other relief as the
5 court may consider appropriate.

6 “(B) NOTICE.—

7 “(i) IN GENERAL.—Before filing an
8 action under subparagraph (A), the attor-
9 ney general of the State involved shall pro-
10 vide to the Attorney General—

11 “(I) written notice of the action;

12 and

13 “(II) a copy of the complaint for
14 the action.

15 “(ii) EXEMPTION.—

16 “(I) IN GENERAL.—Clause (i)
17 shall not apply with respect to the fil-
18 ing of an action by an attorney gen-
19 eral of a State under this subsection,
20 if the State attorney general deter-
21 mines that it is not feasible to provide
22 the notice described in such subpara-
23 graph before the filing of the action.

24 “(II) NOTIFICATION.—With re-
25 spect to an action described in sub-

1 clause (I), the attorney general of a
2 State shall provide notice and a copy
3 of the complaint to the Attorney Gen-
4 eral at the same time as the State at-
5 torney general files the action.

6 “(2) INTERVENTION.—

7 “(A) IN GENERAL.—On receiving notice
8 under paragraph (1)(B), the Attorney General
9 shall have the right to intervene in the action
10 that is the subject of the notice.

11 “(B) EFFECT OF INTERVENTION.—If the
12 Attorney General intervenes in the action under
13 paragraph (1), the Attorney General shall have
14 the right to be heard with respect to any matter
15 that arises in that action.

16 “(3) CONSTRUCTION.—For purposes of bring-
17 ing any civil action under paragraph (1), nothing in
18 this section shall be construed to prevent an attor-
19 ney general of a State from exercising the powers
20 conferred on such attorney general by the laws of
21 that State to—

22 “(A) conduct investigations;

23 “(B) administer oaths or affirmations; or

1 “(C) compel the attendance of witnesses or
2 the production of documentary and other evi-
3 dence.

4 “(4) ACTIONS BY THE ATTORNEY GENERAL OF
5 THE UNITED STATES.—In any case in which an ac-
6 tion is instituted by or on behalf of the Attorney
7 General for violation of a practice that is prohibited
8 under this section, no State may, during the pend-
9 ency of that action, institute an action under para-
10 graph (1) against any defendant named in the com-
11 plaint in that action for violation of that practice.

12 “(5) VENUE; SERVICE OF PROCESS.—

13 “(A) VENUE.—Any action brought under
14 paragraph (1) may be brought in the district
15 court of the United States that meets applicable
16 requirements relating to venue under section
17 1391 of title 28, United States Code.

18 “(B) SERVICE OF PROCESS.—In an action
19 brought under paragraph (1), process may be
20 served in any district in which the defendant—

21 “(i) is an inhabitant; or

22 “(ii) may be found.

23 “(f) SUNSET.—This section shall not apply on or
24 after the date that is 6 years after the effective date of
25 this section.”.

1 (b) **EVALUATION AND REPORT.**—Not later than the
2 date that is 6 years and 6 months after the date of enact-
3 ment of this Act, the Attorney General, in consultation
4 with the chairman of the Federal Trade Commission, shall
5 issue a report evaluating the effectiveness and efficiency
6 of section 1150A of the Social Security Act (as added by
7 subsection (a)) and shall make recommendations to Con-
8 gress as to any legislative action determined to be nec-
9 essary or advisable with respect to such section, including
10 a recommendation regarding whether to reauthorize such
11 section.

12 (c) **EFFECTIVE DATE.**—The amendment made by
13 subsection (a) shall apply to requests to provide a social
14 security number occurring after the date that is 1 year
15 after the date of enactment of this Act.

16 **SEC. 3138. EXTENSION OF CIVIL MONETARY PENALTIES**
17 **FOR MISUSE OF A SOCIAL SECURITY NUM-**
18 **BER.**

19 (a) **TREATMENT OF WITHHOLDING OF MATERIAL**
20 **FACTS.**—

21 (1) **CIVIL PENALTIES.**—The first sentence of
22 section 1129(a)(1) of the Social Security Act (42
23 U.S.C. 1320a–8(a)(1)) is amended—

24 (A) by striking “who” and inserting
25 “who—”;

1 (B) by striking “makes” and all that fol-
2 lows through “shall be subject to” and inserting
3 the following:

4 “(A) makes, or causes to be made, a statement
5 or representation of a material fact, for use in deter-
6 mining any initial or continuing right to or the
7 amount of monthly insurance benefits under title II
8 or benefits or payments under title VIII or XVI,
9 that the person knows or should know is false or
10 misleading;

11 “(B) makes such a statement or representation
12 for such use with knowing disregard for the truth;
13 or

14 “(C) omits from a statement or representation
15 for such use, or otherwise withholds disclosure of, a
16 fact which the individual knows or should know is
17 material to the determination of any initial or con-
18 tinuing right to or the amount of monthly insurance
19 benefits under title II or benefits or payments under
20 title VIII or XVI and the individual knows, or
21 should know, that the statement or representation
22 with such omission is false or misleading or that the
23 withholding of such disclosure is misleading,
24 shall be subject to”;

1 (C) by inserting “or each receipt of such
2 benefits while withholding disclosure of such
3 fact” after “each such statement or representa-
4 tion”;

5 (D) by inserting “or because of such with-
6 holding of disclosure of a material fact” after
7 “because of such statement or representation”;
8 and

9 (E) by inserting “or such a withholding of
10 disclosure” after “such a statement or rep-
11 resentation”.

12 (2) ADMINISTRATIVE PROCEDURE FOR IMPOS-
13 ING PENALTIES.—The first sentence of section
14 1129A(a) of the Social Security Act (42 U.S.C.
15 1320a–8a(a)) is amended—

16 (A) by striking “who” and inserting
17 “who—”; and

18 (B) by striking “makes” and all that fol-
19 lows through “shall be subject to” and inserting
20 the following:

21 “(1) makes, or causes to be made, a statement
22 or representation of a material fact, for use in deter-
23 mining any initial or continuing right to or the
24 amount of monthly insurance benefits under title II
25 or benefits or payments under title VIII or XVI,

1 that the person knows or should know is false or
2 misleading;

3 “(2) makes such a statement or representation
4 for such use with knowing disregard for the truth;
5 or

6 “(3) omits from a statement or representation
7 for such use, or otherwise withholds disclosure of, a
8 fact which the individual knows or should know is
9 material to the determination of any initial or con-
10 tinuing right to or the amount of monthly insurance
11 benefits under title II or benefits or payments under
12 title VIII or XVI and the individual knows, or
13 should know, that the statement or representation
14 with such omission is false or misleading or that the
15 withholding of such disclosure is misleading,
16 shall be subject to”.

17 (b) APPLICATION OF CIVIL MONEY PENALTIES TO
18 ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a)
19 of the Social Security Act (42 U.S.C. 1320a–8(a)), as
20 amended by subsection (a)(1), is amended—

21 (1) by redesignating paragraph (2) as para-
22 graph (4);

23 (2) by redesignating the last sentence of para-
24 graph (1) as paragraph (2) and inserting such para-
25 graph after paragraph (1); and

1 (3) by inserting after paragraph (2) (as so re-
2 designated) the following:

3 “(3) Any person (including an organization, agency,
4 or other entity) who—

5 “(A) uses a social security account number that
6 such person knows or should know has been as-
7 signed by the Commissioner of Social Security (in an
8 exercise of authority under section 205(c)(2) to es-
9 tablish and maintain records) on the basis of false
10 information furnished to the Commissioner by any
11 person;

12 “(B) falsely represents a number to be the so-
13 cial security account number assigned by the Com-
14 missioner of Social Security to any individual, when
15 such person knows or should know that such number
16 is not the social security account number assigned
17 by the Commissioner to such individual;

18 “(C) knowingly alters a social security card
19 issued by the Commissioner of Social Security, or
20 possesses such a card with intent to alter it;

21 “(D) knowingly displays, sells, or purchases a
22 card that is, or purports to be, a card issued by the
23 Commissioner of Social Security, or possesses such
24 a card with intent to display, purchase, or sell it;

1 “(E) counterfeits a social security card, or pos-
2 sesses a counterfeit social security card with intent
3 to display, sell, or purchase it;

4 “(F) discloses, uses, compels the disclosure of,
5 or knowingly displays, sells, or purchases the social
6 security account number of any person in violation
7 of the laws of the United States;

8 “(G) with intent to deceive the Commissioner of
9 Social Security as to such person’s true identity (or
10 the true identity of any other person) furnishes or
11 causes to be furnished false information to the Com-
12 missioner with respect to any information required
13 by the Commissioner in connection with the estab-
14 lishment and maintenance of the records provided
15 for in section 205(c)(2);

16 “(H) offers, for a fee, to acquire for any indi-
17 vidual, or to assist in acquiring for any individual,
18 an additional social security account number or a
19 number which purports to be a social security ac-
20 count number; or

21 “(I) being an officer or employee of a Federal,
22 State, or local agency in possession of any individ-
23 ual’s social security account number, willfully acts or
24 fails to act so as to cause a violation by such agency
25 of clause (vi)(II) or (x) of section 205(c)(2)(C), shall

1 be subject to, in addition to any other penalties that
2 may be prescribed by law, a civil money penalty of
3 not more than \$5,000 for each violation. Such per-
4 son shall also be subject to an assessment, in lieu
5 of damages sustained by the United States resulting
6 from such violation, of not more than twice the
7 amount of any benefits or payments paid as a result
8 of such violation.”.

9 (c) CLARIFICATION OF TREATMENT OF RECOVERED
10 AMOUNTS.—Section 1129(e)(2)(B) of the Social Security
11 Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking
12 “In the case of amounts recovered arising out of a deter-
13 mination relating to title VIII or XVI,” and inserting “In
14 the case of any other amounts recovered under this sec-
15 tion,”.

16 (d) CONFORMING AMENDMENTS.—

17 (1) Section 1129(b)(3)(A) of the Social Secu-
18 rity Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended
19 by striking “charging fraud or false statements”.

20 (2) Section 1129(e)(1) of the Social Security
21 Act (42 U.S.C. 1320a–8(e)(1)) is amended by strik-
22 ing “and representations” and inserting “, represen-
23 tations, or actions”.

24 (3) Section 1129(e)(1)(A) of the Social Security
25 Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by

1 striking “statement or representation referred to in
2 subsection (a) was made” and inserting “violation
3 occurred”.

4 (e) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply with respect to violations of sections
8 1129 and 1129A of the Social Security Act (42
9 U.S.C. 1320–8 and 1320a–8a), as amended by this
10 section, committed after the date of enactment of
11 this Act.

12 (2) VIOLATIONS BY GOVERNMENT AGENTS IN
13 POSSESSION OF SOCIAL SECURITY NUMBERS.—Sec-
14 tion 1129(a)(3)(I) of the Social Security Act (42
15 U.S.C. 1320a–8(a)(3)(I)), as added by subsection
16 (b), shall apply with respect to violations of that sec-
17 tion occurring on or after the effective date de-
18 scribed in section 3133(c).

19 **SEC. 3139. CRIMINAL PENALTIES FOR MISUSE OF A SOCIAL**
20 **SECURITY NUMBER.**

21 (a) PROHIBITION OF WRONGFUL USE AS PERSONAL
22 IDENTIFICATION NUMBER.—No person may obtain any
23 individual’s social security number for purposes of locating
24 or identifying an individual with the intent to physically

1 injure, harm, or use the identity of the individual for any
2 illegal purpose.

3 (b) CRIMINAL SANCTIONS.—Section 208(a) of the
4 Social Security Act (42 U.S.C. 408(a)) is amended—

5 (1) in paragraph (8), by inserting “or” after
6 the semicolon; and

7 (2) by inserting after paragraph (8) the fol-
8 lowing:

9 “(9) except as provided in subsections (e) and
10 (f) of section 1028A of title 18, United States Code,
11 knowingly and willfully displays, sells, or purchases
12 (as those terms are defined in section 1028A(a) of
13 title 18, United States Code) any individual’s social
14 security account number without having met the
15 prerequisites for consent under section 1028A(d) of
16 title 18, United States Code; or

17 “(10) obtains any individual’s social security
18 number for the purpose of locating or identifying the
19 individual with the intent to injure or to harm that
20 individual, or to use the identity of that individual
21 for an illegal purpose;”.

22 **SEC. 3140. CIVIL ACTIONS AND CIVIL PENALTIES.**

23 (a) CIVIL ACTION IN STATE COURTS.—

24 (1) IN GENERAL.—Any individual aggrieved by
25 an act of any person in violation of this part or any

1 amendments made by this part may, if otherwise
2 permitted by the laws or rules of the court of a
3 State, bring in an appropriate court of that State—

4 (A) an action to enjoin such violation;

5 (B) an action to recover for actual mone-
6 tary loss from such a violation, or to receive up
7 to \$500 in damages for each such violation,
8 whichever is greater; or

9 (C) both such actions.

10 It shall be an affirmative defense in any action
11 brought under this paragraph that the defendant
12 has established and implemented, with due care, rea-
13 sonable practices and procedures to effectively pre-
14 vent violations of the regulations prescribed under
15 this part. If the court finds that the defendant will-
16 fully or knowingly violated the regulations prescribed
17 under this Act, the court may, in its discretion, in-
18 crease the amount of the award to an amount equal
19 to not more than 3 times the amount available
20 under subparagraph (B).

21 (2) STATUTE OF LIMITATIONS.—An action may
22 be commenced under this subsection not later than
23 the earlier of—

24 (A) 5 years after the date on which the al-
25 leged violation occurred; or

1 (B) 3 years after the date on which the al-
2 leged violation was or should have been reason-
3 ably discovered by the aggrieved individual.

4 (3) NONEXCLUSIVE REMEDY.—The remedy pro-
5 vided under this subsection shall be in addition to
6 any other remedies available to the individual.

7 (b) CIVIL PENALTIES.—

8 (1) IN GENERAL.—Any person who the Attor-
9 ney General determines has violated any section of
10 this part or of any amendments made by this part
11 shall be subject, in addition to any other penalties
12 that may be prescribed by law—

13 (A) to a civil penalty of not more than
14 \$5,000 for each such violation; and

15 (B) to a civil penalty of not more than
16 \$50,000, if the violations have occurred with
17 such frequency as to constitute a general busi-
18 ness practice.

19 (2) DETERMINATION OF VIOLATIONS.—Any
20 willful violation committed contemporaneously with
21 respect to the social security numbers of 2 or more
22 individuals by means of mail, telecommunication, or
23 otherwise, shall be treated as a separate violation
24 with respect to each such individual.

1 (3) ENFORCEMENT PROCEDURES.—The provi-
2 sions of section 1128A of the Social Security Act
3 (42 U.S.C. 1320a–7a), other than subsections (a),
4 (b), (f), (h), (i), (j), (m), and (n) and the first sen-
5 tence of subsection (c) of such section, and the pro-
6 visions of subsections (d) and (e) of section 205 of
7 such Act (42 U.S.C. 405) shall apply to a civil pen-
8 alty action under this subsection in the same man-
9 ner as such provisions apply to a penalty or pro-
10 ceeding under section 1128A(a) of such Act (42
11 U.S.C. 1320a–7a(a)), except that, for purposes of
12 this paragraph, any reference in section 1128A of
13 such Act (42 U.S.C. 1320a–7a) to the Secretary
14 shall be deemed to be a reference to the Attorney
15 General.

16 **SEC. 3141. FEDERAL INJUNCTIVE AUTHORITY.**

17 In addition to any other enforcement authority con-
18 ferred under this part or the amendments made by this
19 part, the Federal Government shall have injunctive au-
20 thority with respect to any violation by a public entity of
21 any provision of this part or of any amendments made
22 by this part.

1 **Subtitle B—Crime Victim**
2 **Assistance**

3 **SEC. 3201. SHORT TITLE.**

4 This subtitle may be cited as the “Crime Victims As-
5 sistance Act of 2003”.

6 **PART 1—VICTIM RIGHTS IN THE FEDERAL**
7 **SYSTEM**

8 **SEC. 3211. RIGHT TO CONSULT CONCERNING DETENTION.**

9 (a) RIGHT TO CONSULT CONCERNING DETEN-
10 TION.—Section 503(c) of the Victims’ Rights and Restitu-
11 tion Act of 1990 (42 U.S.C. 10607(c)) is amended by
12 striking paragraph (2) and inserting the following:

13 “(2) A responsible official shall—

14 “(A) arrange for a victim to receive rea-
15 sonable protection from a suspected offender
16 and persons acting in concert with or at the be-
17 hest of the suspected offender; and

18 “(B) consult with a victim prior to a de-
19 tention hearing to obtain information that can
20 be presented to the court on the issue of any
21 threat the suspected offender may pose to the
22 safety of the victim.”.

23 (b) COURT CONSIDERATION OF THE VIEWS OF VIC-
24 TIMS.—Chapter 207 of title 18, United States Code, is
25 amended—

1 (1) in section 3142—

2 (A) in subsection (g)—

3 (i) in paragraph (3), by striking
4 “and” at the end;

5 (ii) by redesignating paragraph (4) as
6 paragraph (5); and

7 (iii) by inserting after paragraph (3)
8 the following:

9 “(4) the views of the victim; and”; and

10 (B) by adding at the end the following:

11 “(k) VIEWS OF THE VICTIM.—During a hearing
12 under subsection (f), the judicial officer shall inquire of
13 the attorney for the Government if the victim has been
14 consulted on the issue of detention and the views of such
15 victim, if any.”.

16 (2) in section 3156(a)—

17 (A) in paragraph (4), by striking “and” at
18 the end;

19 (B) in paragraph (5), by striking the pe-
20 riod at the end and inserting “; and”; and

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

22 “(6) the term “victim” includes all persons de-
23 fined as victims in section 503(e)(2) of the Victims’
24 Rights and Restitution Act of 1990 (42 U.S.C.
25 10607(e)(2)).”.

1 **SEC. 3212. RIGHT TO A SPEEDY TRIAL.**

2 Section 3161(h)(8)(B) of title 18, United States
3 Code, is amended by adding at the end the following:

4 “(v) The interests of the victim (as defined in section
5 10607(e)(2) of title 42, United States Code) in the prompt
6 and appropriate disposition of the case, free from unrea-
7 sonable delay.”.

8 **SEC. 3213. RIGHT TO CONSULT CONCERNING PLEA.**

9 (a) RIGHT TO CONSULT CONCERNING PLEA.—Sec-
10 tion 503(c) of the Victims’ Rights and Restitution Act of
11 1990 (42 U.S.C. 10607(c)) is amended—

12 (1) by redesignating paragraphs (4) through
13 (8) as paragraphs (5) through (9), respectively; and

14 (2) by inserting after paragraph (3) the fol-
15 lowing:

16 “(4) A responsible official shall make reason-
17 able efforts to notify a victim of, and consider the
18 views of a victim about, any proposed or con-
19 templated plea agreement. In determining what is
20 reasonable, the responsible official should consider
21 factors relevant to the wisdom and practicality of
22 giving notice and considering views in the context of
23 the particular case, including—

24 “(A) the impact on public safety and risks
25 to personal safety;

26 “(B) the number of victims;

1 “(C) the need for confidentiality, including
2 whether the proposed plea involves confidential
3 information or conditions;

4 “(D) whether time is of the essence in ne-
5 gotiating or entering a proposed plea; and

6 “(E) whether the victim is a possible wit-
7 ness in the case and the effect that relaying any
8 information may have upon the right of the de-
9 fendant to a fair trial.”.

10 (b) COURT CONSIDERATION OF THE VIEWS OF VIC-
11 TIMS.—Rule 11 of the Federal Rules of Criminal Proce-
12 dure is amended—

13 (1) by redesignating subdivisions (g) and (h) as
14 subdivisions (h) and (i), respectively; and

15 (2) by inserting after subdivision (f) the fol-
16 lowing:

17 “(g) VIEWS OF THE VICTIM.—Notwithstanding the
18 acceptance of a plea of guilty, the court should not enter
19 a judgment upon such plea without making inquiry of the
20 attorney for the Government if the victim (as defined in
21 section 503(e)(2) of the Victims’ Rights and Restitution
22 Act of 1990) has been consulted on the issue of the plea
23 and the views of such victim, if any.”.

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 subsection (b) shall become effective as provided in
3 paragraph (3).

4 (2) ACTION BY JUDICIAL CONFERENCE.—

5 (A) RECOMMENDATIONS.—Not later than
6 180 days after the date of enactment of this
7 Act, the Judicial Conference of the United
8 States shall submit to Congress a report con-
9 taining recommendations for amending the
10 Federal Rules of Criminal Procedure to provide
11 enhanced opportunities for victims to be heard
12 on the issue of whether or not the court should
13 accept a plea of guilty or nolo contendere.

14 (B) INAPPLICABILITY OF OTHER LAW.—
15 Chapter 131 of title 28, United States Code,
16 does not apply to any recommendation made by
17 the Judicial Conference of the United States
18 under this paragraph.

19 (3) CONGRESSIONAL ACTION.—Except as other-
20 wise provided by law, if the Judicial Conference of
21 the United States—

22 (A) submits a report in accordance with
23 paragraph (2) containing recommendations de-
24 scribed in that paragraph, and those rec-
25 ommendations are the same as the amendments

1 made by subsection (b), then the amendments
2 made by subsection (b) shall become effective
3 30 days after the date on which the rec-
4 ommendations are submitted to Congress under
5 paragraph (2);

6 (B) submits a report in accordance with
7 paragraph (2) containing recommendations de-
8 scribed in that paragraph, and those rec-
9 ommendations are different in any respect from
10 the amendments made by subsection (b), the
11 recommendations made pursuant to paragraph
12 (2) shall become effective 180 days after the
13 date on which the recommendations are sub-
14 mitted to Congress under paragraph (2), unless
15 an Act of Congress is passed overturning the
16 recommendations; and

17 (C) fails to comply with paragraph (2), the
18 amendments made by subsection (b) shall be-
19 come effective 360 days after the date of enact-
20 ment of this Act.

21 (4) APPLICATION.—Any amendment made pur-
22 suant to this section (including any amendment
23 made pursuant to the recommendations of the Judi-
24 cial Conference of the United States under para-

1 graph (2)) shall apply in any proceeding commenced
2 on or after the effective date of the amendment.

3 **SEC. 3214. ENHANCED PARTICIPATORY RIGHTS AT TRIAL.**

4 (a) AMENDMENTS TO VICTIM RIGHTS CLARIFICA-
5 TION ACT.—Section 3510 of title 18, United States Code,
6 is amended—

7 (1) by redesignating subsection (c) as sub-
8 section (e); and

9 (2) by inserting after subsection (b) the fol-
10 lowing:

11 “(c) APPLICATION TO TELEVISED PROCEEDINGS.—
12 This section applies to any victim viewing proceedings pur-
13 suant to section 235 of the Antiterrorism and Effective
14 Death Penalty Act of 1996 (42 U.S.C. 10608), or any
15 rule issued thereunder.

16 “(d) STANDING.—

17 “(1) IN GENERAL.—At the request of any vic-
18 tim of an offense, the attorney for the Government
19 may assert the right of the victim under this section
20 to attend and observe the trial.

21 “(2) VICTIM STANDING.—If the attorney for
22 the Government declines to assert the right of a vic-
23 tim under this section, then the victim has standing
24 to assert such right.

1 (1) in paragraph (6), by striking “and” at the
2 end;

3 (2) by redesignating paragraph (7) as para-
4 graph (8); and

5 (3) by inserting after paragraph (6) the fol-
6 lowing:

7 “(7) the impact of the crime upon any victim
8 of the offense as reflected in any victim impact
9 statement and the views of any victim of the offense
10 concerning punishment, if such statement or views
11 are presented to the court; and”.

12 (b) ENHANCED RIGHT TO BE HEARD CONCERNING
13 SENTENCE.—Rule 32 of the Federal Rules of Criminal
14 Procedure is amended—

15 (1) in subdivision (c)(3)(E), by striking “if the
16 sentence is to be imposed for a crime of violence or
17 sexual abuse,”; and

18 (2) by amending subdivision (f) to read as fol-
19 lows:

20 “(f) DEFINITION. For purposes of this rule, ‘victim’
21 means any individual against whom an offense has been
22 committed for which a sentence is to be imposed, but the
23 right of allocution under subdivision (c)(3)(E) may be ex-
24 ercised instead by—

1 “(1) a parent or legal guardian if the victim is
2 below the age of eighteen years or incompetent; or

3 “(2) one or more family members or relatives
4 designated by the court if the victim is deceased or
5 incapacitated;

6 if such person or persons are present at the sentencing
7 hearing, regardless of whether the victim is present.”.

8 (c) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendments made by
10 subsection (b) shall become effective as provided in
11 paragraph (3).

12 (2) ACTION BY JUDICIAL CONFERENCE.—

13 (A) RECOMMENDATIONS.—Not later than
14 180 days after the date of enactment of this
15 Act, the Judicial Conference of the United
16 States shall submit to Congress a report con-
17 taining recommendations for amending the
18 Federal Rules of Criminal Procedure to provide
19 enhanced opportunities for victims to partici-
20 pate during the presentencing and sentencing
21 phase of the criminal process.

22 (B) INAPPLICABILITY OF OTHER LAW.—
23 Chapter 131 of title 28, United States Code,
24 does not apply to any recommendation made by

1 the Judicial Conference of the United States
2 under this paragraph.

3 (3) CONGRESSIONAL ACTION.—Except as other-
4 wise provided by law, if the Judicial Conference of
5 the United States—

6 (A) submits a report in accordance with
7 paragraph (2) containing recommendations de-
8 scribed in that paragraph, and those rec-
9 ommendations are the same as the amendments
10 made by subsection (b), then the amendments
11 made by subsection (b) shall become effective
12 30 days after the date on which the rec-
13 ommendations are submitted to Congress under
14 paragraph (2);

15 (B) submits a report in accordance with
16 paragraph (2) containing recommendations de-
17 scribed in that paragraph, and those rec-
18 ommendations are different in any respect from
19 the amendments made by subsection (b), the
20 recommendations made pursuant to paragraph
21 (2) shall become effective 180 days after the
22 date on which the recommendations are sub-
23 mitted to Congress under paragraph (2), unless
24 an Act of Congress is passed overturning the
25 recommendations; and

1 (C) fails to comply with paragraph (2), the
2 amendments made by subsection (b) shall be-
3 come effective 360 days after the date of enact-
4 ment of this Act.

5 (4) APPLICATION.—Any amendment made pur-
6 suant to this section (including any amendment
7 made pursuant to the recommendations of the Judi-
8 cial Conference of the United States under para-
9 graph (2)) shall apply in any proceeding commenced
10 on or after the effective date of the amendment.

11 **SEC. 3216. RIGHT TO NOTICE CONCERNING SENTENCE AD-**
12 **JUSTMENT.**

13 Paragraph (6) of section 503(c) of the Victims'
14 Rights and Restitution Act of 1990, as redesignated by
15 section 3213 of this Act, is amended by striking subpara-
16 graph (A) and inserting:

17 “(A) the scheduling of a parole hearing or
18 a hearing on modification of probation or super-
19 vised release for the offender;”.

20 **SEC. 3217. RIGHT TO NOTICE CONCERNING DISCHARGE**
21 **FROM PSYCHIATRIC FACILITY.**

22 Paragraph (6) of section 503(c) of the Victims'
23 Rights and Restitution Act of 1990, as redesignated by
24 section 3213 of this Act, is amended by striking subpara-
25 graph (B) and inserting:

1 “(B) the escape, work release, furlough,
2 discharge or conditional discharge, or any other
3 form of release from custody of the offender, in-
4 cluding an offender who was found not guilty
5 by reason of insanity;”.

6 **SEC. 3218. RIGHT TO NOTICE CONCERNING EXECUTIVE**
7 **CLEMENCY.**

8 (a) NOTICE.—Paragraph (6) of section 503(c) of the
9 Victims’ Rights and Restitution Act of 1990, as redesign-
10 nated by section 3213 of this Act, is amended—

11 (1) by redesignating subparagraph (C) as sub-
12 paragraph (D); and

13 (2) by inserting after subparagraph (B) the fol-
14 lowing:

15 “(C) the grant of executive clemency, in-
16 cluding any pardon, reprieve, commutation of
17 sentence, or remission of fine, to the offender;
18 and”.

19 (b) REPORTING REQUIREMENT.—The Attorney Gen-
20 eral shall submit biannually to the Committees on the Ju-
21 diciary of the House of Representatives and the Senate
22 a report on executive clemency matters or cases delegated
23 for review or investigation to the Attorney General by the
24 President, including for each year—

25 (1) the number of petitions so delegated;

1 (2) the number of reports submitted to the
2 President;

3 (3) the number of petitions for executive clem-
4 ency granted and the number denied;

5 (4) the name of each person whose petition for
6 executive clemency was granted or denied and the
7 offenses of conviction of that person for which execu-
8 tive clemency was granted or denied; and

9 (5) with respect to any person granted execu-
10 tive clemency, the date that any victim of an offense
11 that was the subject of that grant of executive clem-
12 ency was notified, pursuant to Department of Jus-
13 tice regulations, of a petition for executive clemency,
14 and whether such victim submitted a statement con-
15 cerning the petition.

16 **SEC. 3219. PROCEDURES TO PROMOTE COMPLIANCE.**

17 (a) REGULATIONS.—Not later than 1 year after the
18 date of enactment of this Act, the Attorney General of
19 the United States shall promulgate regulations to enforce
20 the rights of victims of crime described in section 502 of
21 the Victims' Rights and Restitution Act of 1990 (42
22 U.S.C. 10606) and to ensure compliance by responsible
23 officials with the obligations described in section 503 of
24 that Act (42 U.S.C. 10607).

1 (b) CONTENTS.—The regulations promulgated under
2 subsection (a) shall—

3 (1) establish an administrative authority within
4 the Department of Justice to receive and investigate
5 complaints relating to the provision or violation of
6 the rights of a crime victim;

7 (2) require a course of training for employees
8 and offices of the Department of Justice that fail to
9 comply with provisions of Federal law pertaining to
10 the treatment of victims of crime, and otherwise as-
11 sist such employees and offices in responding more
12 effectively to the needs of victims;

13 (3) contain disciplinary sanctions, including
14 suspension or termination from employment, for em-
15 ployees of the Department of Justice who willfully or
16 wantonly fail to comply with provisions of Federal
17 law pertaining to the treatment of victims of crime;
18 and

19 (4) provide that the Attorney General, or the
20 designee of the Attorney General, shall be the final
21 arbiter of the complaint, and that there shall be no
22 judicial review of the final decision of the Attorney
23 General by a complainant.

1 **PART 2—VICTIM ASSISTANCE INITIATIVES**
2 **SEC. 3221. PILOT PROGRAMS TO ENFORCE COMPLIANCE**
3 **WITH STATE CRIME VICTIM'S RIGHTS LAWS.**

4 (a) DEFINITIONS.—In this section:

5 (1) COMPLIANCE AUTHORITY.—The term “com-
6 pliance authority” means one of the compliance au-
7 thorities established and operated under a program
8 under subsection (b) to enforce the rights of victims
9 of crime.

10 (2) DIRECTOR.—The term “Director” means
11 the Director of the Office for Victims of Crime.

12 (3) OFFICE.—The term “Office” means the Of-
13 fice for Victims of Crime.

14 (b) PILOT PROGRAMS.—

15 (1) IN GENERAL.—Not later than 12 months
16 after the date of enactment of this Act, the Attorney
17 General, acting through the Director, shall establish
18 and carry out a program to provide for pilot pro-
19 grams in 5 States to establish and operate compli-
20 ance authorities to enforce the rights of victims of
21 crime.

22 (2) AGREEMENTS.—

23 (A) IN GENERAL.—The Attorney General,
24 acting through the Director, shall enter into an
25 agreement with a State to conduct a pilot pro-
26 gram referred to in paragraph (1), which agree-

1 ment shall provide for a grant to assist the
2 State in carrying out the pilot program.

3 (B) CONTENTS OF AGREEMENT.—The
4 agreement referred to in subparagraph (A)
5 shall specify that—

6 (i) the compliance authority shall be
7 established and operated in accordance
8 with this section; and

9 (ii) except with respect to meeting ap-
10 plicable requirements of this section con-
11 cerning carrying out the duties of a com-
12 pliance authority under this section (in-
13 cluding the applicable reporting duties
14 under subsection (f) and the terms of the
15 agreement), a compliance authority shall
16 operate independently of the Office.

17 (C) NO AUTHORITY OVER DAILY OPER-
18 ATIONS.—The Office shall have no supervisory
19 or decisionmaking authority over the day-to-day
20 operations of a compliance authority.

21 (c) OBJECTIVES.—

22 (1) MISSION.—The mission of a compliance au-
23 thority established and operated under a pilot pro-
24 gram under this section shall be to promote compli-

1 ance and effective enforcement of State laws regard-
2 ing the rights of victims of crime.

3 (2) DUTIES.—A compliance authority estab-
4 lished and operated under a pilot program under
5 this section shall—

6 (A) receive and investigate complaints re-
7 lating to the provision or violation of the rights
8 of a crime victim; and

9 (B) issue findings following such investiga-
10 tions.

11 (3) OTHER DUTIES.—A compliance authority
12 established and operated under a pilot program
13 under this section may—

14 (A) pursue legal actions to define or en-
15 force the rights of victims;

16 (B) review procedures established by public
17 agencies and private organizations that provide
18 services to victims, and evaluate the delivery of
19 services to victims by such agencies and organi-
20 zations;

21 (C) coordinate and cooperate with other
22 public agencies and private organizations con-
23 cerned with the implementation, monitoring,
24 and enforcement of the rights of victims and
25 enter into cooperative agreements with such

1 agencies and organizations for the furtherance
2 of the rights of victims;

3 (D) ensure a centralized location for victim
4 services information;

5 (E) recommend changes in State policies
6 concerning victims, including changes in the
7 system for providing victim services;

8 (F) provide public education, legislative ad-
9 vocacy, and development of proposals for sys-
10 temic reform; and

11 (G) advertise to advise the public of its
12 services, purposes, and procedures.

13 (d) ELIGIBILITY.—To be eligible to receive a grant
14 under this section, a State shall submit an application to
15 the Director which includes assurances that—

16 (1) the State has provided legal rights to vic-
17 tims of crime at the adult and juvenile levels;

18 (2) a compliance authority that receives funds
19 under this section will include a role for—

20 (A) representatives of criminal justice
21 agencies, crime victim service organizations,
22 and the educational community;

23 (B) a medical professional whose work in-
24 cludes work in a hospital emergency room; and

1 (C) a therapist whose work includes treat-
2 ment of crime victims; and

3 (3) Federal funds received under this section
4 will be used to supplement, and not to supplant,
5 non-Federal funds that would otherwise be available
6 to enforce the rights of victims of crime.

7 (e) PREFERENCE.—In awarding grants under this
8 section, the Attorney General shall give preference to a
9 State that provides legal standing to prosecutors and vic-
10 tims of crime to assert the rights of victims of crime.

11 (f) OVERSIGHT.—

12 (1) TECHNICAL ASSISTANCE.—The Director
13 may provide technical assistance and training to a
14 State that receives a grant under this section to
15 achieve the purposes of this section.

16 (2) ANNUAL REPORT.—Each State that re-
17 ceives a grant under this section shall submit to the
18 Director, for each year in which funds from a grant
19 received under this section are expended, a report
20 that contains—

21 (A) a summary of the activities carried out
22 under the grant and an assessment of the effec-
23 tiveness of such activities in promoting compli-
24 ance and effective implementation of the laws of

1 that State regarding the rights of victims of
2 crime;

3 (B) a strategic plan for the year following
4 the year covered under subparagraph (A); and

5 (C) such other information as the Director
6 may require.

7 (g) REVIEW OF PROGRAM EFFECTIVENESS.—

8 (1) IN GENERAL.—The Director of the National
9 Institute for Justice shall conduct an evaluation of
10 the pilot programs carried out under this section to
11 determine the effectiveness of the compliance au-
12 thorities that are the subject of the pilot programs
13 in carrying out the mission and duties described in
14 subsection (c).

15 (2) REPORT.—Not later than 5 years after the
16 date of enactment of this Act, the Director of the
17 National Institute of Justice shall submit to the
18 Committee on the Judiciary of the House of Rep-
19 resentatives and the Committee on the Judiciary of
20 the Senate a written report on the results of the
21 evaluation required by paragraph (1).

22 (h) GRANT PERIOD.—A grant under this section
23 shall be made for a period not longer than 4 years, but
24 may be renewed for a period not to exceed 2 years on such
25 terms as the Director may require.

1 (i) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There are authorized to be
 3 appropriated to carry out this section, to remain
 4 available until expended, \$8,000,000 for fiscal years
 5 2003 and 2004, and such sums as may be necessary
 6 for fiscal years 2005 and 2006.

7 (2) EVALUATIONS.—Up to 5 percent of the
 8 amount authorized to be appropriated under para-
 9 graph (1) in any fiscal year may be used for admin-
 10 istrative expenses incurred in conducting the evalua-
 11 tions and preparing the report required by sub-
 12 section (g).

13 **SEC. 3222. INCREASED RESOURCES TO DEVELOP STATE-OF-**
 14 **THE-ART SYSTEMS FOR NOTIFYING CRIME**
 15 **VICTIMS OF IMPORTANT DATES AND DEVEL-**
 16 **OPMENTS.**

17 The Victims of Crime Act of 1984 is amended by in-
 18 serting after section 1404C the following:

19 **“SEC. 1404D. VICTIM NOTIFICATION GRANTS.**

20 “(a) IN GENERAL.—The Director may make grants
 21 as provided in section 1404(c)(1)(A) to State, tribal, and
 22 local prosecutors’ offices, law enforcement agencies,
 23 courts, jails, and correctional institutions, and to qualified
 24 private entities, to develop and implement state-of-the-art
 25 systems for notifying victims of crime of important dates

1 and developments relating to the criminal proceedings at
2 issue on a timely and efficient basis.

3 “(b) INTEGRATION OF SYSTEMS.—Systems developed
4 and implemented under this section may be integrated
5 with existing case management systems operated by the
6 recipient of the grant.

7 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to carry out this section,
9 in addition to funds made available by section
10 1402(d)(4)(C)—

11 “(1) \$10,000,000 for fiscal years 2003 and
12 2004;

13 “(2) \$5,000,000 for fiscal year 2005; and

14 “(3) \$5,000,000 for fiscal year 2006.

15 “(d) FALSE CLAIMS ACT.—Notwithstanding any
16 other provision of law, amounts collected pursuant to sec-
17 tions 3729 through 3731 of title 31, United States Code
18 (commonly known as the ‘False Claims Act’), may be used
19 for grants under this section.”.

20 **SEC. 3223. RESTORATIVE JUSTICE GRANTS.**

21 (a) PURPOSES.—The purposes of this section are
22 to—

23 (1) hold juvenile offenders accountable for their
24 offenses;

1 (2) involve victims and the community in the
2 juvenile justice process;

3 (3) obligate the offender to pay restitution to
4 the victim and to the community through community
5 service or through financial or other forms of res-
6 titution; and

7 (4) equip juvenile offenders with the skills need-
8 ed to live responsibly and productively.

9 (b) **AUTHORITY TO MAKE GRANTS.**—The Office of
10 Justice Programs of the Department of Justice shall make
11 grants, in accordance with such regulations as the Attor-
12 ney General may prescribe, to units of local governments,
13 tribal governments, and qualified private entities to estab-
14 lish restorative justice programs, such as victim and of-
15 fender mediation, family and community conferences, fam-
16 ily and group conferences, sentencing circles, restorative
17 panels, and reparative boards, as an alternative to, or in
18 addition to, incarceration.

19 (c) **PROGRAM CRITERIA.**—A program funded by a
20 grant made under this section shall—

21 (1) be fully voluntary by both the victim and
22 the offender (who must admit responsibility), once
23 the prosecuting agency has determined that the case
24 is appropriate for this program;

1 (2) include as a critical component account-
2 ability conferences, at which the victim will have the
3 opportunity to address the offender directly, to de-
4 scribe the impact of the offense against the victim,
5 and the opportunity to suggest possible forms of res-
6 titution;

7 (3) require that conferences be attended by the
8 victim, the offender and, when possible, the parents
9 or guardians of the offender, and the arresting offi-
10 cer; and

11 (4) provide an early, individualized assessment
12 and action plan to each juvenile offender in order to
13 prevent further criminal behavior through the devel-
14 opment of appropriate skills in the juvenile offender
15 so that the juvenile is more capable of living produc-
16 tively and responsibly in the community.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to carry out this sec-
19 tion—

20 (1) \$10,000,000 for fiscal years 2003 and 2004
21 for grants to establish programs; and

22 (2) \$5,000,000 for each of fiscal years 2005
23 and 2006 to continue programs established in fiscal
24 years 2003 and 2004.

1 **PART 3—AMENDMENTS TO VICTIMS OF CRIME**

2 **ACT**

3 **SEC. 3231. FORMULA FOR DISTRIBUTIONS FROM THE**
4 **CRIME VICTIMS FUND.**

5 (a) FORMULA FOR FUND DISTRIBUTIONS.—Section
6 4102(c) of the Victims of Crime Act of 1984 (42 U.S.C.
7 10601(c)) is amended to read as follows:

8 “(c) FUND DISTRIBUTION; RETENTION OF SUMS IN
9 FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FIS-
10 CAL YEAR LIMITATION.—

11 “(1)(A) Except as provided in subparagraphs
12 (B) an (C), the total amount to be distributed from
13 the Fund in any fiscal year shall be not less than
14 105 percent nor more than 115 percent of the total
15 amount distributed from the Fund in the previous
16 fiscal year, provided that the amount shall at a min-
17 imum be sufficient fully provide grants in accord-
18 ance with sections 10602(a)(1), 10603(a)(1), and
19 10603(c)(2) of this title.

20 “(B) In any fiscal year that there is an insuffi-
21 cient amount in the Fund to fully provide grants in
22 accordance with sections 10602(a)(1), 10603(a)(1),
23 and 10603(c)(2) of this title, the amounts made
24 available for grants under sections 10602(a),
25 10603(a), and 10603(c) shall be reduced by an
26 equal percentage.

1 “(C) In any fiscal year that the total amount
2 available in the Fund is more than 2 times the total
3 amount distributed in the previous fiscal year, up to
4 125 percent of the amount distributed in the pre-
5 vious fiscal year may be distributed.

6 “(2) In each fiscal year, the Director shall dis-
7 tribute amounts from the Fund in accordance with
8 subsection (d). Notwithstanding any other provision
9 of law, all sums deposited in the Fund that are not
10 distributed shall remain in reserve in the Fund for
11 obligation in future fiscal years, without fiscal year
12 limitation.”.

13 (b) ESTABLISHMENT OF BASE AMOUNT FOR TOTAL
14 VICTIM ASSISTANCE GRANTS.—Section 1404(a)(1) of the
15 Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1))
16 is amended by adding at the end the following:

17 “Except as provided in subsection 10601(e)(1)(B),
18 the total amount distributed to States under this sub-
19 section in any fiscal year shall not be less than the average
20 amount distributed for this purpose during the previous
21 three fiscal years.”.

22 (c) ESTABLISHMENT OF BASE AMOUNT FOR OVC
23 DISCRETIONARY GRANTS.—Section 1404(c)(2) of the Vic-
24 tims of Crime Act of 1984 (42 U.S.C. 10603(c)(2)) is
25 amended by inserting after “(2)” the following:

1 “Except as provided in subsection 10601(c)(1)(B),
2 the amount available for grants under this subsection in
3 any fiscal year shall not be less than the average amount
4 available for this purpose during the previous three fiscal
5 years.”.

6 **SEC. 3232. CLARIFICATION REGARDING ANTITERRORISM**
7 **EMERGENCY RESERVE.**

8 Section 1402(d)(5)(C) of the Victims of Crime Act
9 of 1984 (42 U.S.C. 10601(d)(5)(C)) is amended by insert-
10 ing “, and any amounts used to replenish such reserve,”
11 after “any such amounts carried over”.

12 **SEC. 3233. PROHIBITION ON DIVERTING CRIME VICTIMS**
13 **FUND TO OFFSET INCREASED SPENDING.**

14 (a) PURPOSE.—The purpose of this section is to en-
15 sure that amounts deposited in the Crime Victims Fund
16 (as established by section 1402(a) of the Victims of Crime
17 Act of 1984 (42 U.S.C. 10601(a)) are distributed in a
18 timely manner to assist victims of crime as intended by
19 current law and are not diverted to offset increased spend-
20 ing.

21 (b) TREATMENT OF CRIME VICTIMS FUND.—Section
22 1402 of the Victims of Crime Act of 1984 (42 U.S.C.
23 10601) is amended by adding at the end the following:

24 “(h) For purposes of congressional points of order,
25 the Congressional Budget Act of 1974, and the Balanced

1 Budget and Emergency Deficit Control Act of 1985, any
2 limitation on spending from the Fund included in the
3 President’s budget or enacted in appropriations legislation
4 for fiscal year 2003 or any subsequent fiscal year shall
5 not be scored as discretionary savings.”.

6 **Subtitle C—Violence Against**
7 **Women Act Enhancements**

8 **SEC. 3301. TRANSITIONAL HOUSING ASSISTANCE GRANTS.**

9 (a) IN GENERAL.—The Attorney General, in con-
10 sultation with the Secretary of Housing and Urban Devel-
11 opment and the Secretary of Health and Human Services,
12 shall award grants under this section to organizations,
13 States, units of local government, and Indian tribes (re-
14 ferred to in this section as the “recipient”) to carry out
15 programs to provide assistance to individuals, and the de-
16 pendants of individuals—

17 (1) who are homeless or in need of transitional
18 housing or other housing assistance as a result of
19 fleeing a situation of domestic violence; and

20 (2) for whom emergency shelter services or
21 other crisis intervention services are unavailable or
22 insufficient.

23 (b) GRANTS.—Grants awarded under this section
24 may be used for programs that provide—

1 (1) short-term housing assistance, including
2 rental or utilities payments assistance and assistance
3 with related expenses such as payment of security
4 deposits and other costs incidental to relocation to
5 transitional housing for persons described in sub-
6 section (a); and

7 (2) support services designed to enable an indi-
8 vidual, or dependent of an individual, who is fleeing
9 a situation of domestic violence to—

10 (A) locate and secure permanent housing;

11 and

12 (B) integrate into a community by pro-
13 viding that individual or dependent with serv-
14 ices, such as transportation, counseling, child
15 care services, case management, employment
16 counseling, and other assistance.

17 (c) DURATION.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), an individual, or dependent of an indi-
20 vidual, who receives assistance under this section
21 shall receive that assistance for not more than 18
22 months.

23 (2) WAIVER.—The recipient of a grant under
24 this section may waive the restriction under para-
25 graph (1) for not more than an additional 6 month

1 period with respect to any individual, or dependent
2 of an individual, who—

3 (A) has made a good-faith effort to acquire
4 permanent housing; and

5 (B) has been unable to acquire permanent
6 housing.

7 (d) APPLICATION.—

8 (1) IN GENERAL.—Each eligible entity desiring
9 a grant under this section shall submit an applica-
10 tion to the Attorney General at such time, in such
11 manner, and accompanied by such information as
12 the Attorney General may reasonably require.

13 (2) CONTENTS.—Each application submitted
14 pursuant to paragraph (1) shall—

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

17 (B) provide such additional assurances as
18 the Attorney General determines to be essential
19 to ensure compliance with the requirements of
20 this section.

21 (3) APPLICATION.—Nothing in this subsection
22 shall be construed to require—

23 (A) victims to participate in the criminal
24 justice system in order to receive services; or

1 (B) domestic violence advocates to breach
2 client confidentiality.

3 (e) REPORT TO THE ATTORNEY GENERAL.—

4 (1) IN GENERAL.—A recipient of a grant under
5 this section shall annually prepare and submit to the
6 Attorney General a report describing—

7 (A) the number of individuals and depend-
8 ents assisted under this section; and

9 (B) the types of housing assistance and
10 support services provided under this section.

11 (2) CONTENTS.—Each report prepared and
12 submitted under paragraph (1) shall include infor-
13 mation regarding—

14 (A) the amount of housing assistance pro-
15 vided to each individual, or dependent of an in-
16 dividual, assisted under this section and the
17 reason for that assistance;

18 (B) the number of months each individual,
19 or dependent of an individual, received assist-
20 ance under this section;

21 (C) the number of individuals and depend-
22 ents of those individuals who—

23 (i) were eligible to receive assistance
24 under this section; and

1 (ii) were not provided with assistance
2 under this section solely due to a lack of
3 available housing; and

4 (D) the type of support services provided
5 to each individual, or dependent of an indi-
6 vidual, assisted under this section.

7 (f) REPORT TO CONGRESS.—

8 (1) REPORTING REQUIREMENT.—The Attorney
9 General shall annually prepare and submit to the
10 Committee on the Judiciary of the House of Rep-
11 resentatives and the Committee on the Judiciary of
12 the Senate a report that contains a compilation of
13 the information contained in the report submitted
14 under subsection (e).

15 (2) AVAILABILITY OF REPORT.—In order to co-
16 ordinate efforts to assist the victims of domestic vio-
17 lence, the Attorney General shall transmit a copy of
18 the report submitted under paragraph (1) to—

19 (1) the Office of Community Planning and De-
20 velopment at the United States Department of
21 Housing and Urban Development; and

22 (2) the Office of Women’s Health at the United
23 States Department of Health and Human Services.

24 (g) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to carry out this section \$30,000,000
3 for each of fiscal years 2003 through 2007.

4 (2) LIMITATIONS.—Of the amount made avail-
5 able to carry out this section in any fiscal year, not
6 more than 3 percent may be used by the Attorney
7 General for salaries and administrative expenses.

8 (3) MINIMUM AMOUNT.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (B), unless all eligible applica-
11 tions submitted by any States, units of local
12 government, Indian tribes, or organizations
13 within a State for a grant under this section
14 have been funded, that State, together with the
15 grantees within the State (other than Indian
16 tribes), shall be allocated in each fiscal year,
17 not less than 0.75 percent of the total amount
18 appropriated in the fiscal year for grants pursu-
19 ant to this section.

20 (B) EXCEPTION.—The United States Vir-
21 gin Islands, American Samoa, Guam, and the
22 Northern Mariana Islands shall each be allo-
23 cated 0.25 percent of the total amount appro-
24 priated in the fiscal year for grants pursuant to
25 this section.

1 **SEC. 3302. SHELTER SERVICES FOR BATTERED WOMEN**
2 **AND CHILDREN.**

3 (a) STATE SHELTER GRANTS.—Section 303(a)(2)(C)
4 of the Family Violence Prevention and Services Act (42
5 U.S.C. 10402(a)(2)(C)) is amended by striking “popu-
6 lations underserved because of ethnic, racial, cultural, lan-
7 guage diversity or geographic isolation” and inserting
8 “populations underserved because of race, ethnicity, age,
9 disability, religion, alienage status, geographic location
10 (including rural isolation), or language barriers, and any
11 other populations determined by the Secretary to be un-
12 derserved”.

13 (b) SECRETARIAL RESPONSIBILITIES.—Section
14 305(a) of the Family Violence Prevention and Services Act
15 (42 U.S.C. 10404(a)) is amended—

16 (1) by striking “an employee” and inserting “1
17 or more employees”;

18 (2) by striking “of this title.” and inserting “of
19 this title, including carrying out evaluation and mon-
20 itoring under this title.”; and

21 (3) by striking “The individual” and inserting
22 “Any individual”.

23 (c) RESOURCE CENTERS.—Section 308 of the Family
24 Violence Prevention and Services Act (42 U.S.C. 10407)
25 is amended—

1 (1) in subsection (a)(2), by inserting “on pro-
2 viding information, training, and technical assist-
3 ance” after “focusing”; and

4 (2) in subsection (c), by adding at the end the
5 following:

6 “(8) Providing technical assistance and training
7 to local entities carrying out domestic violence pro-
8 grams that provide shelter, related assistance, or
9 transitional housing assistance.

10 “(9) Improving access to services, information,
11 and training, concerning family violence, within In-
12 dian tribes and Indian tribal agencies.

13 “(10) Providing technical assistance and train-
14 ing to appropriate entities to improve access to serv-
15 ices, information, and training concerning family vio-
16 lence occurring in underserved populations.”.

17 (d) CONFORMING AMENDMENT.—Section 309(6) of
18 the Family Violence Prevention and Services Act (42
19 U.S.C. 10408(6)) is amended by striking “the Virgin Is-
20 lands, the Northern Mariana Islands, and the Trust Terri-
21 tory of the Pacific Islands” and inserting “the United
22 States Virgin Islands, the Commonwealth of the Northern
23 Mariana Islands, and the combined Freely Associated
24 States”.

1 (e) REAUTHORIZATION.—Section 310 of the Family
2 Violence Prevention and Services Act (42 U.S.C. 10409)
3 is amended—

4 (1) by striking subsection (a) and inserting the
5 following:

6 “(a) IN GENERAL.—

7 “(1) AUTHORIZATION OF APPROPRIATIONS.—

8 There are authorized to be appropriated to carry out
9 this title \$175,000,000 for each of fiscal years 2003
10 through 2006.

11 “(2) SOURCE OF FUNDS.—Amounts made avail-
12 able under paragraph (1) may be appropriated from
13 the Violent Crime Reduction Trust Fund established
14 under section 310001 of the Violent Crime Control
15 and Law Enforcement Act of 1994 (42 U.S.C.
16 14211).”;

17 (2) in subsection (b), by striking “under sub-
18 section 303(a)” and inserting “under section
19 303(a)”;

20 (3) in subsection (c), by inserting “not more
21 than the lesser of \$7,500,000 or” before “5”; and

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

23 “(f) EVALUATION, MONITORING, AND ADMINISTRA-
24 TION.—Of the amounts appropriated under subsection (a)
25 for each fiscal year, not more than 1 percent shall be used

1 by the Secretary for evaluation, monitoring, and adminis-
2 trative costs under this title.”.

3 (f) STATE DOMESTIC VIOLENCE COALITION GRANT
4 ACTIVITIES.—Section 311 of the Family Violence Preven-
5 tion and Services Act (42 U.S.C. 10410) is amended—

6 (1) in subsection (a)(4), by striking “under-
7 served racial, ethnic or language-minority popu-
8 lations” and inserting “underserved populations de-
9 scribed in section 303(a)(2)(C)”; and

10 (2) in subsection (e), by striking “the U.S. Vir-
11 gin Islands, the Northern Mariana Islands, and the
12 Trust Territory of the Pacific Islands” and inserting
13 “the United States Virgin Islands, the Common-
14 wealth of the Northern Mariana Islands, and the
15 Freely Associated States”.

1 **TITLE IV—SUPPORTING LAW EN-**
2 **FORCEMENT AND THE EFFEC-**
3 **TIVE ADMINISTRATION OF**
4 **JUSTICE**

5 **Subtitle A—Support for Public**
6 **Safety Officers and Prosecutors**

7 **PART 1—PROVIDING RELIABLE OFFICERS, TECH-**
8 **NOLOGY, EDUCATION, COMMUNITY PROS-**
9 **ECUTORS, AND TRAINING IN OUR NEIGH-**
10 **BORHOODS**

11 **SEC. 4101. SHORT TITLE.**

12 This part may be cited as the “Providing Reliable Of-
13 ficers, Technology, Education, Community Prosecutors,
14 and Training in Our Neighborhoods Act of 2003” or
15 “PROTECTION Act”.

16 **SEC. 4102. AUTHORIZATIONS.**

17 (a) COPS PROGRAM.—Section 1701(a) of title I of
18 the Omnibus Crime Control and Safe Streets Act of 1968
19 (42 U.S.C. 3796dd(a)) is amended by—

20 (1) inserting “and prosecutor” after “increase
21 police”; and

22 (2) inserting “to enhance law enforcement ac-
23 cess to new technologies, and” after “presence,”.

24 (b) HIRING AND REDEPLOYMENT GRANT
25 PROJECTS.—Section 1701(b) of title I of the Omnibus

1 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
2 3796dd(b)) is amended—

3 (1) in paragraph (1)—

4 (A) in subparagraph (B)—

5 (i) by inserting after “Nation” the fol-
6 lowing: “, or pay overtime to existing ca-
7 reer law enforcement officers to the extent
8 that such overtime is devoted to commu-
9 nity policing efforts”; and

10 (ii) by striking “and” at the end;

11 (B) in subparagraph (C), by—

12 (i) striking “or pay overtime”; and

13 (ii) striking the period at the end and
14 inserting “; and”; and

15 (C) by adding at the end the following:

16 “(D) promote higher education among in-
17 service State and local law enforcement officers
18 by reimbursing them for the costs associated
19 with seeking a college or graduate school edu-
20 cation.”; and

21 (2) in paragraph (2) by striking all that follows
22 SUPPORT SYSTEMS.—” and inserting “Grants pur-
23 suant to—

24 “(A) paragraph (1)(B) for overtime may
25 not exceed 25 percent of the funds available for

1 grants pursuant to this subsection for any fiscal
2 year;

3 “(B) paragraph (1)(C) may not exceed 20
4 percent of the funds available for grants pursu-
5 ant to this subsection in any fiscal year; and

6 “(C) paragraph (1)(D) may not exceed 5
7 percent of the funds available for grants pursu-
8 ant to this subsection for any fiscal year.”.

9 (c) ADDITIONAL GRANT PROJECTS.—Section
10 1701(d) of title I of the Omnibus Crime Control and Safe
11 Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

12 (1) in paragraph (2)—

13 (A) by inserting “integrity and ethics”
14 after “specialized”; and

15 (B) by inserting “and” after “enforcement
16 officers”;

17 (2) in paragraph (7) by inserting “school offi-
18 cials, religiously-affiliated organizations,” after “en-
19 forcement officers”;

20 (3) by striking paragraph (8) and inserting the
21 following:

22 “(8) establish school-based partnerships be-
23 tween local law enforcement agencies and local
24 school systems, by using school resource officers who
25 operate in and around elementary and secondary

1 schools to serve as a law enforcement liaison with
2 other Federal, State, and local law enforcement and
3 regulatory agencies, combat school-related crime and
4 disorder problems, gang membership and criminal
5 activity, firearms and explosives-related incidents, il-
6 legal use and possession of alcohol, and the illegal
7 possession, use, and distribution of drugs;”;

8 (4) in paragraph (10) by striking “and” at the
9 end;

10 (5) in paragraph (11) by striking the period
11 that appears at the end and inserting “; and”; and

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

13 “(12) develop and implement innovative pro-
14 grams (such as the TRIAD program) that bring to-
15 gether a community’s sheriff, chief of police, and el-
16 derly residents to address the public safety concerns
17 of older citizens.”.

18 (d) TECHNICAL ASSISTANCE.—Section 1701(f) of
19 title I of the Omnibus Crime Control and Safe Streets Act
20 of 1968 (42 U.S.C. 3796dd(f)) is amended—

21 (1) in paragraph (1)—

22 (A) by inserting “use up to 5 percent of
23 the funds appropriated under subsection (a) to”
24 after “The Attorney General may”;

1 (B) by inserting at the end the following:

2 “In addition, the Attorney General may use up
3 to 5 percent of the funds appropriated under
4 subsections (d), (e), and (f) for technical assist-
5 ance and training to States, units of local gov-
6 ernment, Indian tribal governments, and to
7 other public and private entities for those re-
8 spective purposes.”;

9 (2) in paragraph (2) by inserting “under sub-
10 section (a)” after “the Attorney General”; and

11 (3) in paragraph (3)—

12 (A) by striking “the Attorney General
13 may” and inserting “the Attorney General
14 shall”;

15 (B) by inserting “regional community po-
16licing institutes” after “operation of”; and

17 (C) by inserting “representatives of police
18labor and management organizations, commu-
19nity residents,” after “supervisors,”.

20 (e) TECHNOLOGY AND PROSECUTION PROGRAMS.—

21 Section 1701 of title I of the Omnibus Crime Control and
22 Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended
23 by—

24 (1) striking subsection (k);

1 (2) redesignating subsections (f) through (j) as
2 subsections (g) through (k), respectively; and

3 (3) striking subsection (e) and inserting the fol-
4 lowing:

5 “(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—
6 Grants made under subsection (a) may be used to assist
7 police departments, in employing professional, scientific,
8 and technological advancements that will help them—

9 “(1) improve police communications through
10 the use of wireless communications, computers, soft-
11 ware, videocams, databases and other hardware and
12 software that allow law enforcement agencies to
13 communicate more effectively across jurisdictional
14 boundaries and effectuate interoperability;

15 “(2) develop and improve access to crime solv-
16 ing technologies, including DNA analysis, photo en-
17 hancement, voice recognition, and other forensic ca-
18 pabilities; and

19 “(3) promote comprehensive crime analysis by
20 utilizing new techniques and technologies, such as
21 crime mapping, that allow law enforcement agencies
22 to use real-time crime and arrest data and other re-
23 lated information—including non-criminal justice
24 data—to improve their ability to analyze, predict,
25 and respond pro-actively to local crime and disorder

1 problems, as well as to engage in regional crime
2 analysis.

3 “(f) COMMUNITY-BASED PROSECUTION PROGRAM.—

4 Grants made under subsection (a) may be used to assist
5 State, local or tribal prosecutors’ offices in the implemen-
6 tation of community-based prosecution programs that
7 build on local community policing efforts. Funds made
8 available under this subsection may be used to—

9 “(1) hire additional prosecutors who will be as-
10 signed to community prosecution programs, includ-
11 ing programs that assign prosecutors to handle cases
12 from specific geographic areas, to address specific
13 violent crime and other local crime problems (includ-
14 ing intensive illegal gang, gun and drug enforcement
15 projects and quality of life initiatives), and to ad-
16 dress localized violent and other crime problems
17 based on needs identified by local law enforcement
18 agencies, community organizations, and others;

19 “(2) redeploy existing prosecutors to community
20 prosecution programs as described in paragraph (1)
21 of this section by hiring victim and witness coordina-
22 tors, paralegals, community outreach, and other
23 such personnel; and

24 “(3) establish programs to assist local prosecu-
25 tors’ offices in the implementation of programs that

1 help them identify and respond to priority crime
2 problems in a community with specifically tailored
3 solutions.

4 At least 75 percent of the funds made available under this
5 subsection shall be reserved for grants under paragraphs
6 (1) and (2) and of those amounts no more than 10 percent
7 may be used for grants under paragraph (2) and at least
8 25 percent of the funds shall be reserved for grants under
9 paragraphs (1) and (2) to units of local government with
10 a population of less than 50,000.”.

11 (f) RETENTION GRANTS.—Section 1703 of title I of
12 the Omnibus Crime Control and Safe Streets Act of 1968
13 (42 U.S.C. 3796dd–2) is amended by inserting at the end
14 the following:

15 “(d) RETENTION GRANTS.—The Attorney General
16 may use no more than 50 percent of the funds under sub-
17 section (a) to award grants targeted specifically for reten-
18 tion of police officers to grantees in good standing, with
19 preference to those that demonstrate financial hardship or
20 severe budget constraint that impacts the entire local
21 budget and may result in the termination of employment
22 for police officers funded under subsection (b)(1).”.

23 (g) DEFINITIONS.—

24 (1) CAREER LAW ENFORCEMENT OFFICER.—
25 Section 1709(1) of title I of the Omnibus Crime

1 Control and Safe Streets Act of 1968 (42 U.S.C.
2 3796dd–8) is amended by inserting after “criminal
3 laws” the following: “including sheriffs deputies
4 charged with supervising offenders who are released
5 into the community but also engaged in local com-
6 munity policing efforts.”.

7 (2) SCHOOL RESOURCE OFFICER.—Section
8 1709(4) of title I of the Omnibus Crime Control and
9 Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is
10 amended—

11 (A) by striking subparagraph (A) and in-
12 serting the following:

13 “(A) to serve as a law enforcement liaison
14 with other Federal, State, and local law en-
15 forcement and regulatory agencies, to address
16 and document crime and disorder problems in-
17 cluding gangs and drug activities, firearms and
18 explosives-related incidents, and the illegal use
19 and possession of alcohol affecting or occurring
20 in or around an elementary or secondary
21 school;”;

22 (B) by striking subparagraph (E) and in-
23 serting the following:

24 “(E) to train students in conflict resolu-
25 tion, restorative justice, and crime awareness,

1 and to provide assistance to and coordinate
2 with other officers, mental health professionals,
3 and youth counselors who are responsible for
4 the implementation of prevention/intervention
5 programs within the schools;” and

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

7 “(H) to work with school administrators,
8 members of the local parent teacher associa-
9 tions, community organizers, law enforcement,
10 fire departments, and emergency medical per-
11 sonnel in the creation, review, and implementa-
12 tion of a school violence prevention plan;

13 “(I) to assist in documenting the full de-
14 scription of all firearms found or taken into
15 custody on school property and to initiate a
16 firearms trace and ballistics examination for
17 each firearm with the local office of the Bureau
18 of Alcohol, Tobacco, and Firearms;

19 “(J) to document the full description of all
20 explosives or explosive devices found or taken
21 into custody on school property and report to
22 the local office of the Bureau of Alcohol, To-
23 bacco, and Firearms; and

24 “(K) to assist school administrators with
25 the preparation of the Department of Edu-

1 cation, Annual Report on State Implementation
2 of the Gun-Free Schools Act which tracks the
3 number of students expelled per year for bring-
4 ing a weapon, firearm, or explosive to school.”.

5 (h) AUTHORIZATION OF APPROPRIATIONS.—Section
6 1001(a)(11) of title I of the Omnibus Crime Control and
7 Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is
8 amended—

9 (1) by amending subparagraph (A) to read as
10 follows:

11 “(A) There are authorized to be appro-
12 priated to carry out part Q, to remain available
13 until expended—

14 “(i) \$1,150,000,000 for fiscal year
15 2003;

16 “(ii) \$1,150,000,000 for fiscal year
17 2004;

18 “(iii) \$1,150,000,000 for fiscal year
19 2005;

20 “(iv) \$1,150,000,000 for fiscal year
21 2006;

22 “(v) \$1,150,000,000 for fiscal year
23 2007; and

24 “(vi) \$1,150,000,000 for fiscal year
25 2008.”; and

1 (2) in subparagraph (B)—

2 (A) by striking “3 percent” and inserting
3 “5 percent”;

4 (B) by striking “1701(f)” and inserting
5 “1701(g)”;

6 (C) by striking the second sentence and in-
7 serting “Of the remaining funds, if there is a
8 demand for 50 percent of appropriated hiring
9 funds, as determined by eligible hiring applica-
10 tions from law enforcement agencies having ju-
11 risdiction over areas with populations exceeding
12 150,000, no less than 50 percent shall be allo-
13 cated for grants pursuant to applications sub-
14 mitted by units of local government or law en-
15 forcement agencies having jurisdiction over
16 areas with populations exceeding 150,000 or by
17 public and private entities that serve areas with
18 populations exceeding 150,000, and no less
19 than 50 percent shall be allocated for grants
20 pursuant to applications submitted by units of
21 local government or law enforcement agencies
22 having jurisdiction over areas with populations
23 less than 150,000 or by public and private enti-
24 ties that serve areas with populations less than
25 150,000.”;

1 (D) by striking “85 percent” and inserting
2 “\$600,000,000”; and

3 (E) by striking “1701(b),” and all that fol-
4 lows through “of part Q” and inserting the fol-
5 lowing: “1701 (b) and (c), \$350,000,000 to
6 grants for the purposes specified in section
7 1701(e), and \$200,000,000 to grants for the
8 purposes specified in section 1701(f).”.

9 **PART 2—HOMETOWN HEROES SURVIVORS**

10 **BENEFITS**

11 **SEC. 4111. SHORT TITLE.**

12 This part may be cited as the “Hometown Heroes
13 Survivors Benefits Act of 2003”.

14 **SEC. 4112. FATAL HEART ATTACK OR STROKE ON DUTY**

15 **PRESUMED TO BE DEATH IN LINE OF DUTY**

16 **FOR PURPOSES OF PUBLIC SAFETY OFFICER**

17 **SURVIVOR BENEFITS.**

18 (a) IN GENERAL.—Section 1201 of the Omnibus
19 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
20 3796) is amended by adding at the end the following:

21 “(k) For purposes of this section, if a public safety
22 officer dies as the direct and proximate result of a heart
23 attack or stroke suffered while on duty or within 24 hours
24 after participating in a training exercise or responding to
25 an emergency situation, that officer shall be presumed to

1 have died as the direct and proximate result of a personal
2 injury sustained in the line of duty.”.

3 (b) APPLICABILITY.—Subsection (k) of section 1201
4 of the Omnibus Crime Control and Safe Streets Act of
5 1968 (as added by subsection (a)) shall apply to deaths
6 occurring on or after January 1, 2002.

7 **PART 3—FEDERAL PROSECUTORS RETIREMENT**
8 **BENEFIT EQUITY**

9 **SEC. 4121. SHORT TITLE.**

10 This part may be cited as the “Federal Prosecutors
11 Retirement Benefit Equity Act of 2003”.

12 **SEC. 4122. INCLUSION OF FEDERAL PROSECUTORS IN THE**
13 **DEFINITION OF A LAW ENFORCEMENT OFFI-**
14 **CER.**

15 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

16 (1) IN GENERAL.—Section 8331(20) of title 5,
17 United States Code, is amended by striking “posi-
18 tion.” and inserting “position and a Federal pros-
19 ecutor.”.

20 (2) FEDERAL PROSECUTOR DEFINED.—Section
21 8331 of title 5, United States Code, is amended—

22 (A) in paragraph (27), by striking “and”
23 at the end;

24 (B) in paragraph (28), by striking the pe-
25 riod and inserting “; and”; and

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

2 “(29) ‘Federal prosecutor’ means—

3 “(A) an assistant United States attorney
4 under section 542 of title 28; or

5 “(B) an attorney employed by the Depart-
6 ment of Justice and designated by the Attorney
7 General of the United States.”.

8 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

9 (1) IN GENERAL.—Section 8401(17) of title 5,
10 United States Code, is amended—

11 (A) in subparagraph (C), by striking
12 “and” at the end;

13 (B) in subparagraph (D), by adding “and”
14 after the semicolon; and

15 (C) by adding at the end the following:

16 “(E) a Federal prosecutor;”.

17 (2) FEDERAL PROSECUTOR DEFINED.—Section
18 8401 of title 5, United States Code, is amended—

19 (A) in paragraph (33), by striking “and”
20 at the end;

21 (B) in paragraph (34), by striking the pe-
22 riod and inserting “; and”; and

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

24 “(35) ‘Federal prosecutor’ means—

1 “(A) an assistant United States attorney
2 under section 542 of title 28; or

3 “(B) an attorney employed by the Depart-
4 ment of Justice and designated by the Attorney
5 General of the United States.”.

6 (c) TREATMENT UNDER CERTAIN PROVISIONS OF
7 LAW (UNRELATED TO RETIREMENT) TO REMAIN UN-
8 CHANGED.—

9 (1) ORIGINAL APPOINTMENTS.—Subsections (d)
10 and (e) of section 3307 of title 5, United States
11 Code, are amended by adding at the end of each the
12 following: “The preceding sentence shall not apply in
13 the case of an original appointment of a Federal
14 prosecutor as defined under section 8331(29) or
15 8401(35).”.

16 (2) MANDATORY SEPARATION.—Sections
17 8335(b) and 8425(b) of title 5, United States Code,
18 are amended by adding at the end of each the fol-
19 lowing: “The preceding provisions of this subsection
20 shall not apply in the case of a Federal prosecutor
21 as defined under section 8331(29) or 8401(35).”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the first day of the first
24 applicable pay period beginning on or after the date that
25 is 120 days after the date of enactment of this Act.

1 **SEC. 4123. PROVISIONS RELATING TO INCUMBENTS.**

2 (a) DEFINITIONS.—In this section, the term—

3 (1) “Federal prosecutor” means—

4 (A) an assistant United States attorney
5 under section 542 of title 28, United States
6 Code; or

7 (B) an attorney employed by the Depart-
8 ment of Justice and designated by the Attorney
9 General of the United States; and

10 (2) “incumbent” means an individual who is
11 serving as a Federal prosecutor on the effective date
12 of this section.

13 (b) DESIGNATED ATTORNEYS.—If the Attorney Gen-
14 eral of the United States makes any designation of an at-
15 torney to meet the definition under subsection (a)(1)(B)
16 for purposes of being an incumbent under this section—

17 (1) such designation shall be made before the
18 effective date of this section; and

19 (2) the Attorney General shall submit to the
20 Office of Personnel Management before that effec-
21 tive date—

22 (A) the name of the individual designated;
23 and

24 (B) the period of service performed by that
25 individual as a Federal prosecutor before that
26 effective date.

1 (c) NOTICE REQUIREMENT.—Not later than 9
2 months after the date of enactment of this Act, the De-
3 partment of Justice shall take measures reasonably de-
4 signed to provide notice to incumbents on—

5 (1) their election rights under this part; and

6 (2) the effects of making or not making a time-
7 ly election under this part.

8 (d) ELECTION AVAILABLE TO INCUMBENTS.—

9 (1) IN GENERAL.—An incumbent may elect, for
10 all purposes, to be treated—

11 (A) in accordance with the amendments
12 made by this part; or

13 (B) as if this part had never been enacted.

14 (2) FAILURE TO ELECT.—Failure to make a
15 timely election under this subsection shall be treated
16 in the same way as an election under paragraph
17 (1)(A), made on the last day allowable under para-
18 graph (3).

19 (3) TIME LIMITATION.—An election under this
20 subsection shall not be effective unless the election
21 is made not later than the earlier of—

22 (A) 120 days after the date on which the
23 notice under subsection (c) is provided; or

24 (B) the date on which the incumbent in-
25 volved separates from service.

1 (e) LIMITED RETROACTIVE EFFECT.—

2 (1) EFFECT ON RETIREMENT.—In the case of
3 an incumbent who elects (or is deemed to have elect-
4 ed) the option under subsection (d)(1)(A), all service
5 performed by that individual as a Federal prosecutor
6 shall—

7 (A) to the extent performed on or after the
8 effective date of that election, be treated in ac-
9 cordance with applicable provisions of sub-
10 chapter III of chapter 83 or chapter 84 of title
11 5, United States Code, as amended by this
12 part; and

13 (B) to the extent performed before the ef-
14 fective date of that election, be treated in ac-
15 cordance with applicable provisions of sub-
16 chapter III of chapter 83 or chapter 84 of such
17 title, as if the amendments made by this part
18 had then been in effect.

19 (2) NO OTHER RETROACTIVE EFFECT.—Noth-
20 ing in this part (including the amendments made by
21 this part) shall affect any of the terms or conditions
22 of an individual's employment (apart from those
23 governed by subchapter III of chapter 83 or chapter
24 84 of title 5, United States Code) with respect to
25 any period of service preceding the date on which

1 such individual's election under subsection (d) is
2 made (or is deemed to have been made).

3 (f) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERV-
4 ICE.—

5 (1) IN GENERAL.—An individual who makes an
6 election under subsection (d)(1)(A) may, with re-
7 spect to prior service performed by such individual,
8 contribute to the Civil Service Retirement and Dis-
9 ability Fund the difference between the individual
10 contributions that were actually made for such serv-
11 ice and the individual contributions that should have
12 been made for such service if the amendments made
13 by section 4122 had then been in effect.

14 (2) EFFECT OF NOT CONTRIBUTING.—If no
15 part of or less than the full amount required under
16 paragraph (1) is paid, all prior service of the incum-
17 bent shall remain fully creditable as law enforcement
18 officer service, but the resulting annuity shall be re-
19 duced in a manner similar to that described in sec-
20 tion 8334(d)(2) of title 5, United States Code, to
21 the extent necessary to make up the amount unpaid.

22 (3) PRIOR SERVICE DEFINED.—For purposes of
23 this section, the term “prior service” means, with re-
24 spect to any individual who makes an election under
25 subsection (d)(1)(A), service performed by such indi-

1 vidual before the date as of which appropriate retire-
2 ment deductions begin to be made in accordance
3 with such election.

4 (g) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERV-
5 ICE.—

6 (1) IN GENERAL.—If an incumbent makes an
7 election under subsection (d)(1)(A), the Department
8 of Justice shall remit to the Office of Personnel
9 Management, for deposit in the Treasury of the
10 United States to the credit of the Civil Service Re-
11 tirement and Disability Fund, the amount required
12 under paragraph (2) with respect to such service.

13 (2) AMOUNT REQUIRED.—The amount the De-
14 partment of Justice is required to remit is, with re-
15 spect to any prior service, the total amount of addi-
16 tional Government contributions to the Civil Service
17 Retirement and Disability Fund (over and above
18 those actually paid) that would have been required
19 if the amendments made by section 4122 had then
20 been in effect.

21 (3) CONTRIBUTIONS TO BE MADE RATABLY.—
22 Government contributions under this subsection on
23 behalf of an incumbent shall be made by the Depart-
24 ment of Justice ratably (on at least an annual basis)

1 over the 10-year period beginning on the date re-
2 ferred to in subsection (f)(3).

3 (h) REGULATIONS.—Except as provided under sec-
4 tion 4124, the Office of Personnel Management shall pre-
5 scribe regulations necessary to carry out this part, includ-
6 ing provisions under which any interest due on the amount
7 described under subsection (f) shall be determined.

8 (i) EFFECTIVE DATE.—This section shall take effect
9 120 days after the date of enactment of this Act.

10 **SEC. 4124. DEPARTMENT OF JUSTICE ADMINISTRATIVE AC-**
11 **TIONS.**

12 (a) DEFINITION.—In this section the term “Federal
13 prosecutor” has the meaning given under section
14 4123(a)(1).

15 (b) REGULATIONS.—

16 (1) IN GENERAL.—Not later than 120 days
17 after the date of enactment of this Act, the Attorney
18 General of the United States shall—

19 (A) consult with the Office of Personnel
20 Management on this part (including the amend-
21 ments made by this part); and

22 (B) promulgate regulations for making
23 designations of Federal prosecutors who are not
24 assistant United States attorneys.

1 (2) CONTENTS.—Any regulations promulgated
 2 under paragraph (1) shall ensure that attorneys des-
 3 ignated as Federal prosecutors who are not assistant
 4 United States attorneys have routine employee re-
 5 sponsibilities that are substantially similar to those
 6 of assistant United States attorneys assigned to the
 7 litigation of criminal cases, such as the representa-
 8 tion of the United States before grand juries and in
 9 trials, appeals, and related court proceedings.

10 (c) DESIGNATIONS.—The designation of any Federal
 11 prosecutor who is not an assistant United States attorney
 12 for purposes of this part (including the amendments made
 13 by this part) shall be at the discretion of the Attorney
 14 General of the United States.

15 **Subtitle B—Rural Law Enforce-**
 16 **ment Improvement and Train-**
 17 **ing Grants**

18 **SEC. 4201. RURAL LAW ENFORCEMENT RETENTION GRANT**
 19 **PROGRAM.**

20 Section 1703 of title I of the Omnibus Crime Control
 21 and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is
 22 amended by adding at the end the following:

23 “(d) RETENTION GRANTS.—

24 “(1) IN GENERAL.—The Attorney General may
 25 make grants to units of local government and tribal

1 governments located outside a Standard Metropoli-
2 tan Statistical Area, which grants shall be targeted
3 specifically for the retention for 1 additional year of
4 police officers funded through the COPS Universal
5 Hiring Program, the COPS FAST Program, the
6 Tribal Resources Grant Program-Hiring, or the
7 COPS in Schools Program.

8 “(2) PREFERENCE.—In making grants under
9 this subsection, the Attorney General shall give pref-
10 erence to grantees that demonstrate financial hard-
11 ship or severe budget constraint that impacts the en-
12 tire local budget and may result in the termination
13 of employment for police officers described in para-
14 graph (1).

15 “(3) LIMIT ON GRANT AMOUNTS.—The total
16 amount of a grant made under this subsection shall
17 not exceed 20 percent of the original grant to the
18 grantee.

19 “(4) AUTHORIZATION OF APPROPRIATIONS.—

20 “(A) IN GENERAL.—There are authorized
21 to be appropriated to carry out this subsection
22 \$15,000,000 for each of fiscal years 2003
23 through 2007.

24 “(B) SET-ASIDE.—Of the amount made
25 available for grants under this subsection for

1 each fiscal year, 10 percent shall be awarded to
2 tribal governments.”.

3 **SEC. 4202. RURAL LAW ENFORCEMENT TECHNOLOGY**
4 **GRANT PROGRAM.**

5 Section 1701 of title I of the Omnibus Crime Control
6 and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is
7 amended by striking subsection (k) and inserting the fol-
8 lowing:

9 “(k) LAW ENFORCEMENT TECHNOLOGY PRO-
10 GRAM.—

11 “(1) IN GENERAL.—Grants made under sub-
12 section (a) may be used to assist the police depart-
13 ments of units of local government and tribal gov-
14 ernments located outside a Standard Metropolitan
15 Statistical Area, in employing professional, scientific,
16 and technological advancements that will help those
17 police departments to—

18 “(A) improve police communications
19 through the use of wireless communications,
20 computers, software, videocams, databases and
21 other hardware and software that allow law en-
22 forcement agencies to communicate and operate
23 more effectively; and

24 “(B) develop and improve access to crime
25 solving technologies, including DNA analysis,

1 photo enhancement, voice recognition, and other
2 forensic capabilities.

3 “(2) COST SHARE REQUIREMENT.—A recipient
4 of a grant made under subsection (a) and used in
5 accordance with this subsection shall provide match-
6 ing funds from non-Federal sources in an amount
7 equal to not less than 10 percent of the total
8 amount of the grant made under this subsection,
9 subject to a waiver by the Attorney General for ex-
10 treme hardship.

11 “(3) ADMINISTRATION.—The COPS Office
12 shall administer the grant program under this sub-
13 section.

14 “(4) NO SUPPLANTING.—Federal funds pro-
15 vided under this subsection shall be used to supple-
16 ment and not to supplant local funds allocated to
17 technology.

18 “(5) AUTHORIZATION OF APPROPRIATIONS.—

19 “(A) IN GENERAL.—There are authorized
20 to be appropriated \$40,000,000 for each of fis-
21 cal years 2003 through 2007 to carry out this
22 subsection.

23 “(B) SET-ASIDE.—Of the amount made
24 available for grants under this subsection for

1 each fiscal year, 10 percent shall be awarded to
2 tribal governments.”.

3 **SEC. 4203. RURAL 9-1-1 SERVICE.**

4 (a) **PURPOSE.**—The purpose of this section is to pro-
5 vide access to, and improve a communications infrastruc-
6 ture that will ensure a reliable and seamless communica-
7 tion between, law enforcement, fire, and emergency med-
8 ical service providers in units of local government and trib-
9 al governments located outside a Standard Metropolitan
10 Statistical Area and in States.

11 (b) **AUTHORITY TO MAKE GRANTS.**—The Office of
12 Justice Programs of the Department of Justice shall make
13 grants, in accordance with such regulations as the Attor-
14 ney General may prescribe, to units of local government
15 and tribal governments located outside a Standard Metro-
16 politan Statistical Area for the purpose of establishing or
17 improving 9-1-1 service in those communities. Priority in
18 making grants under this section shall be given to commu-
19 nities that do not have 9-1-1 service.

20 (c) **DEFINITION.**—In this section, the term “9-1-1
21 service” refers to telephone service that has designated 9-
22 1-1 as a universal emergency telephone number in the
23 community served for reporting an emergency to appro-
24 priate authorities and requesting assistance.

1 (d) LIMIT ON GRANT AMOUNT.—The total amount
2 of a grant made under this section shall not exceed
3 \$250,000.

4 (e) FUNDING.—

5 (1) IN GENERAL.—There are authorized to be
6 appropriated to carry out this section \$25,000,000
7 for fiscal years 2003 and 2004, to remain available
8 until expended.

9 (2) SET-ASIDE.—Of the amount made available
10 for grants under this section, 10 percent shall be
11 awarded to tribal governments.

12 **SEC. 4204. SMALL TOWN AND RURAL LAW ENFORCEMENT**
13 **TRAINING PROGRAM.**

14 (a) IN GENERAL.—There is established a Rural Po-
15 licing Institute, which shall be administered by the Na-
16 tional Center for State and Local Law Enforcement
17 Training of the Federal Law Enforcement Training Cen-
18 ter (FLETC) as part of the Small Town and Rural Train-
19 ing (STAR) Program to—

20 (1) assess the needs of law enforcement in units
21 of local government and tribal governments located
22 outside a Standard Metropolitan Statistical Area;

23 (2) develop and deliver export training pro-
24 grams regarding topics such as drug enforcement,
25 airborne counterdrug operations, domestic violence,

1 hate and bias crimes, computer crimes, law enforce-
2 ment critical incident planning related to school
3 shootings, and other topics identified in the training
4 needs assessment to law enforcement officers in
5 units of local government and tribal governments lo-
6 cated outside a Standard Metropolitan Statistical
7 Area; and

8 (3) conduct outreach efforts to ensure that
9 training programs under the Rural Policing Institute
10 reach law enforcement officers in units of local gov-
11 ernment and tribal governments located outside a
12 Standard Metropolitan Statistical Area.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) IN GENERAL.—There are authorized to be
15 appropriated \$10,000,000 for fiscal years 2003 and
16 2004, and \$5,000,000 for each of fiscal years 2005
17 through 2008 to carry out this section, including
18 contracts, staff, and equipment.

19 (2) SET-ASIDE.—Of the amount made available
20 for grants under this section for each fiscal year, 10
21 percent shall be awarded to tribal governments.

22 **Subtitle C—FBI Reform**

23 **SEC. 4301. SHORT TITLE.**

24 This subtitle may be cited as the “Federal Bureau
25 of Investigation Reform Act of 2003”.

1 **PART 1—WHISTLEBLOWER PROTECTION**

2 **SEC. 4311. INCREASING PROTECTIONS FOR FBI WHISTLE-**
3 **BLOWERS.**

4 Section 2303 of title 5, United States Code, is
5 amended to read as follows:

6 **“§ 2303. Prohibited personnel practices in the Fed-**
7 **eral Bureau of Investigation**

8 “(a) DEFINITION.—In this section, the term ‘per-
9 sonnel action’ means any action described in clauses (i)
10 through (x) of section 2302(a)(2)(A).

11 “(b) PROHIBITED PRACTICES.—Any employee of the
12 Federal Bureau of Investigation who has the authority to
13 take, direct others to take, recommend, or approve any
14 personnel action, shall not, with respect to such authority,
15 take or fail to take a personnel action with respect to any
16 employee of the Bureau or because of—

17 “(1) any disclosure of information by the em-
18 ployee to the Attorney General (or an employee des-
19 igned by the Attorney General for such purpose),
20 a supervisor of the employee, the Inspector General
21 for the Department of Justice, or a Member of Con-
22 gress that the employee reasonably believes evi-
23 dences—

24 “(A) a violation of any law, rule, or regula-
25 tion; or

1 “(B) mismanagement, a gross waste of
2 funds, an abuse of authority, or a substantial
3 and specific danger to public health or safety;
4 or

5 “(2) any disclosure of information by the em-
6 ployee to the Special Counsel of information that the
7 employee reasonably believes evidences—

8 “(A) a violation of any law, rule, or regula-
9 tion; or

10 “(B) mismanagement, a gross waste of
11 funds, an abuse of authority, or a substantial
12 and specific danger to public health or safety,
13 if such disclosure is not specifically prohibited by law
14 and if such information is not specifically required
15 by Executive order to be kept secret in the interest
16 of national defense or the conduct of foreign affairs.

17 “(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of
18 this title shall apply to an employee of the Federal Bureau
19 of Investigation who claims that a personnel action has
20 been taken under this section against the employee as a
21 reprisal for any disclosure of information described in sub-
22 section (b)(2).

23 “(d) REGULATIONS.—The Attorney General shall
24 prescribe regulations to ensure that a personnel action
25 under this section shall not be taken against an employee

1 of the Federal Bureau of Investigation as a reprisal for
 2 any disclosure of information described in subsection
 3 (b)(1), and shall provide for the enforcement of such regu-
 4 lations in a manner consistent with applicable provisions
 5 of sections 1214 and 1221, and in accordance with the
 6 procedures set forth in sections 554 through 557 and 701
 7 through 706.”.

8 **PART 2—FBI SECURITY CAREER PROGRAM**

9 **SEC. 4321. SECURITY MANAGEMENT POLICIES.**

10 The Attorney General shall establish policies and pro-
 11 cedures for the effective management (including accession,
 12 education, training, and career development) of persons
 13 serving in security positions in the Federal Bureau of In-
 14 vestigation.

15 **SEC. 4322. DIRECTOR OF THE FEDERAL BUREAU OF INVES-**
 16 **TIGATION.**

17 (a) IN GENERAL.—Subject to the authority, direc-
 18 tion, and control of the Attorney General, the Director of
 19 the Federal Bureau of Investigation (referred to in this
 20 part as the “Director”) shall carry out all powers, func-
 21 tions, and duties of the Attorney General with respect to
 22 the security workforce in the Federal Bureau of Investiga-
 23 tion.

24 (b) POLICY IMPLEMENTATION.—The Director shall
 25 ensure that the policies of the Attorney General estab-

1 lished in accordance with this subtitle are implemented
2 throughout the Federal Bureau of Investigation at both
3 the headquarters and field office levels.

4 **SEC. 4323. DIRECTOR OF SECURITY.**

5 The Director shall appoint a Director of Security, or
6 such other title as the Director may determine, to assist
7 the Director in the performance of the duties of the Direc-
8 tor under this subtitle.

9 **SEC. 4324. SECURITY CAREER PROGRAM BOARDS.**

10 (a) ESTABLISHMENT.—The Director acting through
11 the Director of Security shall establish a security career
12 program board to advise the Director in managing the hir-
13 ing, training, education, and career development of per-
14 sonnel in the security workforce of the Federal Bureau
15 of Investigation.

16 (b) COMPOSITION OF BOARD.—The security career
17 program board shall include—

18 (1) the Director of Security (or a representative
19 of the Director of Security);

20 (2) the senior officials, as designated by the Di-
21 rector, with responsibility for personnel manage-
22 ment;

23 (3) the senior officials, as designated by the Di-
24 rector, with responsibility for information manage-
25 ment;

1 (4) the senior officials, as designated by the Di-
2 rector, with responsibility for training and career de-
3 velopment in the various security disciplines; and

4 (5) such other senior officials for the intel-
5 ligence community as the Director may designate.

6 (c) CHAIRPERSON.—The Director of Security (or a
7 representative of the Director of Security) shall be the
8 chairperson of the board.

9 (d) SUBORDINATE BOARDS.—The Director of Secu-
10 rity may establish a subordinate board structure to which
11 functions of the security career program board may be del-
12 egated.

13 **SEC. 4325. DESIGNATION OF SECURITY POSITIONS.**

14 (a) DESIGNATION.—The Director shall designate, by
15 regulation, those positions in the Federal Bureau of Inves-
16 tigation that are security positions for purposes of this
17 subtitle.

18 (b) REQUIRED POSITIONS.—In designating security
19 positions under subsection (a), the Director shall include,
20 at a minimum, all security-related positions in the areas
21 of—

22 (1) personnel security and access control;

23 (2) information systems security and informa-
24 tion assurance;

- 1 (3) physical security and technical surveillance
2 countermeasures;
- 3 (4) operational, program, and industrial secu-
4 rity; and
- 5 (5) information security and classification man-
6 agement.

7 **SEC. 4326. CAREER DEVELOPMENT.**

8 (a) CAREER PATHS.—The Director shall ensure that
9 appropriate career paths for personnel who wish to pursue
10 careers in security are identified in terms of the education,
11 training, experience, and assignments necessary for career
12 progression to the most senior security positions and shall
13 make available published information on those career
14 paths.

15 (b) LIMITATION ON PREFERENCE FOR SPECIAL
16 AGENTS.—

17 (1) IN GENERAL.—Except as provided in the
18 policy established under paragraph (2), the Attorney
19 General shall ensure that no requirement or pref-
20 erence for a Special Agent of the Federal Bureau of
21 Investigation (referred to in this part as a “Special
22 Agent”) is used in the consideration of persons for
23 security positions.

24 (2) POLICY.—The Attorney General shall estab-
25 lish a policy that permits a particular security posi-

1 tion to be specified as available only to Special
2 Agents, if a determination is made, under criteria
3 specified in the policy, that a Special Agent—

4 (A) is required for that position by law;

5 (B) is essential for performance of the du-
6 ties of the position; or

7 (C) is necessary for another compelling
8 reason.

9 (3) REPORT.—Not later than December 15 of
10 each year, the Director shall submit to the Attorney
11 General a report that lists—

12 (A) each security position that is restricted
13 to Special Agents under the policy established
14 under paragraph (2); and

15 (B) the recommendation of the Director as
16 to whether each restricted security position
17 should remain restricted.

18 (c) OPPORTUNITIES TO QUALIFY.—The Attorney
19 General shall ensure that all personnel, including Special
20 Agents, are provided the opportunity to acquire the edu-
21 cation, training, and experience necessary to qualify for
22 senior security positions.

23 (d) BEST QUALIFIED.—The Attorney General shall
24 ensure that the policies established under this subtitle are
25 designed to provide for the selection of the best qualified

1 individual for a position, consistent with other applicable
2 law.

3 (e) ASSIGNMENTS POLICY.—The Attorney General
4 shall establish a policy for assigning Special Agents to se-
5 curity positions that provides for a balance between—

6 (1) the need for personnel to serve in career en-
7 hancing positions; and

8 (2) the need for requiring service in each such
9 position for sufficient time to provide the stability
10 necessary to carry out effectively the duties of the
11 position and to allow for the establishment of re-
12 sponsibility and accountability for actions taken in
13 the position.

14 (f) LENGTH OF ASSIGNMENT.—In implementing the
15 policy established under subsection (b)(2), the Director
16 shall provide, as appropriate, for longer lengths of assign-
17 ments to security positions than assignments to other po-
18 sitions.

19 (g) PERFORMANCE APPRAISALS.—The Director shall
20 provide an opportunity for review and inclusion of any
21 comments on any appraisal of the performance of a person
22 serving in a security position by a person serving in a secu-
23 rity position in the same security career field.

24 (h) BALANCED WORKFORCE POLICY.—In the devel-
25 opment of security workforce policies under this subtitle

1 with respect to any employees or applicants for employ-
2 ment, the Attorney General shall, consistent with the
3 merit system principles set out in paragraphs (1) and (2)
4 of section 2301(b) of title 5, United States Code, take into
5 consideration the need to maintain a balanced workforce
6 in which women and members of racial and ethnic minor-
7 ity groups are appropriately represented in Government
8 service.

9 **SEC. 4327. GENERAL EDUCATION, TRAINING, AND EXPERI-**
10 **ENCE REQUIREMENTS.**

11 (a) **IN GENERAL.**—The Director shall establish edu-
12 cation, training, and experience requirements for each se-
13 curity position, based on the level of complexity of duties
14 carried out in the position.

15 (b) **QUALIFICATION REQUIREMENTS.**—Before being
16 assigned to a position as a program manager or deputy
17 program manager of a significant security program, a per-
18 son—

19 (1) must have completed a security program
20 management course that is accredited by the Intel-
21 ligence Community-Department of Defense Joint Se-
22 curity Training Consortium or is determined to be
23 comparable by the Director; and

1 (2) must have not less than 6 years experience
2 in security, of which not less than 2 years were per-
3 formed in a similar program office or organization.

4 **SEC. 4328. EDUCATION AND TRAINING PROGRAMS.**

5 (a) IN GENERAL.—The Director, in consultation with
6 the Director of Central Intelligence and the Secretary of
7 Defense, shall establish and implement education and
8 training programs for persons serving in security positions
9 in the Federal Bureau of Investigation.

10 (b) OTHER PROGRAMS.—The Director shall ensure
11 that programs established under subsection (a) are estab-
12 lished and implemented, to the maximum extent prac-
13 ticable, uniformly with the programs of the Intelligence
14 Community and the Department of Defense.

15 **SEC. 4329. OFFICE OF PERSONNEL MANAGEMENT AP-**
16 **PROVAL.**

17 (a) IN GENERAL.—The Attorney General shall sub-
18 mit any requirement that is established under section
19 4327 to the Director of the Office of Personnel Manage-
20 ment for approval.

21 (b) FINAL APPROVAL.—If the Director does not dis-
22 approve the requirements established under section 4327
23 within 30 days after the date on which the Director re-
24 ceives the requirement, the requirement is deemed to be

1 approved by the Director of the Office of Personnel Man-
2 agement.

3 **PART 3—FBI COUNTERINTELLIGENCE**

4 **POLYGRAPH PROGRAM**

5 **SEC. 4331. DEFINITIONS.**

6 In this part:

7 (1) **POLYGRAPH PROGRAM.**—The term “poly-
8 graph program” means the counterintelligence
9 screening polygraph program established under sec-
10 tion 4332.

11 (2) **POLYGRAPH REVIEW.**—The term “Poly-
12 graph Review” means the review of the scientific va-
13 lidity of the polygraph for counterintelligence screen-
14 ing purposes conducted by the Committee to Review
15 the Scientific Evidence on the Polygraph of the Na-
16 tional Academy of Sciences.

17 **SEC. 4332. ESTABLISHMENT OF PROGRAM.**

18 Not later than 6 months after the date of enactment
19 of this Act, the Attorney General, in consultation with the
20 Director of the Federal Bureau of Investigation and the
21 Director of Security of the Federal Bureau of Investiga-
22 tion, shall establish a counterintelligence screening poly-
23 graph program for the Federal Bureau of Investigation
24 that consists of periodic polygraph examinations of em-
25 ployees, or contractor employees of the Federal Bureau

1 of Investigation who are in positions specified by the Di-
2 rector of the Federal Bureau of Investigation as exception-
3 ally sensitive in order to minimize the potential for unau-
4 thorized release or disclosure of exceptionally sensitive in-
5 formation.

6 **SEC. 4333. REGULATIONS.**

7 (a) IN GENERAL.—The Attorney General shall pre-
8 scribe regulations for the polygraph program in accord-
9 ance with subchapter II of chapter 5 of title 5, United
10 States Code (commonly referred to as the Administrative
11 Procedures Act).

12 (b) CONSIDERATIONS.—In prescribing regulations
13 under subsection (a), the Attorney General shall—

14 (1) take into account the results of the Poly-
15 graph Review; and

16 (2) include procedures for—

17 (A) identifying and addressing false posi-
18 tive results of polygraph examinations;

19 (B) ensuring that adverse personnel ac-
20 tions are not taken against an individual solely
21 by reason of the physiological reaction of the in-
22 dividual to a question in a polygraph examina-
23 tion, unless—

24 (i) reasonable efforts are first made
25 independently to determine through alter-

1 native means, the veracity of the response
2 of the individual to the question; and

3 (ii) the Director of the Federal Bu-
4 reau of Investigation determines personally
5 that the personnel action is justified;

6 (C) ensuring quality assurance and quality
7 control in accordance with any guidance pro-
8 vided by the Department of Defense Polygraph
9 Institute and the Director of Central Intel-
10 ligence; and

11 (D) allowing any employee or contractor
12 who is the subject of a counterintelligence
13 screening polygraph examination under the
14 polygraph program, upon written request, to
15 have prompt access to any unclassified reports
16 regarding an examination that relates to any
17 adverse personnel action taken with respect to
18 the individual.

19 **SEC. 4334. REPORT ON FURTHER ENHANCEMENT OF FBI**
20 **PERSONNEL SECURITY PROGRAM.**

21 (a) IN GENERAL.—Not later than 9 months after the
22 date of enactment of this Act, the Director of the Federal
23 Bureau of Investigation shall submit to Congress a report
24 setting forth recommendations for any legislative action
25 that the Director considers appropriate in order to en-

1 hance the personnel security program of the Federal Bu-
2 reau of Investigation.

3 (b) POLYGRAPH REVIEW RESULTS.—Any rec-
4 ommendation under subsection (a) regarding the use of
5 polygraphs shall take into account the results of the Poly-
6 graph Review.

7 **PART 4—REPORTS**

8 **SEC. 4341. REPORT ON LEGAL AUTHORITY FOR FBI PRO-**
9 **GRAMS AND ACTIVITIES.**

10 (a) IN GENERAL.—Not later than 9 months after the
11 date of enactment of this Act, the Attorney General shall
12 submit to Congress a report describing the statutory and
13 other legal authority for all programs and activities of the
14 Federal Bureau of Investigation.

15 (b) CONTENTS.—The report submitted under sub-
16 section (a) shall describe—

17 (1) the titles within the United States Code and
18 the statutes for which the Federal Bureau of Inves-
19 tigation exercises investigative responsibility;

20 (2) each program or activity of the Federal Bu-
21 reau of Investigation that has express statutory au-
22 thority and the statute which provides that author-
23 ity; and

24 (3) each program or activity of the Federal Bu-
25 reau of Investigation that does not have express

1 statutory authority, and the source of the legal au-
2 thority for that program or activity.

3 (c) RECOMMENDATIONS.—The report submitted
4 under subsection (a) shall recommend whether—

5 (1) the Federal Bureau of Investigation should
6 continue to have investigative responsibility for each
7 statute for which the Federal Bureau of Investiga-
8 tion currently has investigative responsibility;

9 (2) the legal authority for any program or ac-
10 tivity of the Federal Bureau of Investigation should
11 be modified or repealed;

12 (3) the Federal Bureau of Investigation should
13 have express statutory authority for any program or
14 activity of the Federal Bureau of Investigation for
15 which the Federal Bureau of Investigation does not
16 currently have express statutory authority; and

17 (4) the Federal Bureau of Investigation
18 should—

19 (A) have authority for any new program or
20 activity; and

21 (B) express statutory authority with re-
22 spect to any new programs or activities.

1 **PART 5—ENDING THE DOUBLE STANDARD**

2 **SEC. 4351. ALLOWING DISCIPLINARY SUSPENSIONS OF**
3 **MEMBERS OF THE SENIOR EXECUTIVE SERV-**
4 **ICE FOR 14 DAYS OR LESS.**

5 Section 7542 of title 5, United States Code, is
6 amended by striking “for more than 14 days”.

7 **SEC. 4352. SUBMITTING OFFICE OF PROFESSIONAL RE-**
8 **SPONSIBILITY REPORTS TO CONGRESSIONAL**
9 **COMMITTEES.**

10 (a) IN GENERAL.—For each of the 5 years following
11 the date of enactment of this Act, the Office of the Inspec-
12 tor General shall submit to the chairperson and ranking
13 member of the Committees on the Judiciary of the Senate
14 and the House of Representatives an annual report to be
15 completed by the Federal Bureau of Investigation, Office
16 of Professional Responsibility and provided to the Inspec-
17 tor General, which sets forth—

18 (1) basic information on each investigation
19 completed by that Office;

20 (2) the findings and recommendations of that
21 Office for disciplinary action; and

22 (3) what, if any, action was taken by the Direc-
23 tor of the Federal Bureau of Investigation or the
24 designee of the Director based on any such rec-
25 ommendation.

1 (b) CONTENTS.—In addition to all matters already
2 included in the annual report described in subsection (a),
3 the report shall also include an analysis of—

4 (1) whether senior Federal Bureau of Investiga-
5 tion employees and lower level Federal Bureau of In-
6 vestigation personnel are being disciplined and inves-
7 tigated similarly; and

8 (2) whether any double standard is being em-
9 ployed to more senior employees with respect to alle-
10 gations of misconduct.

11 **PART 6—ENHANCING SECURITY AT THE**

12 **DEPARTMENT OF JUSTICE**

13 **SEC. 4361. REPORT ON THE PROTECTION OF SECURITY**

14 **AND INFORMATION AT THE DEPARTMENT OF**

15 **JUSTICE.**

16 Not later than 9 months after the date of enactment
17 of this Act, the Attorney General shall submit to Congress
18 a report on the manner in which the Security and Emer-
19 gency Planning Staff, the Office of Intelligence Policy and
20 Review, and the Chief Information Officer of the Depart-
21 ment of Justice plan to improve the protection of security
22 and information at the Department of Justice, including
23 a plan to establish secure electronic communications be-
24 tween the Federal Bureau of Investigation and the Office
25 of Intelligence Policy and Review for processing informa-

1 tion related to the Foreign Intelligence Surveillance Act
2 of 1978 (50 U.S.C. 1801 et seq.).

3 **SEC. 4362. AUTHORIZATION FOR INCREASED RESOURCES**
4 **TO PROTECT SECURITY AND INFORMATION.**

5 There are authorized to be appropriated to the De-
6 partment of Justice for the activities of the Security and
7 Emergency Planning Staff to meet the increased demands
8 to provide personnel, physical, information, technical, and
9 litigation security for the Department of Justice, to pre-
10 pare for terrorist threats and other emergencies, and to
11 review security compliance by components of the Depart-
12 ment of Justice—

13 (1) \$13,000,000 for fiscal years 2003 and
14 2004;

15 (2) \$17,000,000 for fiscal year 2005; and

16 (3) \$22,000,000 for fiscal year 2006.

17 **SEC. 4363. AUTHORIZATION FOR INCREASED RESOURCES**
18 **TO FULFILL NATIONAL SECURITY MISSION**
19 **OF THE DEPARTMENT OF JUSTICE.**

20 There are authorized to be appropriated to the De-
21 partment of Justice for the activities of the Office of Intel-
22 ligence Policy and Review to help meet the increased per-
23 sonnel demands to combat terrorism, process applications
24 to the Foreign Intelligence Surveillance Court, participate
25 effectively in counterespionage investigations, provide pol-

1 icy analysis and oversight on national security matters,
2 and enhance secure computer and telecommunications fa-
3 cilities—

4 (1) \$7,000,000 for fiscal years 2003 and 2004;

5 (2) \$7,500,000 for fiscal year 2005; and

6 (3) \$8,000,000 for fiscal year 2006.

7 **Subtitle D—DNA Sexual Assault** 8 **Justice Act**

9 **SEC. 4401. SHORT TITLE.**

10 This subtitle may be cited as the “DNA Sexual As-
11 sault Justice Act of 2003”.

12 **SEC. 4402. ASSESSMENT OF BACKLOG IN DNA ANALYSIS OF** 13 **SAMPLES.**

14 (a) **ASSESSMENT.**—The Attorney General, acting
15 through the Director of the National Institute of Justice,
16 shall survey Federal, State, local, and tribal law enforce-
17 ment jurisdictions to assess the amount of DNA evidence
18 contained in rape kits and in other evidence from sexual
19 assault crimes that has not been subjected to testing and
20 analysis.

21 (b) **REPORT.**—

22 (1) **IN GENERAL.**—Not later than 1 year after
23 the date of enactment of this Act, the Attorney Gen-
24 eral shall submit to Congress a report on the assess-
25 ment carried out under subsection (a).

1 (2) CONTENTS.—The report submitted under
2 paragraph (1) shall include—

3 (A) the results of the assessment carried
4 out under subsection (a);

5 (B) the number of rape kit samples and
6 other evidence from sexual assault crimes that
7 have not been subjected to DNA testing and
8 analysis; and

9 (C) a plan for carrying out additional as-
10 sssments and reports on the backlog in crime
11 scene DNA testing and analysis.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to the Department of Jus-
14 tice to carry out this section \$500,000 for fiscal years
15 2003 and 2004.

16 **SEC. 4403. THE DEBBIE SMITH DNA BACKLOG GRANT PRO-**
17 **GRAM.**

18 Section 2 of the DNA Analysis Backlog Elimination
19 Act of 2000 (42 U.S.C. 14135) is amended—

20 (1) by striking the heading and inserting “**AU-**
21 **THORIZATION OF DEBBIE SMITH DNA BACK-**
22 **LOG GRANTS.**”; and

23 (2) in subsection (a)—

24 (A) in paragraph (2), by inserting “includ-
25 ing samples from rape kits and samples from

1 other sexual assault evidence, including samples
2 taken in cases with no identified suspect” after
3 “crime scene”; and

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

5 “(4) To ensure that DNA testing and analysis
6 of samples from rape kits and nonsuspect cases are
7 carried out in a timely manner.”.

8 **SEC. 4404. INCREASED GRANTS FOR ANALYSIS OF DNA**
9 **SAMPLES FROM CONVICTED OFFENDERS**
10 **AND CRIME SCENES.**

11 Section 2(j) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(j)) is amended—

12 nation Act of 2000 (42 U.S.C. 14135(j)) is amended—
13 (1) in paragraph (1)—

14 (A) in subparagraph (B), by striking
15 “and” at the end; and

16 (B) by striking subparagraph (C) and in-
17 serting the following:

18 “(C) \$15,000,000 for fiscal year 2003;

19 “(D) \$15,000,000 for fiscal year 2004;

20 “(E) \$15,000,000 for fiscal year 2005;

21 “(F) \$15,000,000 for fiscal year 2006; and

22 “(G) \$15,000,000 for fiscal year 2007.

23 Amounts made available to carry out the purposes
24 specified in subsection (a)(1) shall remain available
25 until expended.”; and

1 (2) in paragraph (2), by striking subparagraphs
2 (C) and (D) and inserting the following:

3 “(C) \$75,000,000 for fiscal year 2003;

4 “(D) \$75,000,000 for fiscal year 2004;

5 “(E) \$75,000,000 for fiscal year 2005;

6 “(F) \$75,000,000 for fiscal year 2006; and

7 “(G) \$25,000,000 for fiscal year 2007.

8 Amounts made available to carry out the purposes
9 specified in paragraphs (2) and (3) of subsection (a)
10 shall remain available until expended.”.

11 **SEC. 4405. AUTHORITY OF LOCAL GOVERNMENTS TO APPLY**
12 **FOR AND RECEIVE DNA BACKLOG ELIMI-**
13 **NATION GRANTS.**

14 Section 2 of the DNA Analysis Backlog Elimination
15 Act of 2000 (42 U.S.C. 14135) is amended—

16 (1) in subsection (a)—

17 (A) in the matter preceding paragraph

18 (1)—

19 (i) by inserting “, units of local gov-
20 ernment, or Indian tribes” after “eligible
21 States”; and

22 (ii) by inserting “, unit of local gov-
23 ernment, or Indian tribe” after “State”;
24 and

1 (B) in paragraph (3), by striking “or by
2 units of local government” and inserting “,
3 units of local government, or Indian tribes”;

4 (2) in subsection (b)—

5 (A) in the matter preceding paragraph (1),
6 by inserting “or unit of local government, or
7 the head of the Indian tribe” after “State”
8 each place that term appears;

9 (B) in paragraph (1), by inserting “, unit
10 of local government, or Indian tribe” after
11 “State”;

12 (C) in paragraph (3), by inserting “, unit
13 of local government, or Indian tribe” after
14 “State” the first time that term appears;

15 (D) in paragraph (4), by inserting “, unit
16 of local government, or Indian tribe” after
17 “State”; and

18 (E) in paragraph (5), by inserting “, unit
19 of local government, or Indian tribe” after
20 “State”;

21 (3) in subsection (c), by inserting “, unit of
22 local government, or Indian tribe” after “State”;

23 (4) in subsection (d)—

24 (A) in paragraph (1)—

1 (i) in subparagraph (A), by striking
2 “or a unit of local government” and insert-
3 ing “, a unit of local government, or an In-
4 dian tribe”; and

5 (ii) in subparagraph (B), by striking
6 “or a unit of local government” and insert-
7 ing “, a unit of local government, or an In-
8 dian tribe”; and

9 (B) in paragraph (2)(A), by inserting “,
10 units of local government, and Indian tribes,”
11 after “States”;

12 (5) in subsection (e)—

13 (A) in paragraph (1), by inserting “or local
14 government” after “State” each place that term
15 appears; and

16 (B) in paragraph (2), by inserting “, unit
17 of local government, or Indian tribe” after
18 “State”;

19 (6) in subsection (f), in the matter preceding
20 paragraph (1), by inserting “, unit of local govern-
21 ment, or Indian tribe” after “State”;

22 (7) in subsection (g)—

23 (A) in paragraph (1), by inserting “, unit
24 of local government, or Indian tribe” after
25 “State”; and

1 (B) in paragraph (2), by inserting “, units
2 of local government, or Indian tribes” after
3 “States”; and

4 (8) in subsection (h), by inserting “, unit of
5 local government, or Indian tribe” after “State”
6 each place that term appears.

7 **SEC. 4406. IMPROVING ELIGIBILITY CRITERIA FOR BACK-**
8 **LOG GRANTS.**

9 Section 2 of the DNA Analysis Backlog Elimination
10 Act of 2000 (42 U.S.C. 14135) is amended—

11 (1) in subsection (b)—

12 (A) in paragraph (4), by striking “and”
13 after the semicolon;

14 (B) in paragraph (5), by striking the pe-
15 riod at the end and inserting a semicolon; and

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

17 “(6) if the applicant is a unit of local govern-
18 ment, certify that the applicant participates in a
19 State laboratory system;

20 “(7) provide assurances that, not later than 3
21 years after the date on which the application is sub-
22 mitted, the State, unit of local government, or In-
23 dian tribe will implement a plan for forwarding, not
24 later than 180 days after a DNA evidence sample is
25 obtained, all samples collected in cases of sexual as-

1 sault to a laboratory that meets the quality assur-
2 ance standards for testing under subsection (d); and

3 “(8) upon issuance of the regulations specified
4 in section 10(d), certify that the State, unit of local
5 government, or Indian tribe is in compliance with
6 those regulations.”; and

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

8 “(k) PRIORITY.—In awarding grants under this sec-
9 tion, the Attorney General shall give priority to a State
10 or unit of local government that has a significant rape kit
11 or nonsuspect case backlog per capita as compared with
12 other applicants.”.

13 **SEC. 4407. QUALITY ASSURANCE STANDARDS FOR COLLEC-**
14 **TION AND HANDLING OF DNA EVIDENCE.**

15 (a) NATIONAL PROTOCOL.—

16 (1) IN GENERAL.—The Attorney General shall
17 review national, State, local, and tribal government
18 protocols, that exist on or before the date of enact-
19 ment of this Act, on the collection and processing of
20 DNA evidence at crime scenes.

21 (2) RECOMMENDED PROTOCOL.—Based upon
22 the review described in paragraph (1), the Attorney
23 General shall develop a recommended national pro-
24 tocol for the collection of DNA evidence at crime

1 scenes, including crimes of rape and other sexual as-
2 sult.

3 (b) STANDARDS, PRACTICE, AND TRAINING FOR SEX-
4 UAL ASSAULT FORENSIC EXAMINATIONS.—Section
5 1405(a) of the Victims of Trafficking and Violence Protec-
6 tion Act of 2000 (42 U.S.C. 3796gg note) is amended—

7 (1) in paragraph (2), by inserting “and emer-
8 gency response personnel” after “health care stu-
9 dents”; and

10 (2) in paragraph (3), by inserting “and DNA
11 evidence collection” after “sexual assault forensic ex-
12 aminations”.

13 **SEC. 4408. SEXUAL ASSAULT FORENSIC EXAM PROGRAM**
14 **GRANTS.**

15 (a) AUTHORIZATION OF GRANTS.—The Attorney
16 General shall make grants to eligible entities to—

17 (1) establish and maintain sexual assault exam-
18 iner programs;

19 (2) carry out sexual assault examiner training
20 and certification; and

21 (3) acquire or improve forensic equipment.

22 (b) ELIGIBLE ENTITY.—For purposes of this section,
23 the term “eligible entity” means—

24 (1) a State;

25 (2) a unit of local government;

1 (3) a college, university, or other institute of
2 higher learning;

3 (4) an Indian tribe;

4 (5) sexual assault examination programs, in-
5 cluding sexual assault nurse examiner (SANE) pro-
6 grams, sexual assault forensic examiner (SAFE)
7 programs, and sexual assault response team (SART)
8 programs; and

9 (6) a State sexual assault coalition.

10 (c) APPLICATION.—To receive a grant under this sec-
11 tion—

12 (1) an eligible entity shall submit to the Attor-
13 ney General an application in such form and con-
14 taining such information as the Attorney General
15 may require; and

16 (2) an existing or proposed sexual assault ex-
17 amination program shall also—

18 (A) certify that the program complies with
19 the standards and recommended protocol devel-
20 oped by the Attorney General pursuant to sec-
21 tion 1405 of the Victims of Trafficking and Vi-
22 olence Protection Act of 2000 (42 U.S.C.
23 3796gg note); and

24 (B) certify that the applicant is aware of,
25 and utilizing, uniform protocols and standards

1 issued by the Department of Justice on the col-
2 lection and processing of DNA evidence at
3 crime scenes.

4 (d) PRIORITY.—In awarding grants under this sec-
5 tion, the Attorney General shall give priority to proposed
6 or existing sexual assault examination programs that are
7 serving, or will serve, populations currently underserved
8 by existing sexual assault examination programs.

9 (e) RESTRICTIONS ON USE OF FUNDS.—

10 (1) SUPPLEMENTAL FUNDS.—Funds made
11 available under this section shall not be used to sup-
12 plant State funds, but shall be used to increase the
13 amount of funds that would, in the absence of Fed-
14 eral funds, be made available from State sources for
15 the purposes of this section.

16 (2) ADMINISTRATIVE COSTS.—An eligible entity
17 may not use more than 5 percent of the funds it re-
18 ceives under this section for administrative expenses.

19 (3) NONEXCLUSIVITY.—Nothing in this section
20 shall be construed to limit or restrict the ability of
21 proposed or existing sexual assault examination pro-
22 grams to apply for and obtain Federal funding from
23 any other agency or department or any other Fed-
24 eral grant program.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Department of
3 Justice, to remain available until expended, \$30,000,000
4 for each of fiscal years 2003 through 2007 to carry out
5 this section.

6 **SEC. 4409. DNA EVIDENCE TRAINING GRANTS.**

7 (a) AUTHORIZATION OF GRANTS.—The Attorney
8 General shall make grants to eligible entities to—

9 (1) train law enforcement personnel and all
10 other first responders at crime scenes, including in-
11 vestigators, in the handling of sexual assault cases
12 and the collection and use of DNA samples for use
13 as forensic evidence;

14 (2) train State and local prosecutors on the use
15 of DNA samples for use as forensic evidence; and

16 (3) train law enforcement personnel to recog-
17 nize, detect, report, and respond to drug-facilitated
18 sexual assaults.

19 (b) ELIGIBLE ENTITY.—For purposes of this section,
20 the term “eligible entity” means—

21 (1) a State;

22 (2) a unit of local government;

23 (3) a college, university, or other institute of
24 higher learning; and

25 (4) an Indian tribe.

1 (c) APPLICATION.—To receive a grant under this sec-
2 tion, the chief executive officer of a State, unit of local
3 government, or university, or the head of a tribal govern-
4 ment that desires a grant under this section shall submit
5 to the Attorney General—

6 (1) an application in such form and containing
7 such information as the Attorney General may re-
8 quire;

9 (2) certification that the applicant is aware of,
10 and utilizing, uniform protocols and standards
11 issued by the Department of Justice on the collec-
12 tion and processing of DNA evidence at crime
13 scenes;

14 (3) certification that the applicant is aware of,
15 and utilizing, the national sexual assault forensic ex-
16 amination training protocols developed under section
17 1405(a) of the Victims of Trafficking and Violence
18 Protection Act of 2000 (42 U.S.C. 3796gg note);
19 and

20 (4) if the applicant is a unit of local govern-
21 ment, certification that the applicant participates in
22 a State laboratory system.

23 (d) RESTRICTIONS ON USE OF FUNDS.—

24 (1) SUPPLEMENTAL FUNDS.—Funds made
25 available under this section shall not be used to sup-

1 plant State funds, but shall be used to increase the
2 amount of funds that would, in the absence of Fed-
3 eral funds, be made available from State sources for
4 the purposes of this section.

5 (2) ADMINISTRATIVE COSTS.—An eligible entity
6 may not use more than 5 percent of the funds it re-
7 ceives under this section for administrative expenses.

8 (3) NONEXCLUSIVITY.—Nothing in this section
9 shall be construed to limit or restrict the ability of
10 an eligible entity to apply for and obtain Federal
11 funding from any other agency or department or any
12 other Federal grant program.

13 (e) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Department of
15 Justice \$10,000,000 for each of fiscal years 2003 through
16 2007 to carry out this section.

17 **SEC. 4410. AUTHORIZING JOHN DOE DNA INDICTMENTS.**

18 (a) LIMITATIONS.—Section 3282 of title 18, United
19 States Code, is amended—

20 (1) by striking “Except” and inserting the fol-
21 lowing:

22 “(a) LIMITATION.—Except”; and

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

24 “(b) DNA PROFILE INDICTMENT.—

1 “(1) IN GENERAL.—In any indictment found
2 for an offense under chapter 109A, if the identity of
3 the accused is unknown, it shall be sufficient to de-
4 scribe the accused as an individual whose name is
5 unknown, but who has a particular DNA profile.

6 “(2) EXCEPTION.—Any indictment described in
7 paragraph (1), which is found within 5 years after
8 the offense under chapter 109A shall have been com-
9 mitted, shall not be subject to—

10 “(A) the limitations period described in
11 subsection (a); and

12 “(B) the provisions of chapter 208 until
13 the individual is arrested or served with a sum-
14 mons in connection with the charges contained
15 in the indictment.

16 “(3) DEFINITION.—For purposes of this sub-
17 section, the term ‘DNA profile’ means a set of DNA
18 identification characteristics.”

19 (b) RULES OF CRIMINAL PROCEDURE.—Rule 7 of
20 the Federal Rules of Criminal Procedure is amended in
21 subdivision (c)(1) by adding at the end the following: “For
22 purposes of an indictment referred to in section 3282 of
23 title 18, United States Code, if the identity of the defend-
24 ant is unknown, it shall be sufficient to describe the de-
25 fendant, in the indictment, as an individual whose name

1 is unknown, but who has a particular DNA profile, as de-
2 fined in that section 3282.”.

3 **SEC. 4411. INCREASED GRANTS FOR COMBINED DNA INDEX**
4 **SYSTEM (CODIS).**

5 Section 210306 of the DNA Identification Act of
6 1994 (42 U.S.C.14134) is amended—

7 (1) by striking “There” and inserting the fol-
8 lowing:

9 “(a) IN GENERAL.—There”; and

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

11 “(b) INCREASED GRANTS FOR CODIS.—There is au-
12 thorized to be appropriated to the Federal Bureau of In-
13 vestigation to carry out upgrades to the Combined DNA
14 Index System (CODIS) \$9,700,000 for fiscal years 2003
15 and 2004.”.

16 **SEC. 4412. INCREASED GRANTS FOR FEDERAL CONVICTED**
17 **OFFENDER PROGRAM (FCOP).**

18 Section 3 of the DNA Analysis Backlog Elimination
19 Act of 2000 (42 U.S.C. 14135a) is amended by adding
20 at the end the following:

21 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
22 is authorized to be appropriated to the Federal Bureau
23 of Investigation to carry out this section \$500,000 for fis-
24 cal years 2003 and 2004.”.

1 **SEC. 4413. PRIVACY REQUIREMENTS FOR HANDLING DNA**
2 **EVIDENCE AND DNA ANALYSES.**

3 (a) PRIVACY PROTECTION STANDARD.—Section
4 10(a) of the DNA Analysis Backlog Elimination Act of
5 2000 (42 U.S.C. 14135e(a)) is amended by inserting be-
6 fore the period at the end the following: “or in section
7 3282(b) of title 18, United States Code”.

8 (b) LIMITATION ON ACCESS TO DNA INFORMA-
9 TION.—Section 10 of the DNA Analysis Backlog Elimini-
10 nation Act of 2000 (42 U.S.C. 14135e) is amended by
11 adding at the end the following:

12 “(d) LIMITATION ON ACCESS TO DNA INFORMA-
13 TION.—

14 “(1) IN GENERAL.—The Attorney General shall
15 establish, by regulation, procedures to limit access
16 to, or use of, stored DNA samples or DNA analyses.

17 “(2) REGULATIONS.—The regulations estab-
18 lished under paragraph (1) shall establish conditions
19 for using DNA information to—

20 “(A) limit the use and dissemination of
21 such information, as provided under subpara-
22 graphs (A), (B), and (C) of section
23 210304(b)(3) of the Violent Crime Control and
24 Law Enforcement Act of 1994 (42 U.S.C.
25 14132(b)(3));

1 “(B) limit the redissemination of such in-
2 formation;

3 “(C) ensure the accuracy, security, and
4 confidentiality of such information;

5 “(D) protect any privacy rights of individ-
6 uals who are the subject of such information;
7 and

8 “(E) provide for the timely removal and
9 destruction of obsolete or inaccurate informa-
10 tion, or information required to be expunged.”.

11 (c) CRIMINAL PENALTY.—Section 10(c) of the DNA
12 Analysis Backlog Elimination Act of 2000 (42 U.S.C.
13 14135e) is amended—

14 (1) in paragraph (1), by striking “discloses a
15 sample or result” and inserting “discloses or uses a
16 DNA sample or DNA analysis”; and

17 (2) in paragraph (2), by inserting “per offense”
18 after “\$100,000”.

19 **Subtitle E—Additional Improve-**
20 **ments to the Justice System**

21 **SEC. 4501. PROVIDING REMEDIES FOR RETALIATION**
22 **AGAINST WHISTLEBLOWERS MAKING CON-**
23 **GRESSIONAL DISCLOSURES.**

24 Section 7211 of title 5, United States Code, is
25 amended—

1 (1) by inserting “(a)” before “The right”; and

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

3 “(b) Any employee aggrieved by the discrimination
4 of an employer in violation of subsection (a) may bring
5 an action at law or equity for de novo review in the appro-
6 priate district court of the United States, which shall have
7 jurisdiction over an action under this subsection, without
8 regard to the amount in controversy.

9 “(c) Any employee prevailing in an action under this
10 section shall be entitled to all relief necessary to make the
11 employee whole, including—

12 “(1) reinstatement with the same seniority sta-
13 tus that the employee would have had but for the
14 discrimination;

15 “(2) the amount of back pay lost as a result of
16 the discrimination, with interest;

17 “(3) compensation for any special damages sus-
18 tained as a result of the discrimination, including
19 litigation costs, expert witness fees, and reasonable
20 attorney fees; and

21 “(4) punitive damages, in appropriate cases.

22 “(d) Upon the request of the complainant, any action
23 under this section shall be tried by the court with a jury.

24 “(e) The same legal burdens of proof in proceedings
25 under this section shall apply as apply under sections

1 1214(b)(4)(B) and 1221(c) in the case of any alleged pro-
2 hibited personal practice described in section 2302(b)(8).

3 “(f) For purposes of this section, the term ‘employee’
4 means an individual (as defined by section 2105) and any
5 individual or organization performing services under a
6 contract with the Government (including as an employee
7 of an organization).”.

8 **SEC. 4502. ESTABLISHMENT OF PROTECTIVE FUNCTION**
9 **PRIVILEGE.**

10 (a) FINDINGS.—Congress finds the following:

11 (1) The physical safety of the Nation’s top
12 elected officials is a public good of transcendent im-
13 portance.

14 (2) By virtue of the critical importance of the
15 Office of the President, the President and those in
16 direct line of the Presidency are subject to unique
17 and mortal jeopardy—jeopardy that in turn threat-
18 ens profound disruption to our system of representa-
19 tive government and to the security and future of
20 the Nation.

21 (3) The physical safety of visiting heads of for-
22 eign states and foreign governments is also a matter
23 of paramount importance. The assassination of such
24 a person while on American soil could have calami-

1 tous consequences for our foreign relations and na-
2 tional security.

3 (4) Given these grave concerns, Congress has
4 provided for the Secret Service to protect the Presi-
5 dent and those in direct line of the Presidency, and
6 has directed that these officials may not waive such
7 protection. Congress has also provided for the Secret
8 Service to protect visiting heads of foreign states
9 and foreign governments.

10 (5) The protective strategy of the Secret Serv-
11 ice depends critically on the ability of its personnel
12 to maintain close and unremitting physical proximity
13 to the protectee.

14 (6) Secret Service personnel must remain at the
15 side of the protectee on occasions of confidential
16 conversations and, as a result, may overhear top se-
17 cret discussions, diplomatic exchanges, sensitive con-
18 versations, and matters of personal privacy.

19 (7) The necessary level of proximity can be
20 maintained only in an atmosphere of complete trust
21 and confidence between the protectee and his or her
22 protectors.

23 (8) If a protectee has reason to doubt the con-
24 fidentiality of actions or conversations taken in sight
25 or hearing of Secret Service personnel, the protectee

1 may seek to push the protective envelope away or
2 undermine it to the point at which it could no longer
3 be fully effective.

4 (9) The possibility that Secret Service personnel
5 might be compelled to testify against their protectees
6 could induce foreign nations to refuse Secret Service
7 protection in future state visits, making it impossible
8 for the Secret Service to fulfill its important statu-
9 tory mission of protecting the life and safety of for-
10 eign dignitaries.

11 (10) A privilege protecting information acquired
12 by Secret Service personnel while performing their
13 protective function in physical proximity to a
14 protectee will preserve the security of the protectee
15 by lessening the incentive of the protectee to dis-
16 tance Secret Service personnel in situations in which
17 there is some risk to the safety of the protectee.

18 (11) Recognition of a protective function privi-
19 lege for the President and those in direct line of the
20 Presidency, and for visiting heads of foreign states
21 and foreign governments, will promote sufficiently
22 important interests to outweigh the need for pro-
23 bative evidence.

24 (12) Because Secret Service personnel retain
25 law enforcement responsibility even while engaged in

1 their protective function, the privilege must be sub-
 2 ject to a crime or treason exception.

3 (b) PURPOSES.—The purposes of this Act are—

4 (1) to facilitate the relationship of trust and
 5 confidence between Secret Service personnel and cer-
 6 tain protected officials that is essential to the ability
 7 of the Secret Service to protect these officials, and
 8 the Nation, from the risk of assassination; and

9 (2) to ensure that Secret Service personnel are
 10 not precluded from testifying in a criminal investiga-
 11 tion or prosecution about unlawful activity com-
 12 mitted within their view or hearing.

13 (c) ADMISSIBILITY OF INFORMATION ACQUIRED BY
 14 SECRET SERVICE PERSONNEL WHILE PERFORMING
 15 THEIR PROTECTIVE FUNCTION.—

16 (1) PROTECTIVE FUNCTION PRIVILEGE.—Chap-
 17 ter 203 of title 18, United States Code, is amended
 18 by inserting after section 3056 the following:

19 **“§ 3056A. Testimony by Secret Service personnel; pro-**
 20 **TECTIVE FUNCTION PRIVILEGE**

21 **“(a) DEFINITIONS.—**In this section:

22 **“(1) PROTECTEE.—**The term ‘protectee’
 23 means—

24 **“(A) the President;**

1 “(B) the Vice President (or other officer
2 next in the order of succession to the Office of
3 President);

4 “(C) the President-elect;

5 “(D) the Vice President-elect; and

6 “(E) visiting heads of foreign states or for-
7 eign governments who, at the time and place
8 concerned, are being provided protection by the
9 United States Secret Service.

10 “(2) SECRET SERVICE PERSONNEL.—The term
11 ‘Secret Service personnel’ means any officer or agent
12 of the United States Secret Service.

13 “(b) GENERAL RULE OF PRIVILEGE.—Subject to
14 subsection (c), testimony by Secret Service personnel or
15 former Secret Service personnel regarding information af-
16 fecting a protectee that was acquired during the perform-
17 ance of a protective function in physical proximity to the
18 protectee shall not be received in evidence or otherwise dis-
19 closed in any trial, hearing, or other proceeding in or be-
20 fore any court, grand jury, department, officer, agency,
21 regulatory body, or other authority of the United States,
22 a State, or a political subdivision thereof.

23 “(c) EXCEPTIONS.—There is no privilege under this
24 section—

1 “(1) with respect to information that, at the
2 time the information was acquired by Secret Service
3 personnel, was sufficient to provide reasonable
4 grounds to believe that a crime had been, was being,
5 or would be committed; or

6 “(2) if the privilege is waived by the protectee
7 or the legal representative of a protectee or deceased
8 protectee.”.

9 (2) TECHNICAL AND CONFORMING AMEND-
10 MENT.—The analysis for chapter 203 of title 18,
11 United States Code, is amended by inserting after
12 the item relating to section 3056 the following:

“3056A. Testimony by Secret Service personnel; protective function privilege.”.

13 (3) APPLICATION.—This section and the
14 amendments made by this section shall apply to any
15 proceeding commenced on or after the date of enact-
16 ment of this section.

17 **SEC. 4503. PROFESSIONAL STANDARDS FOR GOVERNMENT**
18 **ATTORNEYS.**

19 (a) Section 530B of title 28, United States Code, is
20 amended to read as follows:

21 **“SEC. 530B. PROFESSIONAL STANDARDS FOR GOVERNMENT**
22 **ATTORNEYS.**

23 “(a) DEFINITIONS.—In this section:

24 “(1) GOVERNMENT ATTORNEY.—The term
25 ‘Government attorney’—

1 “(A) means the Attorney General; the
2 Deputy Attorney General; the Solicitor General;
3 the Associate Attorney General; the head of,
4 and any attorney employed in, any division, of-
5 fice, board, bureau, component, or agency of
6 the Department of Justice; any United States
7 Attorney; any Assistant United States Attorney;
8 any Special Assistant to the Attorney General
9 or Special Attorney appointed under section
10 515; any Special Assistant United States Attor-
11 ney appointed under section 543 who is author-
12 ized to conduct criminal or civil law enforce-
13 ment investigations or proceedings on behalf of
14 the United States; any other attorney employed
15 by the Department of Justice who is authorized
16 to conduct criminal or civil law enforcement
17 proceedings on behalf of the United States; any
18 independent counsel, or employee of such coun-
19 sel, appointed under chapter 40; and any out-
20 side special counsel, or employee of such coun-
21 sel, as may be duly appointed by the Attorney
22 General; and

23 “(B) does not include any attorney em-
24 ployed as an investigator or other law enforce-
25 ment agent by the Department of Justice who

1 is not authorized to represent the United States
2 in criminal or civil law enforcement litigation or
3 to supervise such proceedings.

4 “(2) STATE.—The term ‘State’ includes a Ter-
5 ritory and the District of Columbia.

6 “(b) CHOICE OF LAW.—Subject to any uniform na-
7 tional rule prescribed by the Supreme Court under chapter
8 131, the standards of professional responsibility that
9 apply to a Government attorney with respect to the attor-
10 ney’s work for the Government shall be—

11 “(1) for conduct in connection with a pro-
12 ceeding in or before a court, the standards of profes-
13 sional responsibility established by the rules and de-
14 cisions of that court;

15 “(2) for conduct reasonably intended to lead to
16 a proceeding in or before a court, the standards of
17 professional responsibility established by the rules
18 and decisions of the court in or before which the
19 proceeding is intended to be brought; and

20 “(3) for all other conduct, the standards of pro-
21 fessional responsibility established by the rules and
22 decisions of the Federal district court for the judicial
23 district in which the attorney principally performs
24 his or her official duties.

1 “(c) LICENSURE.—A Government attorney (except
2 foreign counsel employed in special cases)—

3 “(1) shall be duly licensed and authorized to
4 practice as an attorney under the laws of a State;
5 and

6 “(2) shall not be required to be a member of
7 the bar of any particular State.

8 “(d) ADMISSIBILITY OF EVIDENCE.—No violation of
9 any disciplinary, ethical, or professional conduct rule shall
10 be construed to permit the exclusion of otherwise admis-
11 sible evidence in any Federal criminal proceeding.

12 “(e) RULEMAKING AUTHORITY.—The Attorney Gen-
13 eral shall make and amend rules of the Department of
14 Justice to ensure compliance with this section.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—
16 The analysis for chapter 31 of title 28, United States
17 Code, is amended, in the item relating to section 530B,
18 by striking “Ethical standards for attorneys for the Gov-
19 ernment” and inserting “Professional standards for Gov-
20 ernment attorneys”.

21 (c) REPORTS.—

22 (1) UNIFORM RULE.—In order to encourage the
23 Supreme Court to prescribe, under chapter 131 of
24 title 28, United States Code, a uniform national rule
25 for Government attorneys with respect to commu-

1 nications with represented persons and parties, not
2 later than 1 year after the date of enactment of this
3 Act, the Judicial Conference of the United States
4 shall submit to the Chief Justice of the United
5 States a report, which shall include recommenda-
6 tions with respect to amending the Federal Rules of
7 Practice and Procedure to provide for such a uni-
8 form national rule.

9 (2) ACTUAL OR POTENTIAL CONFLICTS.—Not
10 later than 2 years after the date of enactment of
11 this Act, the Judicial Conference of the United
12 States shall submit to the Chairmen and Ranking
13 Members of the Committees on the Judiciary of the
14 House of Representatives and the Senate a report,
15 which shall include—

16 (A) a review of any areas of actual or po-
17 tential conflict between specific Federal duties
18 related to the investigation and prosecution of
19 violations of Federal law and the regulation of
20 Government attorneys (as that term is defined
21 in section 530B of title 28, United States Code,
22 as amended by this Act) by existing standards
23 of professional responsibility; and

24 (B) recommendations with respect to
25 amending the Federal Rules of Practice and

1 Procedure to provide for additional rules gov-
 2 erning attorney conduct to address any areas
 3 of actual or potential conflict identified pursu-
 4 ant to the review under subparagraph (A).

5 (3) REPORT CONSIDERATIONS.—In carrying out
 6 paragraphs (1) and (2), the Judicial Conference of
 7 the United States shall take into consideration—

8 (A) the needs and circumstances of
 9 multiform and multijurisdictional litigation;

10 (B) the special needs and interests of the
 11 United States in investigating and prosecuting
 12 violations of Federal criminal and civil law; and

13 (C) practices that are approved under Fed-
 14 eral statutory or case law or that are otherwise
 15 consistent with traditional Federal law enforce-
 16 ment techniques.

17 **TITLE V—COMBATING DRUG**
 18 **AND GUN VIOLENCE**

19 **Subtitle A—Drug Treatment,**
 20 **Prevention, and Testing**

21 **PART 1—DRUG TREATMENT**

22 **SEC. 5101. FUNDING FOR RURAL STATE AND ECONOMICALLY**
 23 **DEPRESSED COMMUNITIES.**

24 (a) IN GENERAL.—The Director of the Center for
 25 Substance Abuse Treatment shall provide awards of

1 grants, cooperative agreement, or contracts to public and
2 nonprofit private entities for the purpose of providing
3 treatment facilities in rural States and economically de-
4 pressed communities that have high rates of drug addic-
5 tion but lack the resources to provide adequate treatment.

6 (b) MINIMUM QUALIFICATIONS FOR RECEIPT OF
7 AWARD.—With respect to the principal agency of the
8 State involved that administers programs relating to sub-
9 stance abuse, the Director may make an award under sub-
10 section (a) to an applicant only if the agency has certified
11 to the Director that—

12 (1) the applicant has the capacity to carry out
13 a program described in subsection (a);

14 (2) the plans of the applicant for such a pro-
15 gram are consistent with the policies of such agency
16 regarding the treatment of substance abuse; and

17 (3) the applicant, or any entity through which
18 the applicant will provide authorized services, meets
19 all applicable State licensure or certification require-
20 ments regarding the provision of the services in-
21 volved.

22 (c) REQUIREMENT OF MATCHING FUNDS.—

23 (1) IN GENERAL.—With respect to the costs of
24 the program to be carried out by an applicant pursu-
25 ant to subsection (a), a funding agreement for an

1 award under such subsection is that the applicant
2 will make available (directly or through donations
3 from public or private entities) non-Federal con-
4 tributions toward such costs in an amount that—

5 (A) for the first fiscal year for which the
6 applicant receives payments under an award
7 under such subsection, is not less than \$1 for
8 each \$9 of Federal funds provided in the
9 award;

10 (B) for any second such fiscal year, is not
11 less than \$1 for each \$9 of Federal funds pro-
12 vided in the award; and

13 (C) for any subsequent such fiscal year, is
14 not less than \$1 for each \$3 of Federal funds
15 provided in the award.

16 (2) DETERMINATION OF AMOUNT CONTRIB-
17 UTED.—Non-Federal contributions required in para-
18 graph (1) may be in cash or in kind, fairly evalu-
19 ated, including plant, equipment, or services.
20 Amounts provided by the Federal Government, or
21 services assisted or subsidized to any significant ex-
22 tent by the Federal Government, may not be in-
23 cluded in determining the amount of such non-Fed-
24 eral contributions.

1 (d) REPORTS TO DIRECTOR.—A funding agreement
2 for an award under subsection (a) is that the applicant
3 involved will submit to the Director a report—

4 (1) describing the utilization and costs of serv-
5 ices provided under the award;

6 (2) specifying the number of individuals served
7 and the type and costs of services provided; and

8 (3) providing such other information as the Di-
9 rector determines to be appropriate.

10 (e) REQUIREMENT OF APPLICATION.—The Director
11 may make an award under subsection (a) only if an appli-
12 cation for the award is submitted to the Director con-
13 taining such agreements, and the application is in such
14 form, is made in such manner, and contains such other
15 agreements and such assurances and information as the
16 Director determines to be necessary to carry out this sec-
17 tion.

18 (f) EQUITABLE ALLOCATION OF AWARDS.—In mak-
19 ing awards under subsection (a), the Director shall ensure
20 that the awards are equitably allocated among the prin-
21 cipal geographic regions of the United States, subject to
22 the availability of qualified applicants for the awards.

23 (g) DURATION OF AWARD.—The period during which
24 payments are made to an entity from an award under sub-
25 section (a) may not exceed 5 years. The provision of such

1 payments shall be subject to annual approval by the Direc-
2 tor of the payments and subject to the availability of ap-
3 propriations for the fiscal year involved to make the pay-
4 ments. This subsection may not be construed to establish
5 a limitation on the number of awards under such sub-
6 section that may be made to an entity.

7 (h) EVALUATIONS; DISSEMINATION OF FINDINGS.—
8 The Director shall, directly or through contract, provide
9 for the conduct of evaluations of programs carried out
10 pursuant to subsection (a). The Director shall disseminate
11 to the States the findings made as a result of the evalua-
12 tions.

13 (i) MINIMUM ALLOCATION.—Unless all eligible appli-
14 cations submitted by any State or unit of local government
15 within such State for a grant under this section have been
16 funded, such State, together with grantees within the
17 State (other than Indian tribes), shall be allocated in each
18 fiscal year under this section not less than 0.75 percent
19 of the total amount appropriated in the fiscal year for
20 grants pursuant to this section.

21 (j) DEFINITION OF RURAL STATE.—In this section,
22 the term “rural State” has the same meaning as in section
23 1501(b) of the Omnibus Crime Control and Safe Streets
24 Act of 1968 (42 U.S.C. 3796bb(B)).

1 (k) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this section
3 \$50,000,000 for each of the fiscal years 2003, 2004, 2005,
4 and 2006.

5 **SEC. 5102. FUNDING FOR RESIDENTIAL TREATMENT CEN-**
6 **TERS FOR WOMEN AND CHILDREN.**

7 (a) IN GENERAL.—The Director of the Center for
8 Substance Abuse Treatment shall provide awards of
9 grants, cooperative agreement, or contracts to public and
10 nonprofit private entities for the purpose of providing
11 treatment facilities that—

12 (1) provide residential treatment for meth-
13 amphetamine, heroin, and other drug addicted
14 women with minor children; and

15 (2) offer specialized treatment for methamphet-
16 amine-, heroin-, and other drug-addicted mothers
17 and allow the minor children of those mothers to re-
18 side with them in the facility or nearby while treat-
19 ment is ongoing.

20 (b) MINIMUM QUALIFICATIONS FOR RECEIPT OF
21 AWARD.—With respect to the principal agency of the
22 State involved that administers programs relating to sub-
23 stance abuse, the Director may make an award under sub-
24 section (a) to an applicant only if the agency has certified
25 to the Director that—

1 (1) the applicant has the capacity to carry out
2 a program described in subsection (a);

3 (2) the plans of the applicant for such a pro-
4 gram are consistent with the policies of such agency
5 regarding the treatment of substance abuse; and

6 (3) the applicant, or any entity through which
7 the applicant will provide authorized services, meets
8 all applicable State licensure or certification require-
9 ments regarding the provision of the services in-
10 volved.

11 (c) REQUIREMENT OF MATCHING FUNDS.—

12 (1) IN GENERAL.—With respect to the costs of
13 the program to be carried out by an applicant pursu-
14 ant to subsection (a), a funding agreement for an
15 award under such subsection is that the applicant
16 will make available (directly or through donations
17 from public or private entities) non-Federal con-
18 tributions toward such costs in an amount that—

19 (A) for the first fiscal year for which the
20 applicant receives payments under an award
21 under such subsection, is not less than \$1 for
22 each \$9 of Federal funds provided in the
23 award;

1 (B) for any second such fiscal year, is not
2 less than \$1 for each \$9 of Federal funds pro-
3 vided in the award; and

4 (C) for any subsequent such fiscal year, is
5 not less than \$1 for each \$3 of Federal funds
6 provided in the award.

7 (2) DETERMINATION OF AMOUNT CONTRIB-
8 UTED.—Non-Federal contributions required in para-
9 graph (1) may be in cash or in kind, fairly evalu-
10 ated, including plant, equipment, or services.
11 Amounts provided by the Federal Government, or
12 services assisted or subsidized to any significant ex-
13 tent by the Federal Government, may not be in-
14 cluded in determining the amount of such non-Fed-
15 eral contributions.

16 (d) REPORTS TO DIRECTOR.—A funding agreement
17 for an award under subsection (a) is that the applicant
18 involved will submit to the Director a report—

19 (1) describing the utilization and costs of serv-
20 ices provided under the award;

21 (2) specifying the number of individuals served
22 and the type and costs of services provided; and

23 (3) providing such other information as the Di-
24 rector determines to be appropriate.

1 (e) REQUIREMENT OF APPLICATION.—The Director
2 may make an award under subsection (a) only if an appli-
3 cation for the award is submitted to the Director con-
4 taining such agreements, and the application is in such
5 form, is made in such manner, and contains such other
6 agreements and such assurances and information as the
7 Director determines to be necessary to carry out this sec-
8 tion.

9 (f) PRIORITY.—In making grants under this sub-
10 section, the Director shall give priority to areas experi-
11 encing a high rate or rapid increase in drug abuse and
12 addiction.

13 (g) EQUITABLE ALLOCATION OF AWARDS.—In mak-
14 ing awards under subsection (a), the Director shall ensure
15 that the awards are equitably allocated among the prin-
16 cipal geographic regions of the United States, subject to
17 the availability of qualified applicants for the awards.

18 (h) DURATION OF AWARD.—The period during which
19 payments are made to an entity from an award under sub-
20 section (a) may not exceed 5 years. The provision of such
21 payments shall be subject to annual approval by the Direc-
22 tor of the payments and subject to the availability of ap-
23 propriations for the fiscal year involved to make the pay-
24 ments. This subsection may not be construed to establish

1 a limitation on the number of awards under such sub-
2 section that may be made to an entity.

3 (i) EVALUATIONS; DISSEMINATION OF FINDINGS.—

4 The Director shall, directly or through contract, provide
5 for the conduct of evaluations of programs carried out
6 pursuant to subsection (a). The Director shall disseminate
7 to the States the findings made as a result of the evalua-
8 tions.

9 (j) MINIMUM ALLOCATION.—Unless all eligible appli-
10 cations submitted by any State or unit of local government
11 within such State for a grant under this section have been
12 funded, such State, together with grantees within the
13 State (other than Indian tribes), shall be allocated in each
14 fiscal year under this section not less than 0.75 percent
15 of the total amount appropriated in the fiscal year for
16 grants pursuant to this section.

17 (k) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to carry out this section
19 \$10,000,000 for each of the fiscal years 2003, 2004, 2005,
20 and 2006.

21 **SEC. 5103. DRUG TREATMENT ALTERNATIVE TO PRISON**
22 **PROGRAMS ADMINISTERED BY STATE OR**
23 **LOCAL PROSECUTORS.**

24 (a) PROSECUTION DRUG TREATMENT ALTERNATIVE
25 TO PRISON PROGRAMS.—Title I of the Omnibus Crime

1 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
2 et seq.) is amended by adding at the end the following
3 new part:

4 **“PART CC—PROSECUTION DRUG TREATMENT**
5 **ALTERNATIVE TO PRISON PROGRAMS**

6 **“SEC. 2901. PROGRAM AUTHORIZED.**

7 “(a) IN GENERAL.—The Attorney General may make
8 grants to State or local prosecutors for the purpose of de-
9 veloping, implementing, or expanding drug treatment al-
10 ternative to prison programs that comply with the require-
11 ments of this part.

12 “(b) USE OF FUNDS.—A State or local prosecutor
13 who receives a grant under this part shall use amounts
14 provided under the grant to develop, implement, or expand
15 the drug treatment alternative to prison program for
16 which the grant was made, which may include payment
17 of the following expenses:

18 “(1) Salaries, personnel costs, equipment costs,
19 and other costs directly related to the operation of
20 the program, including the enforcement unit.

21 “(2) Payments to licensed substance abuse
22 treatment providers for providing treatment to of-
23 fenders participating in the program for which the
24 grant was made, including aftercare supervision, vo-
25 cational training, education, and job placement.

1 “(3) Payments to public and nonprofit private
2 entities for providing treatment to offenders partici-
3 pating in the program for which the grant was
4 made.

5 “(c) FEDERAL SHARE.—The Federal share of a
6 grant under this part shall not exceed 75 percent of the
7 cost of the program.

8 “(d) SUPPLEMENT AND NOT SUPPLANT.—Grant
9 amounts received under this part shall be used to supple-
10 ment, and not supplant, non-Federal funds that would
11 otherwise be available for activities funded under this part.

12 **“SEC. 2902. PROGRAM REQUIREMENTS.**

13 “A drug treatment alternative to prison program with
14 respect to which a grant is made under this part shall
15 comply with the following requirements:

16 “(1) A State or local prosecutor shall admin-
17 ister the program.

18 “(2) An eligible offender may participate in the
19 program only with the consent of the State or local
20 prosecutor.

21 “(3) Each eligible offender who participates in
22 the program shall, as an alternative to incarceration,
23 be sentenced to or placed with a long term, drug
24 free residential substance abuse treatment provider
25 that is licensed under State or local law.

1 “(4) Each eligible offender who participates in
2 the program shall serve a sentence of imprisonment
3 with respect to the underlying crime if that offender
4 does not successfully complete treatment with the
5 residential substance abuse provider.

6 “(5) Each residential substance abuse provider
7 treating an offender under the program shall—

8 “(A) make periodic reports of the progress
9 of treatment of that offender to the State or
10 local prosecutor carrying out the program and
11 to the appropriate court in which the defendant
12 was convicted; and

13 “(B) notify that prosecutor and that court
14 if that offender absconds from the facility of
15 the treatment provider or otherwise violates the
16 terms and conditions of the program.

17 “(6) The program shall have an enforcement
18 unit comprised of law enforcement officers under the
19 supervision of the State or local prosecutor carrying
20 out the program, the duties of which shall include
21 verifying an offender’s addresses and other contacts,
22 and, if necessary, locating, apprehending, and ar-
23 resting an offender who has absconded from the fa-
24 cility of a residential substance abuse treatment pro-
25 vider or otherwise violated the terms and conditions

1 of the program, and returning such offender to court
2 for sentence on the underlying crime.

3 **“SEC. 2903. APPLICATIONS.**

4 “(a) IN GENERAL.—To request a grant under this
5 part, a State or local prosecutor shall submit an applica-
6 tion to the Attorney General in such form and containing
7 such information as the Attorney General may reasonably
8 require.

9 “(b) CERTIFICATIONS.—Each such application shall
10 contain the certification of the State or local prosecutor
11 that the program for which the grant is requested shall
12 meet each of the requirements of this part.

13 **“SEC. 2904. GEOGRAPHIC DISTRIBUTION.**

14 “The Attorney General shall ensure that, to the ex-
15 tent practicable, the distribution of grant awards is equi-
16 table and includes State or local prosecutors—

17 “(1) in each State; and

18 “(2) in rural, suburban, and urban jurisdic-
19 tions.

20 **“SEC. 2905. REPORTS AND EVALUATIONS.**

21 “For each fiscal year, each recipient of a grant under
22 this part during that fiscal year shall submit to the Attor-
23 ney General a report regarding the effectiveness of activi-
24 ties carried out using that grant. Each report shall include
25 an evaluation in such form and containing such informa-

1 tion as the Attorney General may reasonably require. The
2 Attorney General shall specify the dates on which such
3 reports shall be submitted.

4 **“SEC. 2906. DEFINITIONS.**

5 “In this part:

6 “(1) ELIGIBLE OFFENDER.—The term ‘eligible
7 offender’ means an individual who—

8 “(A) has been convicted of, or pled guilty
9 to, or admitted guilt with respect to a crime for
10 which a sentence of imprisonment is required
11 and has not completed such sentence;

12 “(B) has never been convicted of, or pled
13 guilty to, or admitted guilt with respect to, and
14 is not presently charged with, a felony crime of
15 violence or a major drug offense or a crime that
16 is considered a violent felony under State or
17 local law; and

18 “(C) has been found by a professional sub-
19 stance abuse screener to be in need of sub-
20 stance abuse treatment because that offender
21 has a history of substance abuse that is a sig-
22 nificant contributing factor to that offender’s
23 criminal conduct.

24 “(2) FELONY CRIME OF VIOLENCE.—The term
25 ‘felony crime of violence’ has the meaning given such

1 term in section 924(c)(3) of title 18, United States
2 Code.

3 “(3) MAJOR DRUG OFFENSE.—The term ‘major
4 drug offense’ has the meaning given such term in
5 section 36(a) of title 18, United States Code.

6 “(4) STATE OR LOCAL PROSECUTOR.—The
7 term ‘State or local prosecutor’ means any district
8 attorney, State attorney general, county attorney, or
9 corporation counsel who has authority to prosecute
10 criminal offenses under State or local law.”.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
12 1001(a) of title I of the Omnibus Crime Control and Safe
13 Street Act of 1968 (42 U.S.C. 3793(a)) is amended by
14 adding at the end the following new paragraph:

15 “(24) There are authorized to be appropriated
16 to carry out part CC—

17 “(A) \$75,000,000 for fiscal years 2003
18 and 2004;

19 “(B) \$85,000,000 for fiscal year 2005;

20 “(C) \$95,000,000 for fiscal year 2006;

21 “(D) \$105,000,000 for fiscal year 2007;

22 and

23 “(E) \$125,000,000 for fiscal year 2008.”.

1 **SEC. 5104. SUBSTANCE ABUSE TREATMENT IN FEDERAL**
2 **PRISONS REAUTHORIZATION.**

3 Section 3621(e)(4) of title 18, United States Code,
4 is amended by striking subparagraph (E) and inserting
5 the following:

6 “(E) \$31,000,000 for fiscal year 2003; and

7 “(F) \$38,000,000 for fiscal year 2004.”.

8 **SEC. 5105. DRUG TREATMENT FOR JUVENILES.**

9 Title V of the Public Health Service Act (42 U.S.C.
10 290aa et seq.) is amended by adding at the end the fol-
11 lowing:

12 **“PART G—RESIDENTIAL TREATMENT PROGRAMS**
13 **FOR JUVENILES**

14 **“SEC. 575. RESIDENTIAL TREATMENT PROGRAMS FOR JU-**
15 **VENILES.**

16 “(a) IN GENERAL.—The Director of the Center for
17 Substance Abuse Treatment shall award grants to, or
18 enter into cooperative agreements or contracts, with public
19 and nonprofit private entities for the purpose of providing
20 treatment to juveniles for substance abuse through pro-
21 grams in which, during the course of receiving such treat-
22 ment the juveniles reside in facilities made available by
23 the programs.

24 “(b) AVAILABILITY OF SERVICES FOR EACH PARTIC-
25 IPANT.—A funding agreement for an award under sub-

1 section (a) for an applicant is that, in the program oper-
2 ated pursuant to such subsection—

3 “(1) treatment services will be available
4 through the applicant, either directly or through
5 agreements with other public or nonprofit private
6 entities; and

7 “(2) the services will be made available to each
8 person admitted to the program.

9 “(c) INDIVIDUALIZED PLAN OF SERVICES.—A fund-
10 ing agreement for an award under subsection (a) for an
11 applicant is that—

12 “(1) in providing authorized services for an eli-
13 gible person pursuant to such subsection, the appli-
14 cant will, in consultation with the juvenile and, if ap-
15 propriate the parent or guardian of the juvenile, pre-
16 pare an individualized plan for the provision to the
17 juvenile or young adult of the services; and

18 “(2) treatment services under the plan will in-
19 clude—

20 “(A) individual, group, and family coun-
21 seling, as appropriate, regarding substance
22 abuse; and

23 “(B) followup services to assist the juvenile
24 or young adult in preventing a relapse into such
25 abuse.

1 “(d) ELIGIBLE SUPPLEMENTAL SERVICES.—Grants
2 under subsection (a) may be used to provide an eligible
3 juvenile, the following services:

4 “(1) HOSPITAL REFERRALS.—Referrals for nec-
5 essary hospital services.

6 “(2) HIV AND AIDS COUNSELING.—Counseling
7 on the human immunodeficiency virus and on ac-
8 quired immune deficiency syndrome.

9 “(3) DOMESTIC VIOLENCE AND SEXUAL ABUSE
10 COUNSELING.—Counseling on domestic violence and
11 sexual abuse.

12 “(4) PREPARATION FOR REENTRY INTO SOCI-
13 ETY.—Planning for and counseling to assist reentry
14 into society, both before and after discharge, includ-
15 ing referrals to any public or nonprofit private enti-
16 ties in the community involved that provide services
17 appropriate for the juvenile.

18 “(e) MINIMUM QUALIFICATIONS FOR RECEIPT OF
19 AWARD.—

20 “(1) CERTIFICATION BY RELEVANT STATE
21 AGENCY.—With respect to the principal agency of a
22 State or Indian tribe that administers programs re-
23 lating to substance abuse, the Director may award
24 a grant to, or enter into a cooperative agreement or

1 contract with, an applicant only if the agency or In-
2 dian tribe has certified to the Director that—

3 “(A) the applicant has the capacity to
4 carry out a program described in subsection (a);

5 “(B) the plans of the applicant for such a
6 program are consistent with the policies of such
7 agency regarding the treatment of substance
8 abuse; and

9 “(C) the applicant, or any entity through
10 which the applicant will provide authorized
11 services, meets all applicable State licensure or
12 certification requirements regarding the provi-
13 sion of the services involved.

14 “(2) STATUS AS MEDICAID PROVIDER.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graphs (B) and (C), the Director may make a
17 grant, or enter into a cooperative agreement or
18 contract, under subsection (a) only if, in the
19 case of any authorized service that is available
20 pursuant to the State plan approved under title
21 XIX of the Social Security Act (42 U.S.C. 1396
22 et seq.) for the State involved—

23 “(i) the applicant for the grant, coop-
24 erative agreement, or contract will provide
25 the service directly, and the applicant has

1 entered into a participation agreement
2 under the State plan and is qualified to re-
3 ceive payments under such plan; or

4 “(ii) the applicant will enter into an
5 agreement with a public or nonprofit pri-
6 vate entity under which the entity will pro-
7 vide the service, and the entity has entered
8 into such a participation agreement plan
9 and is qualified to receive such payments.

10 “(B) SERVICES.—

11 “(i) IN GENERAL.—In the case of an
12 entity making an agreement pursuant to
13 subparagraph (A)(ii) regarding the provi-
14 sion of services, the requirement estab-
15 lished in such subparagraph regarding a
16 participation agreement shall be waived by
17 the Director if the entity does not, in pro-
18 viding health care services, impose a
19 charge or accept reimbursement available
20 from any third party payor, including re-
21 imbursement under any insurance policy or
22 under any Federal or State health benefits
23 plan.

24 “(ii) VOLUNTARY DONATIONS.—A de-
25 termination by the Director of whether an

1 entity referred to in clause (i) meets the
2 criteria for a waiver under such clause
3 shall be made without regard to whether
4 the entity accepts voluntary donations re-
5 garding the provision of services to the
6 public.

7 “(C) MENTAL DISEASES.—

8 “(i) IN GENERAL.—With respect to
9 any authorized service that is available
10 pursuant to the State plan described in
11 subparagraph (A), the requirements estab-
12 lished in such subparagraph shall not
13 apply to the provision of any such service
14 by an institution for mental diseases to an
15 individual who has attained 21 years of
16 age and who has not attained 65 years of
17 age.

18 “(ii) DEFINITION OF INSTITUTION
19 FOR MENTAL DISEASES.—In this subpara-
20 graph, the term ‘institution for mental dis-
21 eases’ has the same meaning as in section
22 1905(i) of the Social Security Act (42
23 U.S.C. 1396d(i)).

24 “(f) REQUIREMENTS FOR MATCHING FUNDS.—

1 “(1) IN GENERAL.—With respect to the costs of
2 the program to be carried out by an applicant pursu-
3 ant to subsection (a), a funding agreement for an
4 award under such subsection is that the applicant
5 will make available (directly or through donations
6 from public or private entities) non-Federal con-
7 tributions toward such costs in an amount that—

8 “(A) for the first fiscal year for which the
9 applicant receives payments under an award
10 under such subsection, is not less than \$1 for
11 each \$9 of Federal funds provided in the
12 award;

13 “(B) for any second such fiscal year, is not
14 less than \$1 for each \$9 of Federal funds pro-
15 vided in the award; and

16 “(C) for any subsequent such fiscal year, is
17 not less than \$1 for each \$3 of Federal funds
18 provided in the award.

19 “(2) DETERMINATION OF AMOUNT CONTRIB-
20 UTED.—Non-Federal contributions required in para-
21 graph (1) may be in cash or in kind, fairly evalu-
22 ated, including plant, equipment, or services.
23 Amounts provided by the Federal Government, or
24 services assisted or subsidized to any significant ex-
25 tent by the Federal Government, may not be in-

1 cluded in determining the amount of such non-Fed-
2 eral contributions.

3 “(g) OUTREACH.—A funding agreement for an award
4 under subsection (a) for an applicant is that the applicant
5 will provide outreach services in the community involved
6 to identify juveniles who are engaging in substance abuse
7 and to encourage the juveniles to undergo treatment for
8 such abuse.

9 “(h) ACCESSIBILITY OF PROGRAM.—A funding
10 agreement for an award under subsection (a) for an appli-
11 cant is that the program operated pursuant to such sub-
12 section will be operated at a location that is accessible to
13 low income juveniles.

14 “(i) CONTINUING EDUCATION.—A funding agree-
15 ment for an award under subsection (a) is that the appli-
16 cant involved will provide for continuing education in
17 treatment services for the individuals who will provide
18 treatment in the program to be operated by the applicant
19 pursuant to such subsection.

20 “(j) IMPOSITION OF CHARGES.—A funding agree-
21 ment for an award under subsection (a) for an applicant
22 is that, if a charge is imposed for the provision of author-
23 ized services to or on behalf of an eligible juvenile, such
24 charge—

1 “(1) will be made according to a schedule of
2 charges that is made available to the public;

3 “(2) will be adjusted to reflect the economic
4 condition of the juvenile involved; and

5 “(3) will not be imposed on any such juvenile
6 whose family has an income of less than 185 percent
7 of the official poverty line, as established by the Di-
8 rector of the Office for Management and Budget
9 and revised by the Secretary in accordance with sec-
10 tion 673(2) of the Omnibus Budget Reconciliation
11 Act of 1981 (42 U.S.C. 9902(2)).

12 “(k) REPORTS TO DIRECTOR.—A funding agreement
13 for an award under subsection (a) is that the applicant
14 involved will submit to the Director a report—

15 “(1) describing the utilization and costs of serv-
16 ices provided under the award;

17 “(2) specifying the number of juveniles served,
18 and the type and costs of services provided; and

19 “(3) providing such other information as the
20 Director determines to be appropriate.

21 “(l) REQUIREMENT OF APPLICATION.—The Director
22 may make an award under subsection (a) only if an appli-
23 cation for the award is submitted to the Director con-
24 taining such agreements, and the application is in such
25 form, is made in such manner, and contains such other

1 agreements and such assurances and information as the
2 Director determines to be necessary to carry out this sec-
3 tion.

4 “(m) **EQUITABLE ALLOCATION OF AWARDS.**—In
5 making awards under subsection (a), the Director shall
6 ensure that the awards are equitably allocated among the
7 principal geographic regions of the United States, as well
8 as among Indian tribes, subject to the availability of quali-
9 fied applicants for the awards.

10 “(n) **DURATION OF AWARD.**—

11 “(1) **IN GENERAL.**—The period during which
12 payments are made to an entity from an award
13 under this section may not exceed 5 years.

14 “(2) **APPROVAL OF DIRECTOR.**—The provision
15 of payments described in paragraph (1) shall be sub-
16 ject to—

17 “(A) annual approval by the Director of
18 the payments; and

19 “(B) the availability of appropriations for
20 the fiscal year at issue to make the payments.

21 “(3) **NO LIMITATION.**—This subsection may not
22 be construed to establish a limitation on the number
23 of awards that may be made to an entity under this
24 section.

1 “(o) EVALUATIONS; DISSEMINATION OF FINDINGS.—
2 The Director shall, directly or through contract, provide
3 for the conduct of evaluations of programs carried out
4 pursuant to subsection (a). The Director shall disseminate
5 to the States the findings made as a result of the evalua-
6 tions.

7 “(p) REPORTS TO CONGRESS.—

8 “(1) INITIAL REPORT.—Not later than October
9 1, 2004, the Director shall submit to the Committee
10 on the Judiciary of the House of Representatives,
11 and to the Committee on the Judiciary of the Sen-
12 ate, a report describing programs carried out pursu-
13 ant to this section.

14 “(2) PERIODIC REPORTS.—

15 “(A) IN GENERAL.—Not less than bienni-
16 ally after the date described in paragraph (1),
17 the Director shall prepare a report describing
18 programs carried out pursuant to this section
19 during the preceding 2-year period, and shall
20 submit the report to the Administrator for in-
21 clusion in the biennial report under section
22 501(k).

23 “(B) SUMMARY.—Each report under this
24 subsection shall include a summary of any eval-
25 uations conducted under subsection (m) during

1 the period with respect to which the report is
2 prepared.

3 “(q) DEFINITIONS.—In this section:

4 “(1) AUTHORIZED SERVICES.—The term ‘au-
5 thorized services’ means treatment services and sup-
6 plemental services.

7 “(2) JUVENILE.—The term ‘juvenile’ means
8 anyone 18 years of age or younger at the time that
9 of admission to a program operated pursuant to sub-
10 section (a).

11 “(3) ELIGIBLE JUVENILE.—The term ‘eligible
12 juvenile’ means a juvenile who has been admitted to
13 a program operated pursuant to subsection (a).

14 “(4) FUNDING AGREEMENT UNDER SUB-
15 SECTION (A).—The term ‘funding agreement under
16 subsection (a)’, with respect to an award under sub-
17 section (a), means that the Director may make the
18 award only if the applicant makes the agreement in-
19 volved.

20 “(5) TREATMENT SERVICES.—The term ‘treat-
21 ment services’ means treatment for substance abuse,
22 including the counseling and services described in
23 subsection (c)(2).

1 “(6) SUPPLEMENTAL SERVICES.—The term
2 ‘supplemental services’ means the services described
3 in subsection (d).

4 “(r) AUTHORIZATION OF APPROPRIATIONS.—

5 “(1) IN GENERAL.—For the purpose of car-
6 rying out this section and section 576 there is au-
7 thorized to be appropriated such sums as may be
8 necessary for fiscal years 2003, 2004, and 2005.
9 There is authorized to be appropriated from the Vio-
10 lent Crime Reduction Trust Fund \$300,000,000 in
11 each of fiscal years 2006 and 2007.

12 “(2) TRANSFER.—For the purpose described in
13 paragraph (1), in addition to the amounts author-
14 ized in such paragraph to be appropriated for a fis-
15 cal year, there is authorized to be appropriated for
16 the fiscal year from the special forfeiture fund of the
17 Director of the Office of National Drug Control Pol-
18 icy such sums as may be necessary.

19 “(3) RULE OF CONSTRUCTION.—The amounts
20 authorized in this subsection to be appropriated are
21 in addition to any other amounts that are authorized
22 to be appropriated and are available for the purpose
23 described in paragraph (1).

1 **“SEC. 576. OUTPATIENT TREATMENT PROGRAMS FOR JUVE-**
 2 **NILES.**

3 “(a) GRANTS.—The Secretary of Health and Human
 4 Services, acting through the Director of the Center for
 5 Substance Abuse Treatment, shall make grants to estab-
 6 lish projects for the outpatient treatment of substance
 7 abuse among juveniles.

8 “(b) PREVENTION.—Entities receiving grants under
 9 this section shall engage in activities to prevent substance
 10 abuse among juveniles.

11 “(c) EVALUATION.—The Secretary of Health and
 12 Human Services shall evaluate projects carried out under
 13 subsection (a) and shall disseminate to appropriate public
 14 and private entities information on effective projects.”.

15 **PART 2—FUNDING FOR DRUG-FREE COMMUNITY**
 16 **PROGRAMS**

17 **SEC. 5111. EXTENSION OF SAFE AND DRUG-FREE SCHOOLS**
 18 **AND COMMUNITIES PROGRAM.**

19 Title IV of the Elementary and Secondary Education
 20 Act (20 U.S.C. 7104) is amended to read as follows:

21 **“TITLE IV—AUTHORIZATIONS**

22 **“SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.**

23 “There is authorized to be appropriated for State
 24 grants under subpart 1 and national programs under sub-
 25 part 2, \$655,000,000 for fiscal years 2003, 2004, and
 26 2005, and \$955,000,000 for fiscal years 2006 and 2007,

1 of which the following amounts may be appropriated from
2 the Violent Crime Reduction Trust Fund:

3 “(1) \$300,000,000 for fiscal year 2006; and

4 “(2) \$300,000,000 for fiscal year 2007.”.

5 **SEC. 5112. SAY NO TO DRUGS COMMUNITY CENTERS.**

6 (a) **SHORT TITLE.**—This section may be cited as the
7 “Say No to Drugs Community Centers Act of 2003”.

8 (b) **DEFINITIONS.**—In this section—

9 (1) **COMMUNITY-BASED ORGANIZATION.**—The
10 term “community-based organization” means a pri-
11 vate, locally initiated organization that—

12 (A) is a nonprofit organization, as that
13 term is defined in section 103(23) of the Juve-
14 nile Justice and Delinquency Prevention Act of
15 1974 (42 U.S.C. 5603(23)); and

16 (B) involves the participation, as appro-
17 priate, of members of the community and com-
18 munity institutions, including—

19 (i) business and civic leaders actively
20 involved in providing employment and busi-
21 ness development opportunities in the com-
22 munity;

23 (ii) educators;

24 (iii) religious organizations (which
25 shall not provide any sectarian instruction

1 or sectarian worship in connection with
2 program activities funded under this sec-
3 tion);

4 (iv) law enforcement agencies; and

5 (v) other interested parties.

6 (2) ELIGIBLE COMMUNITY.—The term “eligible
7 community” means a community—

8 (A) identified by an eligible recipient for
9 assistance under this section; and

10 (B) an area that meets such criteria as the
11 Attorney General may, by regulation, establish,
12 including criteria relating to poverty, juvenile
13 delinquency, and crime.

14 (3) ELIGIBLE RECIPIENT.—The term “eligible
15 recipient” means a community-based organization or
16 public school that has—

17 (A) been approved for eligibility by the At-
18 torney General, upon application submitted to
19 the Attorney General in accordance with sub-
20 section (e); and

21 (B) demonstrated that the projects and ac-
22 tivities it seeks to support in an eligible commu-
23 nity involve the participation, when feasible and
24 appropriate, of—

- 1 (i) parents, family members, and
2 other members of the eligible community;
- 3 (ii) civic and religious organizations
4 serving the eligible community;
- 5 (iii) school officials and teachers em-
6 ployed at schools located in the eligible
7 community;
- 8 (iv) public housing resident organiza-
9 tions in the eligible community; and
- 10 (v) public and private nonprofit orga-
11 nizations and organizations serving youth
12 that provide education, child protective
13 services, or other human services to low in-
14 come, at-risk youth and their families.

15 (4) POVERTY LINE.—The term “poverty line”
16 means the income official poverty line (as defined by
17 the Office of Management and Budget, and revised
18 annually in accordance with section 673(2) of the
19 Community Services Block Grant Act (42 U.S.C.
20 9902(2)) applicable to a family of the size involved.

21 (5) PUBLIC SCHOOL.—The term “public
22 school” means a public elementary school, as defined
23 in section 1201(i) of the Higher Education Act of
24 1965 (20 U.S.C. 1141(i)), and a public secondary

1 school, as defined in section 1201(d) of that Act (42
2 U.S.C. 1141(d)).

3 (c) GRANT REQUIREMENTS.—The Attorney General
4 may make grants to eligible recipients, which grants may
5 be used to provide to youth living in eligible communities
6 during after school hours or summer vacations, the fol-
7 lowing services:

8 (1) Rigorous drug prevention education.

9 (2) Drug counseling and treatment.

10 (3) Academic tutoring and mentoring.

11 (4) Activities promoting interaction between
12 youth and law enforcement officials.

13 (5) Vaccinations and other basic preventive
14 health care.

15 (6) Sexual abstinence education.

16 (7) Other activities and instruction to reduce
17 youth violence and substance abuse.

18 (d) LOCATION AND USE OF AMOUNTS.—An eligible
19 recipient that receives a grant under this section—

20 (1) shall ensure that the stated program is car-
21 ried out—

22 (A) when appropriate, in the facilities of a
23 public school during nonschool hours; or

24 (B) in another appropriate local facility
25 that is—

1 (i) in a location easily accessible to
2 youth in the community; and

3 (ii) in compliance with all applicable
4 State and local ordinances;

5 (2) shall use the grant amounts to provide to
6 youth in the eligible community services and activi-
7 ties that include extracurricular and academic pro-
8 grams that are offered—

9 (A) after school and on weekends and holi-
10 days, during the school year; and

11 (B) as daily full day programs (to the ex-
12 tent available resources permit) or as part day
13 programs, during the summer months;

14 (3) shall use not more than 5 percent of the
15 amounts to pay for the administrative costs of the
16 program;

17 (4) shall not use such amounts to provide sec-
18 tarian worship or sectarian instruction; and

19 (5) may not use the amounts for the general
20 operating costs of public schools.

21 (e) APPLICATIONS.—

22 (1) IN GENERAL.—Each application to become
23 an eligible recipient shall be submitted to the Attor-
24 ney General at such time, in such manner, and ac-

1 complicated by such information, as the Attorney
2 General may reasonably require.

3 (2) CONTENTS OF APPLICATION.—Each appli-
4 cation submitted pursuant to paragraph (1) shall—

5 (A) describe the activities and services to
6 be provided through the program for which the
7 grant is sought;

8 (B) contain a comprehensive plan for the
9 program that is designed to achieve identifiable
10 goals for youth in the eligible community;

11 (C) describe in detail the drug education
12 and drug prevention programs that will be im-
13 plemented;

14 (D) specify measurable goals and outcomes
15 for the program that will include—

16 (i) reducing the percentage of youth
17 in the eligible community that enter the ju-
18 venile justice system or become addicted to
19 drugs;

20 (ii) increasing the graduation rates,
21 school attendance, and academic success of
22 youth in the eligible community; and

23 (iii) improving the skills of program
24 participants;

1 (E) contain an assurance that the appli-
2 cant will use grant amounts received under this
3 section to provide youth in the eligible commu-
4 nity with activities and services consistent with
5 subsection (c);

6 (F) demonstrate the manner in which the
7 applicant will make use of the resources, exper-
8 tise, and commitment of private entities in car-
9 rying out the program for which the grant is
10 sought;

11 (G) include an estimate of the number of
12 youth in the eligible community expected to be
13 served under the program;

14 (H) include a description of charitable pri-
15 vate resources, and all other resources, that will
16 be made available to achieve the goals of the
17 program;

18 (I) contain an assurance that the applicant
19 will comply with any research effort authorized
20 under Federal law, and any investigation by the
21 Attorney General;

22 (J) contain an assurance that the appli-
23 cant will prepare and submit to the Attorney
24 General an annual report regarding any pro-
25 gram conducted under this section;

1 (K) contain an assurance that the program
2 for which the grant is sought will, to the max-
3 imum extent practicable, incorporate services
4 that are provided solely through non-Federal
5 private or nonprofit sources; and

6 (L) contain an assurance that the appli-
7 cant will maintain separate accounting records
8 for the program for which the grant is sought.

9 (3) PRIORITY.—In determining eligibility under
10 this section, the Attorney General shall give priority
11 to applicants that submit applications that dem-
12 onstrate the greatest local support for the programs
13 they seek to support.

14 (f) PAYMENTS; FEDERAL SHARE; NON-FEDERAL
15 SHARE.—

16 (1) PAYMENTS.—The Attorney General shall,
17 subject to the availability of appropriations, provide
18 to each eligible recipient the Federal share of the
19 costs of developing and carrying out programs de-
20 scribed in this section.

21 (2) FEDERAL SHARE.—The Federal share of
22 the cost of a program under this section shall be not
23 more than—

1 (A) 75 percent of the total cost of the pro-
2 gram for each of the first 2 years of the dura-
3 tion of a grant;

4 (B) 70 percent of the total cost of the pro-
5 gram for the third year of the duration of a
6 grant; and

7 (C) 60 percent of the total cost of the pro-
8 gram for each year thereafter.

9 (3) NON-FEDERAL SHARE.—

10 (A) IN GENERAL.—The non-Federal share
11 of the cost of a program under this section may
12 be in cash or in kind, fairly evaluated, including
13 plant, equipment, and services. Federal funds
14 made available for the activity of any agency of
15 an Indian tribal government or the Bureau of
16 Indian Affairs on any Indian lands may be used
17 to provide the non-Federal share of the costs of
18 programs or projects funded under this section.

19 (B) SPECIAL RULE.—Not less than 15 per-
20 cent of the non-Federal share of the costs of a
21 program under this section shall be provided
22 from private or nonprofit sources.

23 (g) PROGRAM AUTHORITY.—

24 (1) IN GENERAL.—

1 (A) ALLOCATIONS FOR STATES AND IN-
2 DIAN TRIBES.—

3 (i) IN GENERAL.—In any fiscal year
4 in which the total amount made available
5 to carry out this section is equal to or
6 greater than \$20,000,000, from the
7 amount made available to carry out this
8 section, the Attorney General shall allocate
9 not less than 0.75 percent for grants under
10 subparagraph (B) to eligible recipients in
11 each State.

12 (ii) INDIAN TRIBES.—The Attorney
13 General shall allocate 0.75 percent of
14 amounts made available under this section
15 for grants to Indian tribes.

16 (B) GRANTS TO COMMUNITY-BASED ORGA-
17 NIZATIONS AND PUBLIC SCHOOLS FROM ALLO-
18 CATIONS.—For each fiscal year described in
19 subparagraph (A), the Attorney General may
20 award grants from the appropriate State or In-
21 dian tribe allocation determined under subpara-
22 graph (A) on a competitive basis to eligible re-
23 cipients to pay for the Federal share of assist-
24 ing eligible communities to develop and carry
25 out programs in accordance with this section.

1 (C) REALLOCATION.—If, at the end of a
2 fiscal year described in subparagraph (A), the
3 Attorney General determines that amounts allo-
4 cated for a particular State or Indian tribe
5 under subparagraph (B) remain unobligated,
6 the Attorney General shall use such amounts to
7 award grants to eligible recipients in another
8 State or Indian tribe to pay for the Federal
9 share of assisting eligible communities to de-
10 velop and carry out programs in accordance
11 with this section. In awarding such grants, the
12 Attorney General shall consider the need to
13 maintain geographic diversity among eligible re-
14 cipients.

15 (D) AVAILABILITY OF AMOUNTS.—
16 Amounts made available under this paragraph
17 shall remain available until expended.

18 (2) OTHER FISCAL YEARS.—In any fiscal year
19 in which the amount made available to carry out this
20 section is equal to or less than \$20,000,000, the At-
21 torney General may award grants on a competitive
22 basis to eligible recipients to pay for the Federal
23 share of assisting eligible communities to develop
24 and carry out programs in accordance with this sec-
25 tion.

1 (3) ADMINISTRATIVE COSTS.—The Attorney
2 General may use not more than 3 percent of the
3 amounts made available to carry out this section in
4 any fiscal year for administrative costs, including
5 training and technical assistance.

6 (h) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to carry out this section
8 from the Violent Crime Reduction Trust Fund—

9 (1) \$125,000,000 for fiscal year 2003;

10 (2) \$125,000,000 for fiscal year 2004; and

11 (3) \$125,000,000 for fiscal year 2005.

12 **SEC. 5113. DRUG EDUCATION AND PREVENTION RELATING**
13 **TO YOUTH GANGS.**

14 Section 3505 of the Anti-Drug Abuse Act of 1988
15 (42 U.S.C. 11805) is amended to read as follows:

16 **“SEC. 3505. AUTHORIZATION OF APPROPRIATIONS.**

17 “There is authorized to be appropriated to carry out
18 this chapter such sums as may be necessary for each of
19 fiscal years 2003, 2004, 2005, 2006, and 2007.”.

20 **SEC. 5114. DRUG EDUCATION AND PREVENTION PROGRAM**
21 **FOR RUNAWAY AND HOMELESS YOUTH.**

22 Section 3513 of the Anti-Drug Abuse Act of 1988
23 (42 U.S.C. 11823) is amended to read as follows:

1 **“SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.**

2 “There is authorized to be appropriated to carry out
3 this chapter such sums as may be necessary for each of
4 fiscal years 2003, 2004, 2005, 2006, and 2007.”.

5 **PART 3—ZERO TOLERANCE DRUG TESTING**

6 **SEC. 5121. GRANT AUTHORITY.**

7 The Attorney General may make grants to States and
8 units of local government, State courts, local courts, and
9 Indian tribal governments, acting directly or through
10 agreements with other public or private entities, for pro-
11 grams that support—

12 (1) developing or implementing comprehensive
13 drug testing policies and practices with regard to
14 criminal justice populations; and

15 (2) establishing appropriate interventions to il-
16 legal drug use for offender populations.

17 Applicants may choose to submit joint proposals with
18 other eligible criminal justice or criminal court agencies
19 for systemic drug testing and intervention programs, in
20 which case, 1 organization must be designated as the pri-
21 mary applicant.

22 **SEC. 5122. ADMINISTRATION.**

23 (a) CONSULTATION; COORDINATION.—In carrying
24 out section 5121, the Attorney General shall coordinate
25 with the other Justice Department initiatives that address

1 drug testing and interventions in the criminal justice sys-
2 tem.

3 (b) GUIDELINES.—The Attorney General may issue
4 guidelines necessary to carry out section 5121.

5 (c) APPLICATIONS.—In addition to any other require-
6 ments that may be specified by the Attorney General, an
7 application for a grant under section 5121 shall—

8 (1) reflect a comprehensive approach that rec-
9 ognizes the importance of collaboration and a con-
10 tinuum of testing, treatment, and other interven-
11 tions;

12 (2) include a long-term strategy and detailed
13 implementation plan;

14 (3) address the applicant’s capability to con-
15 tinue the proposed program following the conclusion
16 of Federal support;

17 (4) identify related governmental or community
18 initiatives which complement or will be coordinated
19 with the proposal;

20 (5) certify that there has been appropriate con-
21 sultation with affected agencies and key stakeholders
22 throughout the criminal justice system and that
23 there will be continued coordination throughout the
24 implementation of the program; and

1 (6) describe the methodology that will be used
2 in evaluating the program.

3 **SEC. 5123. APPLICATIONS.**

4 To request funds under section 5121, interested ap-
5 plicants shall submit an application to the Attorney Gen-
6 eral in such form and containing such information as the
7 Attorney General may reasonably require. Federal funding
8 shall be awarded on a competitive basis based on criteria
9 established by the Attorney General and specified in pro-
10 gram guidelines.

11 **SEC. 5124. FEDERAL SHARE.**

12 The Federal share of a grant made under section
13 5121 may not exceed 75 percent of the total cost of the
14 program described in the application submitted for the fis-
15 cal year for which the program receives assistance under
16 section 5121, unless the Attorney General waives, wholly
17 or in part, the requirement of a matching contribution
18 under this section. In-kind contributions may constitute
19 a portion of the non-federal share of a grant.

20 **SEC. 5125. GEOGRAPHIC DISTRIBUTION.**

21 The Attorney General shall ensure that, to the extent
22 practicable, an equitable geographic distribution of grant
23 awards under section 5121 is made, with rural and tribal
24 jurisdiction representation.

1 **SEC. 5126. TECHNICAL ASSISTANCE, TRAINING, AND EVAL-**
2 **UATION.**

3 (a) TECHNICAL ASSISTANCE AND TRAINING.—The
4 Attorney General shall provide technical assistance and
5 training in furtherance of the purposes of section 5121.

6 (b) EVALUATION.—In addition to any evaluation re-
7 quirements that may be prescribed for grantees, the Attor-
8 ney General may carry out or make arrangements for a
9 rigorous evaluation of the programs that receive support
10 under section 5121.

11 (c) ADMINISTRATION.—The technical assistance,
12 training, and evaluations authorized by this section may
13 be carried out directly by the Attorney General or through
14 grants, contracts, or cooperative agreements with other
15 entities.

16 **SEC. 5127. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated to carry out
18 this part—

19 (1) \$75,000,000 for fiscal year 2003; and

20 (2) such sums as may be necessary for each of
21 fiscal years 2004 through 2007.

22 **SEC. 5128. PERMANENT SET-ASIDE FOR RESEARCH AND**
23 **EVALUATION.**

24 The Attorney General shall reserve not less than 1
25 percent and no more than 3 percent of the sums appro-

1 priated under section 5127 in each fiscal year for research
2 and evaluation of this program.

3 **PART 4—CRACK HOUSE STATUTE AMENDMENTS**

4 **SEC. 5131. OFFENSES.**

5 (a) IN GENERAL.—Section 416(a) of the Controlled
6 Substances Act (21 U.S.C. 856(a)) is amended—

7 (1) in paragraph (1), by striking “open or
8 maintain any place” and inserting “open, lease, rent,
9 use, or maintain any place, whether permanently or
10 temporarily,”; and

11 (2) by striking paragraph (2) and inserting the
12 following:

13 “(2) manage or control any place, whether per-
14 manently or temporarily, either as an owner, lessee,
15 agent, employee, occupant, or mortgagee, and know-
16 ingly and intentionally rent, lease, profit from, or
17 make available for use, with or without compensa-
18 tion, the place for the purpose of unlawfully manu-
19 facturing, storing, distributing, or using a controlled
20 substance.”.

21 (b) TECHNICAL AMENDMENT.—The heading to sec-
22 tion 416 of the Controlled Substances Act (21 U.S.C. 856)
23 is amended to read as follows:

1 **“SEC. 416. MAINTAINING DRUG-INVOLVED PREMISES.”.**

2 (c) CONFORMING AMENDMENT.—The table of con-
3 tents to title II of the Comprehensive Drug Abuse and
4 Prevention Act of 1970 is amended by striking the item
5 relating to section 416 and inserting the following:

“Sec. 416. Maintaining drug-involved premises.”.

6 **SEC. 5132. CIVIL PENALTY AND EQUITABLE RELIEF FOR**
7 **MAINTAINING DRUG-INVOLVED PREMISES.**

8 Section 416 of the Controlled Substances Act (21
9 U.S.C. 856) is amended by adding at the end the fol-
10 lowing:

11 “(d)(1) Any person who violates subsection (a) shall
12 be subject to a civil penalty of not more than the greater
13 of—

14 “(A) \$250,000; or

15 “(B) 2 times the gross receipts, either known or
16 estimated, that were derived from each violation that
17 is attributable to the person.

18 “(2) If a civil penalty is calculated under paragraph
19 (1)(B), and there is more than 1 defendant, the court may
20 apportion the penalty between multiple violators, but each
21 violator shall be jointly and severally liable for the civil
22 penalty under this subsection.

1 “(e) Any person who violates subsection (a) shall be
2 subject to declaratory and injunctive remedies as set forth
3 in section 403(f).”.

4 **SEC. 5133. DECLARATORY AND INJUNCTIVE REMEDIES.**

5 Section 403(f)(1) of the Controlled Substances Act
6 (21 U.S.C. 843(f)(1)) is amended by striking “this section
7 or section 402” and inserting “this section, section 402,
8 or 416”.

9 **SEC. 5134. SENTENCING COMMISSION GUIDELINES.**

10 The United States Sentencing Commission shall—

11 (1) review the Federal sentencing guidelines
12 with respect to offenses involving gamma hydroxy-
13 butyric acid (GHB);

14 (2) consider amending the Federal sentencing
15 guidelines to provide for increased penalties such
16 that those penalties reflect the seriousness of of-
17 fenses involving GHB and the need to deter them;
18 and

19 (3) take any other action the Commission con-
20 siders necessary to carry out this section.

21 **SEC. 5135. AUTHORIZATION OF APPROPRIATIONS FOR A**
22 **DEMAND REDUCTION COORDINATOR.**

23 There is authorized to be appropriated \$5,900,000 to
24 the Drug Enforcement Administration of the Department

1 of Justice for the hiring of a special agent in each State
2 to serve as a Demand Reduction Coordinator.

3 **SEC. 5136. AUTHORIZATION OF APPROPRIATIONS FOR**
4 **DRUG EDUCATION.**

5 There is authorized to be appropriated such sums as
6 necessary to the Drug Enforcement Administration of the
7 Department of Justice to educate youth, parents, and
8 other interested adults about the drugs associated with
9 raves.

10 **PART 5—CRACKING DOWN ON**
11 **METHAMPHETAMINE IN RURAL AREAS**

12 **SEC. 5141. METHAMPHETAMINE TREATMENT PROGRAMS IN**
13 **RURAL AREAS.**

14 Subpart I of part B of title V of the Public Health
15 Service Act (42 U.S.C. 290bb et seq.) is amended by in-
16 serting after section 509 the following:

17 **“SEC. 510A. METHAMPHETAMINE TREATMENT PROGRAMS.**

18 “(a) IN GENERAL.—The Secretary, acting through
19 the Director of the Center for Substance Abuse Treat-
20 ment, shall make grants to community-based public and
21 nonprofit private entities for the establishment of sub-
22 stance abuse (particularly methamphetamine) prevention
23 and treatment pilot programs in units of local government
24 and tribal governments located outside a Standard Metro-
25 politan Statistical Area.

1 “(b) ADMINISTRATION.—Grants made in accordance
2 with this section shall be administered by a single State
3 agency designated by a State to ensure a coordinated ef-
4 fort within that State.

5 “(c) APPLICATION.—To be eligible to receive a grant
6 under subsection (a), a public or nonprofit private entity
7 shall prepare and submit to the Secretary an application
8 at such time, in such manner, and containing such infor-
9 mation as the Secretary may require.

10 “(d) USE OF FUNDS.—A recipient of a grant under
11 this section shall use amounts received under the grant
12 to establish a methamphetamine abuse prevention and
13 treatment pilot program that serves one or more rural
14 areas. Such a pilot program shall—

15 “(1) have the ability to care for individuals on
16 an in-patient basis;

17 “(2) have a social detoxification capability, with
18 direct access to medical services within 50 miles;

19 “(3) provide neuro-cognitive skill development
20 services to address brain damage caused by meth-
21 amphetamine use;

22 “(4) provide after-care services, whether as a
23 single-source provider or in conjunction with commu-
24 nity-based services designed to continue neuro-cog-

1 nitive skill development to address brain damage
2 caused by methamphetamine use;

3 “(5) provide appropriate training for the staff
4 employed in the program; and

5 “(6) use scientifically-based best practices in
6 substance abuse treatment, particularly in meth-
7 amphetamine treatment.

8 “(e) AMOUNT OF GRANTS.—The amount of a grant
9 under this section shall be at least \$19,000 but not greater
10 than \$100,000.

11 “(f) AUTHORIZATION OF APPROPRIATIONS.—

12 “(1) IN GENERAL.—There is authorized to be
13 appropriated \$2,000,000 to carry out this section.

14 “(2) SET-ASIDE.—Of the amount made avail-
15 able for grants under this section, 10 percent shall
16 be awarded to tribal governments to ensure the pro-
17 vision of services under this section.”.

18 **SEC. 5142. METHAMPHETAMINE PREVENTION EDUCATION.**

19 Section 519E of the Public Health Service Act (42
20 U.S.C. 290bb–25e) is amended—

21 (1) in subsection (c)(1)—

22 (A) in subparagraph (F), by striking
23 “and” at the end;

24 (B) in subparagraph (G), by striking the
25 period and inserting “; and”; and

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

2 “(H) to fund programs that educate rural
3 communities, particularly parents, teachers, and
4 others who work with youth, concerning the
5 early signs and effects of methamphetamine
6 use, however, as a prerequisite to receiving
7 funding, these programs shall—

8 “(i) prioritize methamphetamine pre-
9 vention and education;

10 “(ii) have past experience in commu-
11 nity coalition building and be part of an
12 existing coalition that includes medical and
13 public health officials, educators, youth-
14 serving community organizations, and
15 members of law enforcement;

16 “(iii) utilize professional prevention
17 staff to develop research and science based
18 prevention strategies for the community to
19 be served;

20 “(iv) demonstrate the ability to oper-
21 ate a community-based methamphetamine
22 prevention and education program;

23 “(v) establish prevalence of use
24 through a community needs assessment;

1 “(vi) establish goals and objectives
2 based on a needs assessment; and

3 “(vii) demonstrate measurable out-
4 comes on a yearly basis.”;

5 (2) in subsection (e)—

6 (A) by striking “subsection (a),
7 \$10,000,000” and inserting “subsection (a)—
8 “(1) \$10,000,000”;

9 (B) by striking the period at the end and
10 inserting “; and”; and

11 (C) by adding at the end the following:

12 “(2) \$5,000,000 for each of fiscal years 2003
13 through 2008 to carry out the programs referred to
14 in subsection (c)(1)(H).”; and

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

16 “(f) SET-ASIDE.—Of the amount made available for
17 grants under this section, 10 percent shall be used to as-
18 sist tribal governments.

19 “(g) AMOUNT OF GRANTS.—The amount of a grant
20 under this section, with respect to each rural community
21 involved, shall be at least \$19,000 but not greater than
22 \$100,000.”.

23 **SEC. 5143. METHAMPHETAMINE CLEANUP.**

24 (a) IN GENERAL.—The Attorney General shall,
25 through the Department of Justice or through grants to

1 States or units of local government and tribal governments
2 located outside a Standard Metropolitan Statistical Area,
3 in accordance with such regulations as the Attorney Gen-
4 eral may prescribe, provide for—

5 (1) the cleanup of methamphetamine labora-
6 tories and related hazardous waste in units of local
7 government and tribal governments located outside a
8 Standard Metropolitan Statistical Area; and

9 (2) the improvement of contract-related re-
10 sponse time for cleanup of methamphetamine labora-
11 tories and related hazardous waste in units of local
12 government and tribal governments located outside a
13 Standard Metropolitan Statistical Area by providing
14 additional contract personnel, equipment, and facili-
15 ties.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—

17 (1) IN GENERAL.—There is authorized to be
18 appropriated \$20,000,000 for fiscal years 2003 and
19 2004 to carry out this section.

20 (2) FUNDING ADDITIONAL.—Amounts author-
21 ized by this section are in addition to amounts oth-
22 erwise authorized by law.

23 (3) SET-ASIDE.—Of the amount made available
24 for grants under this section, 10 percent shall be
25 awarded to tribal governments.

1 **Subtitle B—Disarming Felons**

2 **PART 1—OUR LADY OF PEACE ACT**

3 **SEC. 5201. SHORT TITLE.**

4 This part may be cited as the “Our Lady of Peace
5 Act of 2003”.

6 **SEC. 5202. FINDINGS.**

7 Congress finds the following:

8 (1) Since 1994, more than 689,000 individuals
9 have been denied a gun for failing a background
10 check.

11 (2) States that fail to computerize their crimi-
12 nal and mental illness records are the primary cause
13 of delays for background checks. Helping States
14 automate their records will reduce delays for law-
15 abiding gun owners.

16 (3) 25 States have automated less than 60 per-
17 cent of their felony criminal conviction records.

18 (4) 33 States do not automate or share dis-
19 qualifying mental health records.

20 (5) In 13 States, domestic violence restraining
21 orders are not automated or accessible by the na-
22 tional instant criminal background check system.

23 (6) In 15 States, no domestic violence mis-
24 demeanor records are automated or accessible by the
25 national instant criminal background check system.

1 **SEC. 5203. ENHANCEMENT OF REQUIREMENT THAT FED-**
2 **ERAL DEPARTMENTS AND AGENCIES PRO-**
3 **VIDE RELEVANT INFORMATION TO THE NA-**
4 **TIONAL INSTANT CRIMINAL BACKGROUND**
5 **CHECK SYSTEM.**

6 (a) IN GENERAL.—Section 103(e)(1) of the Brady
7 Handgun Violence Prevention Act (18 U.S.C. 922 note)
8 is amended—

9 (1) by inserting “electronically” before “fur-
10 nish”; and

11 (2) by adding at the end the following: “The
12 head of each department or agency shall ascertain
13 whether the department or agency has any records
14 relating to any person described in subsection (g) or
15 (n) of section 922 of title 18, United States Code
16 and on being made aware that the department or
17 agency has such a record, shall make the record
18 available to the Attorney General for inclusion in the
19 system to the extent the Attorney General deems ap-
20 propriate. The head of each department or agency,
21 on being made aware that the basis under which a
22 record was made available under this section does
23 not apply or no longer applies, shall transmit a cer-
24 tification identifying the record (and any name or
25 other relevant identifying information) to the Attor-
26 ney General for removal from the system. The Attor-

1 ney General shall notify the Congress on an annual
2 basis as to whether the Attorney General has ob-
3 tained from each such department or agency the in-
4 formation requested by the Attorney General under
5 this subsection.”.

6 (b) IMMIGRATION RECORDS.—The Commissioner of
7 the Immigration and Naturalization Service shall cooper-
8 ate in providing information regarding all relevant records
9 of persons disqualified from acquiring a firearm under
10 Federal law, including but not limited to, illegal aliens,
11 visitors to the United States on student visas, and visitors
12 to the United States on tourist visas, to the Attorney Gen-
13 eral for inclusion in the national instant criminal back-
14 ground check system.

15 **SEC. 5204. REQUIREMENTS TO OBTAIN WAIVER.**

16 (a) IN GENERAL.—Beginning 5 years after the date
17 of enactment of this Act, a State shall be eligible to receive
18 a waiver of the 10 percent matching requirement for Na-
19 tional Criminal History Improvement Grants under the
20 Crime Identification Technology Act of 1988 if the State
21 provides at least 95 percent of the information described
22 under subsections (b) and (c). The length of such a waiver
23 shall not exceed 5 years.

1 (b) ELIGIBILITY OF STATE RECORDS FOR SUBMIS-
2 SION TO THE NATIONAL INSTANT CRIMINAL BACK-
3 GROUND CHECK SYSTEM.—

4 (1) REQUIREMENTS FOR ELIGIBILITY.—The
5 State shall make available the following information
6 established either through its own database or pro-
7 vide information to the Attorney General:

8 (A) The name of and other relevant identi-
9 fying information relating to each person dis-
10 qualified from acquiring a firearm under sub-
11 section (g) or (n) of section 922 of title 18,
12 United States Code, and each person disquali-
13 fied from acquiring a firearm under applicable
14 State law.

15 (B) The State, on being made aware that
16 the basis under which a record was made avail-
17 able under subparagraph (A) does not apply or
18 no longer applies, shall transmit a certification
19 identifying the record (and any name or other
20 relevant identifying information) to the Attor-
21 ney General for removal from the system.

22 (C) Any information provided to the Attor-
23 ney General under subparagraph (A) may be
24 accessed only for background check purposes

1 under section 922(t) of title 18, United States
2 Code.

3 (D) The State shall certify to the Attorney
4 General that at least 95 percent of all informa-
5 tion described in subparagraph (A) has been
6 provided to the Attorney General in accordance
7 with subparagraph (A).

8 (2) APPLICATION TO PERSONS CONVICTED OF
9 MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—

10 (A) IN GENERAL.—For purposes of para-
11 graph (1), a person disqualified from acquiring
12 a firearm as referred to in that paragraph in-
13 cludes a person who has been convicted in any
14 court, of any Federal, State, or local offense
15 that—

16 (i) is a misdemeanor under Federal or
17 State law or, in a State that does not clas-
18 sify offenses as misdemeanors, is an of-
19 fense punishable by imprisonment for a
20 term of 1 year or less (or punishable by
21 only a fine);

22 (ii) has, as an element of the offense,
23 the use or attempted use of physical force
24 (for example, assault and battery), or the
25 threatened use of a deadly weapon; and

1 (iii) was committed by a current or
2 former spouse, parent, or guardian of the
3 victim, by a person with whom the victim
4 shares a child in common, by a person who
5 is cohabitating with or has cohabitated
6 with the victim as a spouse, parent, or
7 guardian, (for example, the equivalent of
8 “common-law marriage” even if such rela-
9 tionship is not recognized under the law),
10 or a person similarly situated to a spouse,
11 parent, or guardian of the victim (for ex-
12 ample, 2 persons who are residing at the
13 same location in an intimate relationship
14 with the intent to make that place their
15 home would be similarly situated to a
16 spouse).

17 (B) CONVICTED PERSON.—A person shall
18 not be considered to have been convicted of
19 such an offense for purposes of subparagraph
20 (A) unless—

21 (i) the person is considered to have
22 been convicted by the jurisdiction in which
23 the proceeding was held;

24 (ii) the person was represented by
25 counsel in the case, or knowingly and intel-

1 ligerly waived the right to counsel in the
2 case; and

3 (iii) in the case of a prosecution for
4 which a person was entitled to a jury trial
5 in the jurisdiction in which the case was
6 tried—

7 (I) the case was tried by a jury;

8 or

9 (II) the person knowingly and in-
10 telligently waived the right to have the
11 case tried by a jury, by guilty plea, or
12 otherwise.

13 (C) PARDON OR SET-ASIDE OF JUDG-
14 MENT.—A person shall not be considered to
15 have been convicted of such an offense for pur-
16 poses of subparagraph (A) if the conviction has
17 been expunged or set aside, or is an offense for
18 which the person has been pardoned or has had
19 civil rights restored (if the law of the jurisdic-
20 tion in which the proceedings were held pro-
21 vides for the loss of civil rights upon conviction
22 of such an offense) unless the pardon,
23 expungement, or restoration of civil rights ex-
24 pressly provides that the person may not ship,
25 transport, possess, or receive firearms, and the

1 person is not otherwise prohibited by the law of
2 the jurisdiction in which the proceedings were
3 held from receiving or possessing any firearms.

4 (c) APPLICATION TO PERSONS WHO HAVE BEEN AD-
5 JUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO
6 A MENTAL INSTITUTION.—

7 (1) REQUIREMENT.—The requirement of this
8 subsection is that the State shall provide the name
9 of and other relevant identifying information relat-
10 ing to persons adjudicated as mental defective or
11 those committed to mental institutions to the Attor-
12 ney General for inclusion in the national instant
13 criminal background check system.

14 (2) ADJUDICATION AS A MENTAL DEFECTIVE.—
15 For purposes of paragraph (1), an adjudication as
16 a mental defective occurs when a court, board, com-
17 mission, or other government entity determines that
18 an individual is mentally retarded or of marked sub-
19 normal intelligence, mentally ill, or mentally incom-
20 petent, including—

21 (A) defendants in criminal cases adju-
22 dicated as not guilty by reason of insanity, or
23 found incompetent to stand trial;

24 (B) individuals who are a danger to others
25 as a result of a mental disorder or illness;

1 (C) individuals involuntarily committed to
2 a mental institution by a court, board, commis-
3 sion, or other authority;

4 (D) individuals committed because they
5 lack the mental capacity to contract or manage
6 their own affairs; and

7 (E) individuals found to be a danger to
8 themselves as a result of a mental disorder or
9 illness.

10 (3) EXCEPTION.—This subsection does not
11 apply to—

12 (A) a person—

13 (i) in a mental institution for observa-
14 tion; or

15 (ii) voluntarily committed to a mental
16 institution; or

17 (B) information protected by doctor-pa-
18 tient privilege.

19 (4) PRIVACY PROTECTIONS.—For any informa-
20 tion provided under the national instant criminal
21 background check system, the Attorney General
22 shall work with States and local law enforcement
23 and the mental health community to establish regu-
24 lations and protocols for protecting the privacy of in-
25 formation provided to the system.

1 (5) STATE AUTHORITY.—Notwithstanding any
2 other provision of this subsection, a State may des-
3 ignate that records transmitted under this sub-
4 section shall be used only to determine eligibility to
5 purchase or possess a firearm.

6 (d) ATTORNEY GENERAL REPORT.—Not later than
7 January 31 of each year, the Attorney General shall sub-
8 mit to the Committee on the Judiciary of the Senate and
9 the Committee on the Judiciary of the House of Rep-
10 resentatives a report on the progress of States in auto-
11 mating the databases containing the information described
12 in subsections (b) and (c) and in providing that informa-
13 tion pursuant to the requirements of such subsections.

14 **SEC. 5205. IMPLEMENTATION GRANTS TO STATES.**

15 (a) IN GENERAL.—From amounts made available to
16 carry out this section, the Attorney General shall make
17 grants to each State, in a manner consistent with the na-
18 tional criminal history improvement program, which shall
19 be used by the State, in conjunction with units of local
20 government and State and local courts, to establish or up-
21 grade information and identification technologies for fire-
22 arms eligibility determinations.

23 (b) USE OF GRANT AMOUNTS.—Grants under this
24 section may only be awarded for the following purposes:

1 (1) Building databases that are directly related
2 to checks under the national instant criminal back-
3 ground check system (NICS), including court dis-
4 position and corrections records.

5 (2) Assisting States in establishing or enhance-
6 ing their own capacities to perform NICS back-
7 ground checks.

8 (3) Improving final dispositions of criminal
9 records.

10 (4) Supplying mental health records to NICS.

11 (5) Supplying court-ordered domestic restrain-
12 ing orders and records of domestic violence mis-
13 demeanors (as defined in section 5204) for inclusion
14 in NICS.

15 (c) CONDITION.—As a condition of receiving a grant
16 under this section, a State shall specify the projects for
17 which grant amounts will be used, and shall use such
18 amounts only as specified. A State that violates this sec-
19 tion shall be liable to the Attorney General for the full
20 amount granted.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated to carry out this section
23 \$250,000,000 for each of fiscal years 2003, 2004, 2005,
24 and 2006.

1 (e) USER FEE.—The Federal Bureau of Investiga-
2 tion shall not charge a user fee for background checks pur-
3 suant to section 922(t) of title 18, United States Code.

4 **SEC. 5206. CONTINUING EVALUATIONS.**

5 (a) EVALUATION REQUIRED.—The Director of the
6 Bureau of Justice Statistics shall study and evaluate the
7 operations of the national instant criminal background
8 check system. Such study and evaluation shall include
9 compilations and analyses of the operations and record
10 systems of the agencies and organizations participating in
11 such system.

12 (b) REPORT ON GRANTS.—Not later than January
13 31 of each year, the Director shall submit to Congress
14 a report on the implementation of subsections (b) and (c)
15 of section 5204.

16 (c) REPORT ON BEST PRACTICES.—Not later than
17 January 31 of each year, the Director shall submit to Con-
18 gress, and to each State participating in the National
19 Criminal History Improvement Program, a report of the
20 practices of the States regarding the collection, mainte-
21 nance, automation, and transmittal of identifying informa-
22 tion relating to individuals described in subsection (g) or
23 (n) of section 922 of title 18, United States Code, by the
24 State or any other agency, or any other records relevant

1 to the national instant criminal background check system,
2 that the Director considers to be best practices.

3 **SEC. 5207. GRANTS TO STATE COURTS FOR THE IMPROVE-**
4 **MENT IN AUTOMATION AND TRANSMITTAL**
5 **OF DISPOSITION RECORDS**

6 (a) IN GENERAL.—From amounts made available to
7 carry out this section, the Attorney General shall make
8 grants to each State for use by the chief judicial officer
9 of the State to improve the handling of proceedings related
10 to criminal history dispositions and restraining orders.

11 (b) USE OF FUNDS.—Amounts granted under this
12 section shall be used by the chief judicial officer only as
13 follows:

14 (1) For fiscal years 2003 and 2004, such
15 amounts shall be used to carry out assessments of
16 the capabilities of the courts of the State for the au-
17 tomation and transmission to State and Federal
18 record repositories the arrest and conviction records
19 of such courts.

20 (2) For fiscal years after 2004, such amounts
21 shall be used to implement policies, systems, and
22 procedures for the automation and transmission to
23 State and Federal record repositories the arrest and
24 conviction records of such courts.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Attorney General
3 to carry out this section \$125,000,000 for each of fiscal
4 years 2003, 2004, 2005, and 2006.

5 **PART 2—BALLISTICS, LAW ASSISTANCE, AND**
6 **SAFETY TECHNOLOGY**

7 **SEC. 5211. SHORT TITLE.**

8 This part may be cited as the “Ballistics, Law Assist-
9 ance, and Safety Technology Act of 2003” or “BLAST
10 Act”.

11 **SEC. 5212. PURPOSES.**

12 The purposes of this part are to—

13 (1) increase public safety by assisting law en-
14 forcement in solving more gun-related crimes and of-
15 fering prosecutors evidence to link felons to gun
16 crimes through ballistics technology;

17 (2) provide for ballistics testing of all new fire-
18 arms for sale to assist in the identification of fire-
19 arms used in crimes;

20 (3) require ballistics testing of all firearms in
21 custody of Federal agencies to assist in the identi-
22 fication of firearms used in crimes; and

23 (4) add ballistics testing to existing firearms
24 enforcement programs.

1 **SEC. 5213. DEFINITION OF BALLISTICS.**

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

4 “(35) BALLISTICS.—The term ‘ballistics’ means
5 a comparative analysis of fired bullets and cartridge
6 casings to identify the firearm from which bullets
7 were discharged, through identification of the unique
8 characteristics that each firearm imprints on bullets
9 and cartridge casings.”.

10 **SEC. 5214. TEST FIRING AND AUTOMATED STORAGE OF**
11 **BALLISTICS RECORDS.**

12 (a) AMENDMENT.—Section 923 of title 18, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

15 “(m)(1) In addition to the other licensing require-
16 ments under this section, a licensed manufacturer or li-
17 censed importer shall—

18 “(A) test fire firearms manufactured or im-
19 ported by such licensees as specified by the Sec-
20 retary by regulation;

21 “(B) prepare ballistics images of the fired bullet
22 and cartridge casings from the test fire;

23 “(C) make the records available to the Sec-
24 retary for entry in a computerized database; and

1 “(D) store the fired bullet and cartridge casings
2 in such a manner and for such a period as specified
3 by the Secretary by regulation.

4 “(2) Nothing in this subsection creates a cause of ac-
5 tion against any Federal firearms licensee or any other
6 person for any civil liability except for imposition of a civil
7 penalty under this section.

8 “(3)(A) The Attorney General and the Secretary
9 shall assist firearm manufacturers and importers in com-
10 plying with paragraph (1) through—

11 “(i) the acquisition, disposition, and upgrades
12 of ballistics equipment and bullet recovery equip-
13 ment to be placed at or near the sites of licensed
14 manufacturers and importers;

15 “(ii) the hiring or designation of personnel nec-
16 essary to develop and maintain a database of ballis-
17 tics images of fired bullets and cartridge casings, re-
18 search and evaluation;

19 “(iii) providing education about the role of bal-
20 listics as part of a comprehensive firearm crime re-
21 duction strategy;

22 “(iv) providing for the coordination among Fed-
23 eral, State, and local law enforcement and regulatory
24 agencies and the firearm industry to curb firearm-
25 related crime and illegal firearm trafficking; and

1 “(v) any other steps necessary to make ballis-
2 tics testing effective.

3 “(B) The Attorney General and the Secretary shall—

4 “(i) establish a computer system through which
5 State and local law enforcement agencies can
6 promptly access ballistics records stored under this
7 subsection, as soon as such a capability is available;
8 and

9 “(ii) encourage training for all ballistics exam-
10 iners.

11 “(4) Not later than 1 year after the date of enact-
12 ment of this subsection and annually thereafter, the Attor-
13 ney General and the Secretary shall submit to the Com-
14 mittee on the Judiciary of the Senate and the Committee
15 on the Judiciary of the House of Representatives a report
16 regarding the impact of this section, including—

17 “(A) the number of Federal and State criminal
18 investigations, arrests, indictments, and prosecutions
19 of all cases in which access to ballistics records pro-
20 vided under this section served as a valuable inves-
21 tigative tool;

22 “(B) the extent to which ballistics records are
23 accessible across jurisdictions; and

24 “(C) a statistical evaluation of the test pro-
25 grams conducted pursuant to section 5216 of the

1 Ballistics, Law Assistance, and Safety Technology
2 Act of 2003.

3 “(5) There is authorized to be appropriated to the
4 Department of Justice and the Department of the Treas-
5 ury for each of fiscal years 2003 through 2006,
6 \$20,000,000 to carry out this subsection, including—

7 “(A) installation of ballistics equipment and
8 bullet recovery equipment;

9 “(B) establishment of sites for ballistics testing;

10 “(C) salaries and expenses of necessary per-
11 sonnel; and

12 “(D) research and evaluation.

13 “(6) The Secretary and the Attorney General shall
14 conduct mandatory ballistics testing of all firearms ob-
15 tained or in the possession of their respective agencies.”.

16 (b) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendment made by subsection (a)
19 shall take effect on the date on which the Attorney
20 General and the Secretary of the Treasury, in con-
21 sultation with the Board of the National Integrated
22 Ballistics Information Network, certify that the bal-
23 listics systems used by the Department of Justice
24 and the Department of the Treasury are sufficiently

1 interoperable to make mandatory ballistics testing of
2 new firearms possible.

3 (2) EFFECTIVE ON DATE OF ENACTMENT.—
4 Section 923(m)(6) of title 18, United States Code,
5 as added by subsection (a), shall take effect on the
6 date of enactment of this Act.

7 **SEC. 5215. PRIVACY RIGHTS OF LAW ABIDING CITIZENS.**

8 Ballistics information of individual guns in any form
9 or database established by this part may not be used for—

10 (1) prosecutorial purposes unless law enforce-
11 ment officials have a reasonable belief that a crime
12 has been committed and that ballistics information
13 would assist in the investigation of that crime; or

14 (2) the creation of a national firearms registry
15 of gun owners.

16 **SEC. 5216. DEMONSTRATION FIREARM CRIME REDUCTION**
17 **STRATEGY.**

18 (a) IN GENERAL.—Not later than 60 days after the
19 date of enactment of this Act, the Secretary of the Treas-
20 ury and the Attorney General shall establish in the juris-
21 dictions selected under subsection (c), a comprehensive
22 firearm crime reduction strategy that meets the require-
23 ments of subsection (b).

1 (b) PROGRAM ELEMENTS.—Each program estab-
2 lished under subsection (a) shall, for the jurisdiction con-
3 cerned—

4 (1) provide for ballistics testing, in accordance
5 with criteria set forth by the National Integrated
6 Ballistics Information Network, of all firearms re-
7 covered during criminal investigations, in order to—

8 (A) identify the types and origins of the
9 firearms;

10 (B) identify suspects; and

11 (C) link multiple crimes involving the same
12 firearm;

13 (2) require that all identifying information re-
14 lating to firearms recovered during criminal inves-
15 tigation be promptly submitted to the Secretary of
16 the Treasury, in order to identify the types and ori-
17 gins of the firearms and to identify illegal firearms
18 traffickers;

19 (3) provide for coordination among Federal,
20 State, and local law enforcement officials, firearm
21 examiners, technicians, laboratory personnel, inves-
22 tigators, and prosecutors in the tracing and ballistics
23 testing of firearms and the investigation and pros-
24 ecution of firearms-related crimes including illegal
25 firearms trafficking; and

1 (4) require analysis of firearm tracing and bal-
2 listics data in order to establish trends in firearm-
3 related crime and firearm trafficking.

4 (c) PARTICIPATING JURISDICTIONS.—

5 (1) IN GENERAL.—The Secretary of the Treas-
6 ury and the Attorney General shall select not fewer
7 than 10 jurisdictions for participation in the pro-
8 gram under this section.

9 (2) CONSIDERATIONS.—In selecting jurisdic-
10 tions under this subsection, the Secretary of the
11 Treasury and the Attorney General shall give pri-
12 ority to jurisdictions that—

13 (A) participate in comprehensive firearm
14 law enforcement strategies, including programs
15 such as the Youth Crime Gun Interdiction Ini-
16 tiative, Project Achilles, Project Disarm,
17 Project Triggerlock, Project Exile, Project
18 Surefire, and Operation Ceasefire;

19 (B) draft a plan to share ballistics records
20 with nearby jurisdictions that require ballistics
21 testing of firearms recovered during criminal in-
22 vestigations; and

23 (C) pledge to match Federal funds for the
24 expansion of ballistics testing on a one-on-one
25 basis.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated for each of fiscal years 2003
3 through 2006, \$20,000,000 to carry out this section, in-
4 cluding—

5 (1) installation of ballistics equipment; and

6 (2) salaries and expenses for personnel (includ-
7 ing personnel from the Department of Justice and
8 the Bureau of Alcohol, Tobacco, and Firearms).

9 **PART 3—EXTENSION OF PROJECT EXILE**

10 **SEC. 5221. AUTHORIZATION OF FUNDING FOR ADDITIONAL**
11 **STATE AND LOCAL GUN PROSECUTORS.**

12 (a) GRANTS FOR STATE AND LOCAL GUN PROSECU-
13 TORS.—Title III of the Violent Crime Control and Law
14 Enforcement Act of 1994 is amended by adding at the
15 end the following:

16 **“Subtitle Y—Grants for State and**
17 **Local Gun Prosecutors**

18 **“SEC. 32501. GRANT AUTHORIZATION.**

19 “The Attorney General may award grants to State,
20 Indian tribal, or local prosecutors for the purpose of sup-
21 porting the creation or expansion of community-based jus-
22 tice programs for the prosecution of firearm-related
23 crimes.

1 **“SEC. 32502. USE OF FUNDS.**

2 “Grants awarded by the Attorney General under this
3 subtitle shall be used to fund programs for the hiring of
4 prosecutors and related personnel under which those pros-
5 ecutors and personnel shall utilize an interdisciplinary
6 team approach to prevent, reduce, and respond to firearm-
7 related crimes in partnership with communities.

8 **“SEC. 32503. APPLICATIONS.**

9 “(a) **ELIGIBILITY.**—To be eligible to receive a grant
10 award under this subtitle for a fiscal year, a State, Indian
11 tribal, or local prosecutor, in conjunction with the chief
12 executive officer of the jurisdiction in which the program
13 will be placed, shall submit to the Attorney General an
14 application, in such form and containing such information
15 as the Attorney General may reasonably require.

16 “(b) **REQUIREMENTS.**—Each application submitted
17 under this section shall include—

18 “(1) a request for funds for the purposes de-
19 scribed in section 32502;

20 “(2) a description of the communities to be
21 served by the grant, including the nature of the fire-
22 arm-related crime in such communities; and

23 “(3) assurances that Federal funds received
24 under this subtitle shall be used to supplement, not
25 supplant, non-Federal funds that would otherwise be
26 available for activities funded under this section.

1 **“SEC. 32504. MATCHING REQUIREMENT.**

2 “The Federal share of a grant awarded under this
3 subtitle may not exceed 50 percent of the total cost of
4 the program described in the application submitted under
5 section 32503 for the fiscal year for which the program
6 receives assistance under this subtitle.

7 **“SEC. 32505. AWARD OF GRANTS.**

8 “(a) IN GENERAL.—Except as provided in subsection
9 (b), in awarding grants under this subtitle, the Attorney
10 General shall consider—

11 “(1) the demonstrated need for, and the evi-
12 dence of the ability of the applicant to provide, the
13 services described in section 32503(b)(2), as de-
14 scribed in the application submitted under section
15 32503;

16 “(2) the extent to which, as reflected in the
17 1998 Uniform Crime Report of the Federal Bureau
18 of Investigation, there is a high rate of firearm-re-
19 lated crime in the jurisdiction of the applicant,
20 measured either in total or per capita;

21 “(3) the extent to which the jurisdiction of the
22 applicant has experienced an increase in the total or
23 per capita rate of firearm-related crime, as reported
24 in the 3 most recent annual Uniform Crime Reports
25 of the Federal Bureau of Investigation;

1 “(4) the extent to which State and local law en-
2 forcement agencies in the jurisdiction of the appli-
3 cant have pledged to cooperate with Federal officials
4 in responding to the illegal acquisition, distribution,
5 possession, and use of firearms within the jurisdic-
6 tion; and

7 “(5) The extent to which the jurisdiction of the
8 applicant participates in comprehensive firearm law
9 enforcement strategies, including programs such as
10 the Youth Crime Gun Interdiction Initiative, Project
11 Achilles, Project Disarm, Project Triggerlock,
12 Project Exile, Project Surefire, and Operation
13 Ceasefire.

14 “(b) INDIAN TRIBES.—

15 “(1) FEDERAL GRANTS.—Not less than 5 per-
16 cent of the amount made available for grants under
17 this subtitle for each fiscal year shall be awarded as
18 grants to Indian tribes.

19 “(2) GRANT CRITERIA.—In awarding grants to
20 Indian tribes in accordance with this subsection, the
21 Attorney General shall consider, to the extent prac-
22 ticable, the factors for consideration set forth in sub-
23 section (a).

24 “(c) RESEARCH AND EVALUATION.—Of the amount
25 made available for grants under this subtitle for each fis-

1 cal year, the Attorney General shall use not less than 1
2 percent and not more than 3 percent for research and
3 evaluation of the activities carried out with grants award-
4 ed under this subtitle.

5 **“SEC. 32506. REPORTS.**

6 “(a) REPORT TO ATTORNEY GENERAL.—Not later
7 than March 1 of each fiscal year, each law enforcement
8 agency that receives funds from a grant awarded under
9 this subtitle for that fiscal year shall submit to the Attor-
10 ney General a report describing the progress achieved in
11 carrying out the grant program for which those funds were
12 received.

13 “(b) REPORT TO CONGRESS.—Beginning not later
14 than October 1 of the first fiscal year following the initial
15 fiscal year during which grants are awarded under this
16 subtitle, and not later than October 1 of each fiscal year
17 thereafter, the Attorney General shall submit to Congress
18 a report, which shall contain a detailed statement regard-
19 ing grant awards, activities of grant recipients, a compila-
20 tion of statistical information submitted by applicants, and
21 an evaluation of programs established with amounts from
22 grants awarded under this subtitle during the preceding
23 fiscal year.

24 **“SEC. 32507. DEFINITIONS.**

25 “In this subtitle—

1 “(1) the term ‘firearm’ has the meaning given
2 the term in section 921(a) of title 18, United States
3 Code;

4 “(2) the term ‘Indian tribe’ means a tribe,
5 band, pueblo, nation, or other organized group or
6 community of Indians, including an Alaska Native
7 village (as defined in or established under the Alaska
8 Native Claims Settlement Act (43 U.S.C. 1601 et
9 seq.)), that is recognized as eligible for the special
10 programs and services provided by the United States
11 to Indians because of their status as Indians; and

12 “(3) the term ‘State’ means a State, the Dis-
13 trict of Columbia, the Commonwealth of Puerto
14 Rico, the Commonwealth of the Northern Mariana
15 Islands, American Samoa, Guam, and the United
16 States Virgin Islands.

17 **“SEC. 32508. AUTHORIZATION OF APPROPRIATIONS.**

18 “‘There is authorized to be appropriated to carry out
19 this subtitle \$150,000,000 for fiscal years 2003 and
20 2004.’”.

21 (b) **TECHNICAL AND CONFORMING AMENDMENT.—**

22 The table of contents in section 2 of the Violent Crime
23 Control and Law Enforcement Act of 1994 is amended
24 by inserting after the item relating to subtitle X the fol-
25 lowing:

“Subtitle Y—Grants for State and Local Gun Prosecutors

- “Sec. 32501. Grant authorization.
- “Sec. 32502. Use of funds.
- “Sec. 32503. Applications.
- “Sec. 32504. Matching requirement.
- “Sec. 32505. Award of grants.
- “Sec. 32506. Reports.
- “Sec. 32507. Definitions.
- “Sec. 32508. Authorization of appropriations.”.

1 **PART 4—EXPANSION OF THE YOUTH CRIME GUN**

2 **INTERDICTION INITIATIVE**

3 **SEC. 5231. YOUTH CRIME GUN INTERDICTION INITIATIVE.**

4 (a) IN GENERAL.—

5 (1) EXPANSION OF NUMBER OF CITIES.—The
 6 Secretary of the Treasury shall endeavor to expand
 7 the number of cities and counties directly partici-
 8 pating in the Youth Crime Gun Interdiction Initia-
 9 tive (in this section referred to as the “YCGII”)
 10 to—

11 (A) 75 cities or counties by October 1,
 12 2004;

13 (B) 150 cities or counties by October 1,
 14 2006; and

15 (C) 250 cities or counties by October 1,
 16 2007.

17 (2) SELECTION.—Cities and counties selected
 18 for participation in the YCGII shall be selected by
 19 the Secretary of the Treasury and in consultation
 20 with Federal, State and local law enforcement offi-
 21 cials.

1 (b) IDENTIFICATION OF INDIVIDUALS.—

2 (1) IN GENERAL.—The Secretary of the Treas-
3 ury shall, utilizing the information provided by the
4 YCGII, facilitate the identification and prosecution
5 of individuals illegally trafficking firearms to prohib-
6 ited individuals.

7 (2) SHARING OF INFORMATION.—The Secretary
8 of the Treasury shall share information derived from
9 the YCGII with State and local law enforcement
10 agencies through on-line computer access, as soon as
11 such capability is available.

12 (c) GRANT AWARDS.—

13 (1) IN GENERAL.—The Secretary of the Treas-
14 ury shall award grants (in the form of funds or
15 equipment) to States, cities, and counties for pur-
16 poses of assisting such entities in the tracing of fire-
17 arms and participation in the YCGII.

18 (2) USE OF GRANT FUNDS.—Grants made
19 under this part shall be used to—

20 (A) hire or assign additional personnel for
21 the gathering, submission and analysis of trac-
22 ing data submitted to the Bureau of Alcohol,
23 Tobacco and Firearms under the YCGII;

1 (B) hire additional law enforcement per-
2 sonnel for the purpose of identifying and arrest-
3 ing individuals illegally trafficking firearms; and

4 (C) purchase additional equipment, includ-
5 ing automatic data processing equipment and
6 computer software and hardware, for the timely
7 submission and analysis of tracing data.

8 **PART 5—GUN OFFENSES**

9 **SEC. 5241. GUN BAN FOR DANGEROUS JUVENILE OFFEND-** 10 **ERS.**

11 (a) DEFINITION.—Section 921(a)(20) of title 18,
12 United States Code, is amended—

13 (1) by inserting “(A)” after “(20)”;

14 (2) by redesignating subparagraphs (A) and
15 (B) as clauses (i) and (ii), respectively;

16 (3) by inserting after subparagraph (A) the fol-
17 lowing:

18 “(B) For purposes of subsections (d), (g),
19 and (s) of section 922, the term ‘act of juvenile
20 delinquency’ means an adjudication of delin-
21 quency based on a finding of the commission of
22 an act by a person prior to his or her eight-
23 eenth birthday that, if committed by an adult,
24 would be a serious drug offense or violent fel-
25 ony (as defined in section 3559(c)(2) of this

1 title), on or after the date of enactment of this
2 paragraph.”; and

3 (4) by striking “What constitutes” through the
4 end and inserting the following: “What constitutes a
5 conviction of such a crime or an adjudication of ju-
6 venile delinquency shall be determined in accordance
7 with the law of the jurisdiction in which the pro-
8 ceedings were held. Any State conviction or adju-
9 dication of delinquency which has been expunged or
10 set aside or for which a person has been pardoned
11 or has had civil rights restored by the jurisdiction in
12 which the conviction or adjudication of delinquency
13 occurred shall not be considered a conviction or ad-
14 judication of delinquency.”.

15 (b) PROHIBITION.—Section 922 of title 18, United
16 States Code is amended—

17 (1) in subsection (d)—

18 (A) by striking “or” at the end of para-
19 graph (8);

20 (B) by striking the period at the end of
21 paragraph (9) and inserting “; or”; and

22 (C) by inserting after paragraph (9) the
23 following:

24 “(10) who has committed an act of juvenile de-
25 linquency.”;

1 (2) in subsection (g)—

2 (A) by striking “or” at the end of para-
3 graph (8);

4 (B) by striking the period at the end of
5 paragraph (9) and inserting “; or”; and

6 (C) by inserting after paragraph (9) the
7 following:

8 “(10) who has committed an act of juvenile de-
9 linquency.”; and

10 (3) in subsection (s)(3)(B)—

11 (A) by striking “and” at the end of clause
12 (vi);

13 (B) by inserting “and” after the semicolon
14 at the end of clause (vii); and

15 (C) by inserting after clause (vii) the fol-
16 lowing:

17 “(viii) has not committed an act of ju-
18 venile delinquency.”.

19 **SEC. 5242. IMPROVING FIREARMS SAFETY.**

20 (a) **SECURE GUN STORAGE DEVICE.**—Section 921(a)
21 of title 18, United States Code, is amended by adding at
22 the end the following:

23 “(35) **SECURE GUN STORAGE OR SAFETY DE-**
24 **VICE.**—The term ‘secure gun storage or safety de-
25 vice’ means—

1 “(A) a device that, when installed on a
2 firearm, is designed to prevent the firearm from
3 being operated without first deactivating the de-
4 vice;

5 “(B) a device incorporated into the design
6 of the firearm that is designed to prevent the
7 operation of the firearm by anyone not having
8 access to the device; or

9 “(C) a safe, gun safe, gun case, lock box,
10 or other device that is designed to be or can be
11 used to store a firearm and that is designed to
12 be unlocked only by means of a key, a combina-
13 tion, or other similar means.”.

14 (b) CERTIFICATION REQUIRED IN APPLICATION FOR
15 DEALER’S LICENSE.—Section 923(d)(1) of title 18,
16 United States Code, is amended—

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

19 (2) in subparagraph (F), by striking the period
20 at the end and inserting “; and”; and

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

22 “(G) in the case of an application to be li-
23 censed as a dealer, the applicant certifies that
24 secure gun storage or safety devices will be
25 available at any place in which firearms are

1 sold under the license to persons who are not
2 licensees (subject to the exception that in any
3 case in which a secure gun storage or safety de-
4 vice is temporarily unavailable because of theft,
5 casualty loss, consumer sales, backorders from
6 a manufacturer, or any other similar reason be-
7 yond the control of the licensee, the dealer shall
8 not be considered to be in violation of the re-
9 quirement under this subparagraph to make
10 available such a device).”.

11 (c) REVOCATION OF DEALER’S LICENSE FOR FAIL-
12 URE TO HAVE SECURE GUN STORAGE OR SAFETY DE-
13 VICES AVAILABLE.—The first sentence of section 923(e)
14 of title 18, United States Code, is amended by inserting
15 before the period at the end the following: “or fails to have
16 secure gun storage or safety devices available at any place
17 in which firearms are sold under the license to persons
18 who are not licensees (except that in any case in which
19 a secure gun storage or safety device is temporarily un-
20 available because of theft, casualty loss, consumer sales,
21 backorders from a manufacturer, or any other similar rea-
22 son beyond the control of the licensee, the dealer shall not
23 be considered to be in violation of the requirement to make
24 available such a device)”.

1 (d) STATUTORY CONSTRUCTION.—Nothing in the
2 amendments made by this section shall be construed—

3 (1) as creating a cause of action against any
4 firearms dealer or any other person for any civil li-
5 ability; or

6 (2) as establishing any standard of care.

7 **SEC. 5243. JUVENILE HANDGUN SAFETY.**

8 (a) JUVENILE HANDGUN SAFETY.—Section
9 924(a)(6) of title 18, United States Code, is amended—

10 (1) by striking subparagraph (A);

11 (2) by redesignating subparagraph (B) as sub-
12 paragraph (A); and

13 (3) in subparagraph (A), as redesignated—

14 (A) by striking “A person other than a ju-
15 venile who knowingly” and inserting “A person
16 who knowingly”; and

17 (B) in clause (i), by striking “not more
18 than 1 year” and inserting “not more than 5
19 years”.

20 **SEC. 5244. SERIOUS JUVENILE DRUG OFFENSES AS ARMED**
21 **CAREER CRIMINAL PREDICATES.**

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

24 (1) in clause (i), by striking “or” at the end;

1 (2) in clause (ii), by adding “or” at the end;

2 and

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

4 “(iii) any act of juvenile delinquency that,
5 if committed by an adult, would be an offense
6 described in this paragraph;”.

7 **SEC. 5245. INCREASED PENALTY FOR TRANSFERRING A**
8 **FIREARM TO A MINOR FOR USE IN CRIME OF**
9 **VIOLENCE OR DRUG TRAFFICKING CRIME.**

10 Section 924(h) of title 18, United States Code, is
11 amended by striking “10 years, fined in accordance with
12 this title, or both” and inserting “10 years, and if the
13 transferee is a person who is under 18 years of age, im-
14 prisoned for a term of not more than 15 years, fined in
15 accordance with this title, or both”.

16 **SEC. 5246. INCREASED PENALTY FOR FIREARMS CON-**
17 **SPIRACY.**

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

20 “(p) Except as otherwise provided in this section, a
21 person who conspires to commit an offense defined in this
22 chapter shall be subject to the same penalties (other than
23 the penalty of death) as those prescribed for the offense
24 the commission of which is the object of the conspiracy.”.

1 PART 6—CLOSING THE GUN SHOW LOOPHOLE**2 SEC. 5251. FINDINGS.**

3 Congress finds that—

4 (1) more than 4,400 traditional gun shows are
5 held annually across the United States, attracting
6 thousands of attendees per show and hundreds of
7 Federal firearms licensees and nonlicensed firearms
8 sellers;

9 (2) traditional gun shows, as well as flea mar-
10 kets and other organized events, at which a large
11 number of firearms are offered for sale by Federal
12 firearms licensees and nonlicensed firearms sellers,
13 form a significant part of the national firearms mar-
14 ket;

15 (3) firearms and ammunition that are exhibited
16 or offered for sale or exchange at gun shows, flea
17 markets, and other organized events move easily in
18 and substantially affect interstate commerce;

19 (4) in fact, even before a firearm is exhibited or
20 offered for sale or exchange at a gun show, flea mar-
21 ket, or other organized event, the gun, its component
22 parts, ammunition, and the raw materials from
23 which it is manufactured have moved in interstate
24 commerce;

25 (5) gun shows, flea markets, and other orga-
26 nized events at which firearms are exhibited or of-

1 ferred for sale or exchange, provide a convenient and
2 centralized commercial location at which firearms
3 may be bought and sold anonymously, often without
4 background checks and without records that enable
5 gun tracing;

6 (6) at gun shows, flea markets, and other orga-
7 nized events at which guns are exhibited or offered
8 for sale or exchange, criminals and other prohibited
9 persons obtain guns without background checks and
10 frequently use guns that cannot be traced to later
11 commit crimes;

12 (7) many persons who buy and sell firearms at
13 gun shows, flea markets, and other organized events
14 cross State lines to attend these events and engage
15 in the interstate transportation of firearms obtained
16 at these events;

17 (8) gun violence is a pervasive, national prob-
18 lem that is exacerbated by the availability of guns at
19 gun shows, flea markets, and other organized events;

20 (9) firearms associated with gun shows have
21 been transferred illegally to residents of another
22 State by Federal firearms licensees and nonlicensed
23 firearms sellers, and have been involved in subse-
24 quent crimes including drug offenses, crimes of vio-

1 lence, property crimes, and illegal possession of fire-
 2 arms by felons and other prohibited persons; and

3 (10) Congress has the power, under the inter-
 4 state commerce clause and other provisions of the
 5 Constitution of the United States, to ensure, by en-
 6 actment of this part, that criminals and other pro-
 7 hibited persons do not obtain firearms at gun shows,
 8 flea markets, and other organized events.

9 **SEC. 5252. EXTENSION OF BRADY BACKGROUND CHECKS**
 10 **TO GUN SHOWS.**

11 (a) DEFINITIONS.—Section 921(a) of title 18, United
 12 States Code, is amended by adding at the end the fol-
 13 lowing:

14 “(35) GUN SHOW.—The term ‘gun show’ means any
 15 event—

16 “(A) at which 50 or more firearms are offered
 17 or exhibited for sale, transfer, or exchange, if 1 or
 18 more of the firearms has been shipped or trans-
 19 ported in, or otherwise affects, interstate or foreign
 20 commerce; and

21 “(B) at which—

22 “(i) not less than 20 percent of the exhibi-
 23 tors are firearm exhibitors;

24 “(ii) there are not less than 10 firearm ex-
 25 hibitors; or

1 “(iii) 50 or more firearms are offered for
2 sale, transfer, or exchange.

3 “(36) GUN SHOW PROMOTER.—The term ‘gun show
4 promoter’ means any person who organizes, plans, pro-
5 motes, or operates a gun show.

6 “(37) GUN SHOW VENDOR.—The term ‘gun show
7 vendor’ means any person who exhibits, sells, offers for
8 sale, transfers, or exchanges 1 or more firearms at a gun
9 show, regardless of whether or not the person arranges
10 with the gun show promoter for a fixed location from
11 which to exhibit, sell, offer for sale, transfer, or exchange
12 1 or more firearms.”

13 (b) REGULATION OF FIREARMS TRANSFERS AT GUN
14 SHOWS.—

15 (1) IN GENERAL.—Chapter 44 of title 18,
16 United States Code, is amended by adding at the
17 end the following:

18 **“§ 931. Regulation of firearms transfers at gun shows**

19 “(a) REGISTRATION OF GUN SHOW PROMOTERS.—
20 It shall be unlawful for any person to organize, plan, pro-
21 mote, or operate a gun show unless that person—

22 “(1) registers with the Secretary in accordance
23 with regulations promulgated by the Secretary; and

24 “(2) pays a registration fee, in an amount de-
25 termined by the Secretary.

1 “(b) RESPONSIBILITIES OF GUN SHOW PRO-
2 MOTERS.—It shall be unlawful for any person to organize,
3 plan, promote, or operate a gun show unless that person—

4 “(1) before commencement of the gun show,
5 verifies the identity of each gun show vendor partici-
6 pating in the gun show by examining a valid identi-
7 fication document (as defined in section 1028(d)(1))
8 of the vendor containing a photograph of the vendor;

9 “(2) before commencement of the gun show, re-
10 quires each gun show vendor to sign—

11 “(A) a ledger with identifying information
12 concerning the vendor; and

13 “(B) a notice advising the vendor of the
14 obligations of the vendor under this chapter;
15 and

16 “(3) notifies each person who attends the gun
17 show of the requirements of this chapter, in accord-
18 ance with such regulations as the Secretary shall
19 prescribe; and

20 “(4) maintains a copy of the records described
21 in paragraphs (1) and (2) at the permanent place of
22 business of the gun show promoter for such period
23 of time and in such form as the Secretary shall re-
24 quire by regulation.

1 “(c) RESPONSIBILITIES OF TRANSFERORS OTHER
2 THAN LICENSEES.—

3 “(1) IN GENERAL.—If any part of a firearm
4 transaction takes place at a gun show, it shall be
5 unlawful for any person who is not licensed under
6 this chapter to transfer a firearm to another person
7 who is not licensed under this chapter, unless the
8 firearm is transferred through a licensed importer,
9 licensed manufacturer, or licensed dealer in accord-
10 ance with subsection (e).

11 “(2) CRIMINAL BACKGROUND CHECKS.—A per-
12 son who is subject to the requirement of paragraph
13 (1)—

14 “(A) shall not transfer the firearm to the
15 transferee until the licensed importer, licensed
16 manufacturer, or licensed dealer through which
17 the transfer is made under subsection (e)
18 makes the notification described in subsection
19 (e)(3)(A); and

20 “(B) notwithstanding subparagraph (A),
21 shall not transfer the firearm to the transferee
22 if the licensed importer, licensed manufacturer,
23 or licensed dealer through which the transfer is
24 made under subsection (e) makes the notifica-
25 tion described in subsection (e)(3)(B).

1 “(3) ABSENCE OF RECORDKEEPING REQUIRE-
2 MENTS.—Nothing in this section shall permit or au-
3 thorize the Secretary to impose recordkeeping re-
4 quirements on any nonlicensed vendor.

5 “(d) RESPONSIBILITIES OF TRANSFEREES OTHER
6 THAN LICENSEES.—

7 “(1) IN GENERAL.—If any part of a firearm
8 transaction takes place at a gun show, it shall be
9 unlawful for any person who is not licensed under
10 this chapter to receive a firearm from another per-
11 son who is not licensed under this chapter, unless
12 the firearm is transferred through a licensed im-
13 porter, licensed manufacturer, or licensed dealer in
14 accordance with subsection (e).

15 “(2) CRIMINAL BACKGROUND CHECKS.—A per-
16 son who is subject to the requirement of paragraph
17 (1)—

18 “(A) shall not receive the firearm from the
19 transferor until the licensed importer, licensed
20 manufacturer, or licensed dealer through which
21 the transfer is made under subsection (e)
22 makes the notification described in subsection
23 (e)(3)(A); and

24 “(B) notwithstanding subparagraph (A),
25 shall not receive the firearm from the transferor

1 if the licensed importer, licensed manufacturer,
2 or licensed dealer through which the transfer is
3 made under subsection (e) makes the notifica-
4 tion described in subsection (e)(3)(B).

5 “(e) RESPONSIBILITIES OF LICENSEES.—A licensed
6 importer, licensed manufacturer, or licensed dealer who
7 agrees to assist a person who is not licensed under this
8 chapter in carrying out the responsibilities of that person
9 under subsection (c) or (d) with respect to the transfer
10 of a firearm shall—

11 “(1) enter such information about the firearm
12 as the Secretary may require by regulation into a
13 separate bound record;

14 “(2) record the transfer on a form specified by
15 the Secretary;

16 “(3) comply with section 922(t) as if transfer-
17 ring the firearm from the inventory of the licensed
18 importer, licensed manufacturer, or licensed dealer
19 to the designated transferee (although a licensed im-
20 porter, licensed manufacturer, or licensed dealer
21 complying with this subsection shall not be required
22 to comply again with the requirements of section
23 922(t) in delivering the firearm to the nonlicensed
24 transferor), and notify the nonlicensed transferor
25 and the nonlicensed transferee—

1 “(A) of such compliance; and

2 “(B) if the transfer is subject to the re-
3 quirements of section 922(t)(1), of any receipt
4 by the licensed importer, licensed manufacturer,
5 or licensed dealer of a notification from the na-
6 tional instant criminal background check sys-
7 tem that the transfer would violate section 922
8 or would violate State law;

9 “(4) not later than 10 days after the date on
10 which the transfer occurs, submit to the Secretary a
11 report of the transfer, which report—

12 “(A) shall be on a form specified by the
13 Secretary by regulation; and

14 “(B) shall not include the name of or other
15 identifying information relating to any person
16 involved in the transfer who is not licensed
17 under this chapter;

18 “(5) if the licensed importer, licensed manufac-
19 turer, or licensed dealer assists a person other than
20 a licensee in transferring, at 1 time or during any
21 5 consecutive business days, 2 or more pistols or re-
22 volvers, or any combination of pistols and revolvers
23 totaling 2 or more, to the same nonlicensed person,
24 in addition to the reports required under paragraph

1 (4), prepare a report of the multiple transfers, which
2 report shall be—

3 “(A) prepared on a form specified by the
4 Secretary; and

5 “(B) not later than the close of business
6 on the date on which the transfer occurs, for-
7 warded to—

8 “(i) the office specified on the form
9 described in subparagraph (A); and

10 “(ii) the appropriate State law en-
11 forcement agency of the jurisdiction in
12 which the transfer occurs; and

13 “(6) retain a record of the transfer as part of
14 the permanent business records of the licensed im-
15 porter, licensed manufacturer, or licensed dealer.

16 “(f) RECORDS OF LICENSEE TRANSFERS.—If any
17 part of a firearm transaction takes place at a gun show,
18 each licensed importer, licensed manufacturer, and li-
19 censed dealer who transfers 1 or more firearms to a person
20 who is not licensed under this chapter shall, not later than
21 10 days after the date on which the transfer occurs, sub-
22 mit to the Secretary a report of the transfer, which re-
23 port—

24 “(1) shall be in a form specified by the Sec-
25 retary by regulation;

1 “(2) shall not include the name of or other
2 identifying information relating to the transferee;
3 and

4 “(3) shall not duplicate information provided in
5 any report required under subsection (e)(4).

6 “(g) FIREARM TRANSACTION DEFINED.—In this sec-
7 tion, the term ‘firearm transaction’—

8 “(1) includes the offer for sale, sale, transfer,
9 or exchange of a firearm; and

10 “(2) does not include the mere exhibition of a
11 firearm.”.

12 (2) PENALTIES.—Section 924(a) of title 18,
13 United States Code, is amended by adding at the
14 end the following:

15 “(7)(A) Whoever knowingly violates section 931(a)
16 shall be fined under this title, imprisoned not more than
17 5 years, or both.

18 “(B) Whoever knowingly violates subsection (b) or (c)
19 of section 931, shall be—

20 “(i) fined under this title, imprisoned not more
21 than 2 years, or both; and

22 “(ii) in the case of a second or subsequent con-
23 viction, such person shall be fined under this title,
24 imprisoned not more than 5 years, or both.

1 “(C) Whoever willfully violates section 931(d), shall
2 be—

3 “(i) fined under this title, imprisoned not more
4 than 2 years, or both; and

5 “(ii) in the case of a second or subsequent con-
6 viction, such person shall be fined under this title,
7 imprisoned not more than 5 years, or both.

8 “(D) Whoever knowingly violates subsection (e) or (f)
9 of section 931 shall be fined under this title, imprisoned
10 not more than 5 years, or both.

11 “(E) In addition to any other penalties imposed
12 under this paragraph, the Secretary may, with respect to
13 any person who knowingly violates any provision of section
14 931—

15 “(i) if the person is registered pursuant to sec-
16 tion 931(a), after notice and opportunity for a hear-
17 ing, suspend for not more than 6 months or revoke
18 the registration of that person under section 931(a);
19 and

20 “(ii) impose a civil fine in an amount equal to
21 not more than \$10,000.”.

22 (3) TECHNICAL AND CONFORMING AMEND-
23 MENTS.—Chapter 44 of title 18, United States
24 Code, is amended—

1 (A) in the chapter analysis, by adding at
2 the end the following:

“931. Regulation of firearms transfers at gun shows.”;

3 and

4 (B) in the first sentence of section 923(j),
5 by striking “a gun show or event” and inserting
6 “an event”; and

7 (c) INSPECTION AUTHORITY.—Section 923(g)(1) is
8 amended by adding at the end the following:

9 “(E) Notwithstanding subparagraph (B), the Sec-
10 retary may enter during business hours the place of busi-
11 ness of any gun show promoter and any place where a
12 gun show is held for the purposes of examining the records
13 required by sections 923 and 931 and the inventory of
14 licensees conducting business at the gun show. Such entry
15 and examination shall be conducted for the purposes of
16 determining compliance with this chapter by gun show
17 promoters and licensees conducting business at the gun
18 show and shall not require a showing of reasonable cause
19 or a warrant.”.

20 (d) INCREASED PENALTIES FOR SERIOUS RECORD-
21 KEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3)
22 of title 18, United States Code, is amended to read as
23 follows:

24 “(3)(A) Except as provided in subparagraph (B), any
25 licensed dealer, licensed importer, licensed manufacturer,

1 or licensed collector who knowingly makes any false state-
2 ment or representation with respect to the information re-
3 quired by this chapter to be kept in the records of a person
4 licensed under this chapter, or violates section 922(m)
5 shall be fined under this title, imprisoned not more than
6 1 year, or both.

7 “(B) If the violation described in subparagraph (A)
8 is in relation to an offense—

9 “(i) under paragraph (1) or (3) of section
10 922(b), such person shall be fined under this title,
11 imprisoned not more than 5 years, or both; or

12 “(ii) under subsection (a)(6) or (d) of section
13 922, such person shall be fined under this title, im-
14 prisoned not more than 10 years, or both.”.

15 (e) INCREASED PENALTIES FOR VIOLATIONS OF
16 CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

17 (1) PENALTIES.—Section 924 of title 18,
18 United States Code, is amended—

19 (A) in paragraph (5), by striking “sub-
20 section (s) or (t) of section 922” and inserting
21 “section 922(s)”; and

22 (B) by adding at the end the following:

23 “(8) Whoever knowingly violates section 922(t) shall
24 be fined under this title, imprisoned not more than 5
25 years, or both.”.

1 (2) ELIMINATION OF CERTAIN ELEMENTS OF
2 OFFENSE.—Section 922(t)(5) of title 18, United
3 States Code, is amended by striking “and, at the
4 time” and all that follows through “State law”.

5 (f) GUN OWNER PRIVACY AND PREVENTION OF
6 FRAUD AND ABUSE OF SYSTEM INFORMATION.—Section
7 922(t)(2)(C) of title 18, United States Code, is amended
8 by inserting before the period at the end the following:
9 “, as soon as possible, consistent with the responsibility
10 of the Attorney General under section 103(h) of the Brady
11 Handgun Violence Prevention Act to ensure the privacy
12 and security of the system and to prevent system fraud
13 and abuse, but in no event later than 90 days after the
14 date on which the licensee first contacts the system with
15 respect to the transfer”.

16 (g) EFFECTIVE DATE.—This part and the amend-
17 ments made by this part shall take effect 180 days after
18 the date of enactment of this Act.

19 **TITLE VI—THE INNOCENCE**
20 **PROTECTION ACT**

21 **SEC. 6001. SHORT TITLE.**

22 This title may be cited as the “Innocence Protection
23 Act of 2003”.

1 **Subtitle A—Exonerating the**
 2 **Innocent Through DNA Testing**

3 **SEC. 6101. DNA TESTING IN FEDERAL CRIMINAL JUSTICE**
 4 **SYSTEM.**

5 (a) IN GENERAL.—Part VI of title 28, United States
 6 Code, is amended by inserting after chapter 155 the fol-
 7 lowing:

8 **“CHAPTER 156—DNA TESTING**

“Sec.

“2291. DNA testing.

“2292. Preservation of evidence.

9 **“§ 2291. DNA testing**

10 “(a) APPLICATION.—Notwithstanding any other pro-
 11 vision of law, a person convicted of a Federal crime may
 12 apply to the appropriate Federal court for DNA testing
 13 by asserting under oath that the person did not commit—

14 “(1) the Federal crime of which the person was
 15 convicted; or

16 “(2) any other offense that a sentencing au-
 17 thority may have relied upon when it sentenced the
 18 person with respect to the Federal crime either to
 19 death or to an enhanced term of imprisonment as a
 20 career offender or armed career criminal.

21 “(b) NOTICE TO GOVERNMENT.—The court shall no-
 22 tify the Government of an application made under sub-

1 section (a) and shall afford the Government an oppor-
2 tunity to respond.

3 “(c) PRESERVATION ORDER.—The court shall order
4 that all evidence secured in relation to the case that could
5 be subjected to DNA testing must be preserved during the
6 pendency of the proceeding. The court may impose appro-
7 priate sanctions, including criminal contempt, for the in-
8 tentional destruction of evidence after such an order.

9 “(d) ORDER.—

10 “(1) IN GENERAL.—The court shall order DNA
11 testing pursuant to an application made under sub-
12 section (a) upon a determination that—

13 “(A) the evidence is still in existence, and
14 in such a condition that DNA testing may be
15 conducted;

16 “(B) the evidence was never previously
17 subjected to DNA testing, or was not subject to
18 the type of DNA testing that is now requested
19 and that may resolve an issue not resolved by
20 previous testing;

21 “(C) the proposed DNA testing uses a sci-
22 entifically valid technique;

23 “(D) the proposed DNA testing has the
24 scientific potential to produce new, noncumu-
25 lative evidence which is material to the claim of

1 the applicant that the applicant did not commit,
2 and which raises a reasonable probability that
3 the applicant would not have been convicted
4 of—

5 “(i) the Federal crime of which the
6 applicant was convicted; or

7 “(ii) any other offense that a sen-
8 tencing authority may have relied upon
9 when it sentenced the applicant with re-
10 spect to the Federal crime either to death
11 or to an enhanced term of imprisonment as
12 a career offender or armed career criminal;
13 and

14 “(E) the identity of the perpetrator was or
15 should have been a significant issue in the case.

16 “(2) LIMITATION.—

17 “(A) IN GENERAL.—The court shall not
18 order DNA testing under paragraph (1) if the
19 Government proves by a preponderance of the
20 evidence that the application for testing was
21 made to interfere with the administration of
22 justice rather than to support a claim described
23 in paragraph (1)(D).

24 “(B) GOVERNMENT’S CLAIM.—The Gov-
25 ernment’s claim under subparagraph (A)—

1 “(i) may be supported by evidence of
2 the defendant’s unexplained delay in seek-
3 ing testing;

4 “(ii) may be supported by evidence
5 that the defendant’s attorney presented at
6 trial an affirmative defense that is factu-
7 ally inconsistent with the current applica-
8 tion; and

9 “(iii) shall succeed if the defendant
10 testified at trial in support of an affirma-
11 tive defense that is factually inconsistent
12 with the current application.

13 “(3) TESTING PROCEDURES.—If the court or-
14 ders DNA testing under paragraph (1), the court
15 shall impose reasonable conditions on such testing
16 designed to protect the integrity of the evidence and
17 the testing process and the reliability of the test re-
18 sults, including a condition that the test results are
19 simultaneously disclosed to defense counsel, pros-
20 ecuting counsel, and the court of jurisdiction.

21 “(e) COST.—The cost of DNA testing ordered under
22 subsection (d) shall be borne by the Government or the
23 applicant, as the court may order in the interests of jus-
24 tice, except that an applicant shall not be denied testing
25 because of an inability to pay the cost of testing.

1 “(f) COUNSEL.—The court may at any time appoint
2 counsel for an indigent applicant under this section pursu-
3 ant to section 3006A(a)(2)(B) of title 18.

4 “(g) POST-TESTING PROCEDURES.—

5 “(1) INCONCLUSIVE RESULTS.—If the results of
6 DNA testing conducted under this section are incon-
7 clusive, the court may order such further testing as
8 may be appropriate or dismiss the application.

9 “(2) RESULTS UNFAVORABLE TO APPLICANT.—
10 If the results of DNA testing conducted under this
11 section inculcate the applicant, the court shall—

12 “(A) dismiss the application;

13 “(B) assess the applicant for the cost of
14 the testing;

15 “(C) submit applicant’s DNA testing re-
16 sults to the Department of Justice for inclusion
17 in the Combined DNA Index System; and

18 “(D) make such further orders as may be
19 appropriate, including an order of contempt.

20 “(3) RESULTS FAVORABLE TO APPLICANT.—If
21 the results of DNA testing conducted under this sec-
22 tion are favorable to the applicant, the court shall
23 order a hearing and thereafter make such further
24 orders as may be appropriate under applicable rules
25 and statutes regarding post-conviction proceedings,

1 notwithstanding any provision of law that would bar
2 such hearing or orders as untimely.

3 “(h) RULES OF CONSTRUCTION.—

4 “(1) OTHER POST-CONVICTION RELIEF UNAF-
5 FECTED.—Nothing in this section shall be construed
6 to limit the circumstances under which a person may
7 obtain DNA testing or other post-conviction relief
8 under any other provision of law.

9 “(2) FINALITY RULE UNAFFECTED.—An appli-
10 cation under this section shall not be considered a
11 motion under section 2255 for purposes of deter-
12 mining whether it or any other motion is a second
13 or successive motion under section 2255.

14 “(i) DEFINITIONS.—In this section:

15 “(1) APPROPRIATE FEDERAL COURT.—The
16 term ‘appropriate Federal court’ means—

17 “(A) the United States District Court
18 which imposed the sentence from which the ap-
19 plicant seeks relief; or

20 “(B) in relation to a crime under the Uni-
21 form Code of Military Justice, the United
22 States District Court having jurisdiction over
23 the place where the court martial was convened
24 that imposed the sentence from which the appli-
25 cant seeks relief, or the United States District

1 Court for the District of Columbia, if no United
2 States District Court has jurisdiction over the
3 place where the court martial was convened.

4 “(2) FEDERAL CRIME.—The term ‘Federal
5 crime’ includes a crime under the Uniform Code of
6 Military Justice.

7 **“§ 2292. Preservation of evidence**

8 “(a) IN GENERAL.—Notwithstanding any other pro-
9 vision of law and subject to subsection (b), the Govern-
10 ment shall preserve all evidence that was secured in rela-
11 tion to the investigation or prosecution of a Federal crime
12 (as that term is defined in section 2291(i)), and that could
13 be subjected to DNA testing, for not less than the period
14 of time that any person remains subject to incarceration
15 in connection with the investigation or prosecution.

16 “(b) EXCEPTIONS.—The Government may dispose of
17 evidence before the expiration of the period of time de-
18 scribed in subsection (a) if—

19 “(1) other than subsection (a), no statute, regu-
20 lation, court order, or other provision of law requires
21 that the evidence be preserved; and

22 “(2)(A)(i) the Government notifies any person
23 who remains incarcerated in connection with the in-
24 vestigation or prosecution and any counsel of record
25 for such person (or, if there is no counsel of record,

1 the public defender for the judicial district in which
2 the conviction for such person was imposed), of the
3 intention of the Government to dispose of the evi-
4 dence and the provisions of this chapter; and

5 “(ii) the Government affords such person not
6 less than 180 days after such notification to make
7 an application under section 2291(a) for DNA test-
8 ing of the evidence; or

9 “(B)(i) the evidence must be returned to its
10 rightful owner, or is of such a size, bulk, or physical
11 character as to render retention impracticable; and

12 “(ii) the Government takes reasonable measures
13 to remove and preserve portions of the material evi-
14 dence sufficient to permit future DNA testing.

15 “(c) REMEDIES FOR NONCOMPLIANCE.—

16 “(1) GENERAL LIMITATION.—Nothing in this
17 section shall be construed to give rise to a claim for
18 damages against the United States, or any employee
19 of the United States, any court official or officer of
20 the court, or any entity contracting with the United
21 States.

22 “(2) CIVIL PENALTY.—

23 “(A) IN GENERAL.—Notwithstanding para-
24 graph (1), an individual who knowingly violates
25 a provision of this section or a regulation pre-

1 scribed under this section shall be liable to the
2 United States for a civil penalty in an amount
3 not to exceed \$1,000 for the first violation and
4 \$5,000 for each subsequent violation, except
5 that the total amount imposed on the individual
6 for all such violations during a calendar year
7 may not exceed \$25,000.

8 “(B) PROCEDURES.—The provisions of
9 section 405 of the Controlled Substances Act
10 (21 U.S.C. 844a), other than subsections (a)
11 through (d) and subsection (j), shall apply to
12 the imposition of a civil penalty under subpara-
13 graph (A) in the same manner as such provi-
14 sions apply to the imposition of a penalty under
15 such section 405.

16 “(C) PRIOR CONVICTION.—A civil penalty
17 may not be assessed under subparagraph (A)
18 with respect to an act if that act previously re-
19 sulted in a conviction under chapter 73 of title
20 18.

21 “(3) REGULATIONS.—

22 “(A) IN GENERAL.—The Attorney General
23 shall promulgate regulations to implement and
24 enforce this section.

1 “(B) CONTENTS.—The regulations shall
2 include the following:

3 “(i) Disciplinary sanctions, including
4 suspension or termination from employ-
5 ment, for employees of the Department of
6 Justice who knowingly or repeatedly violate
7 a provision of this section.

8 “(ii) An administrative procedure
9 through which parties can file formal com-
10 plaints with the Department of Justice al-
11 leging violations of this section.”.

12 (b) CRIMINAL PENALTY.—Chapter 73 of title 18,
13 United States Code, is amended by inserting at the end
14 the following:

15 **“§ 1521. Destruction or altering of DNA evidence**

16 “Whoever willfully or maliciously destroys, alters,
17 conceals, or tampers with evidence that is required to be
18 preserved under section 2292 of title 28, United States
19 Code, with intent to—

20 “(1) impair the integrity of that evidence;

21 “(2) prevent that evidence from being subjected
22 to DNA testing; or

23 “(3) prevent the production or use of that evi-
24 dence in an official proceeding,

1 shall be fined under this title or imprisoned not more than
2 5 years, or both.”.

3 (c) TESTING OF FEDERAL INMATES.—The Attorney
4 General is authorized to conduct a systematic review of
5 Federal cases in which a defendant was sentenced to death
6 to identify cases in which DNA evidence is readily acces-
7 sible and DNA testing is appropriate and to conduct DNA
8 testing in such cases within 12 months of enactment of
9 this Act.

10 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

11 (1) The analysis for part VI of title 28, United
12 States Code, is amended by inserting after the item
13 relating to chapter 155 the following:

“156. DNA testing 2291”.

14 (2) The table of contents for Chapter 73 of title
15 18, United States Code, is amended by inserting
16 after the item relating to section 1520 the following:

“1521. Destruction or altering of DNA evidence.”.

17 **SEC. 6102. DNA TESTING IN STATE CRIMINAL JUSTICE SYS-**
18 **TEMS.**

19 (a) CERTIFICATION REGARDING POST-CONVICTION
20 TESTING AND PRESERVATION OF DNA EVIDENCE.—If
21 any part of funds received from a grant made by any Ex-
22 ecutive agency is to be used to develop or improve a DNA
23 analysis capability in a forensic laboratory, or to collect,
24 analyze, or index DNA samples for law enforcement iden-

1 tification purposes, the State applying for that grant must
2 certify that it will—

3 (1) make post-conviction DNA testing available
4 to any person convicted of a State crime in a man-
5 ner consistent with section 2291 of title 28, United
6 States Code, and, if the results of such testing are
7 favorable to such person, allow such person to apply
8 for post-conviction relief, notwithstanding any provi-
9 sion of law that would bar such application as un-
10 timely;

11 (2) preserve all evidence that was secured in re-
12 lation to the investigation or prosecution of a State
13 crime, and that could be subjected to DNA testing,
14 for not less than the period of time that such evi-
15 dence would be required to be preserved under sec-
16 tion 2292 of title 28, United States Code, if the evi-
17 dence were related to a Federal crime;

18 (3) in cases where DNA evidence exonerates an
19 inmate, investigate the causes of such convictions,
20 publish the results of such investigations, and take
21 steps to prevent such errors in future cases; and

22 (4) establish a program under which State and
23 local prosecutors shall conduct a systematic review
24 of cases in which a defendant was sentenced to
25 death to identify cases in which DNA evidence is

1 readily accessible and DNA testing is appropriate
2 and to conduct DNA testing in such cases not later
3 than 18 months after the date of enactment of this
4 Act.

5 (b) EFFECTIVE DATE.—This section shall apply with
6 respect to any grant made on or after the date that is
7 1 year after the date of enactment of this Act.

8 **SEC. 6103. PROHIBITION PURSUANT TO SECTION 5 OF THE**
9 **14TH AMENDMENT.**

10 (a) FINDINGS AND PURPOSE.—

11 (1) FINDINGS.—Congress makes the following
12 findings:

13 (A) Over the past decade, DNA testing has
14 emerged as the most reliable forensic technique
15 for identifying criminals when biological mate-
16 rial is left at a crime scene.

17 (B) Because of its scientific precision,
18 DNA testing can, in some cases, conclusively
19 establish the guilt or innocence of a criminal
20 defendant. In other cases, DNA testing may not
21 conclusively establish guilt or innocence, but
22 may have significant probative value to a finder
23 of fact.

24 (C) While DNA testing is increasingly
25 commonplace in pretrial investigations today, it

1 was not widely available in cases tried prior to
2 1994. Moreover, new forensic DNA testing pro-
3 cedures have made it possible to get results
4 from minute samples that could not previously
5 be tested, and to obtain more informative and
6 accurate results than earlier forms of forensic
7 DNA testing could produce. Consequently, in
8 some cases convicted inmates have been exoner-
9 ated by new DNA tests after earlier tests had
10 failed to produce definitive results.

11 (D) Since DNA testing is often feasible on
12 relevant biological material that is decades old,
13 it can, in some circumstances, prove that a con-
14 viction that predated the development of DNA
15 testing was based upon incorrect factual find-
16 ings. Uniquely, DNA evidence showing inno-
17 cence, produced decades after a conviction, pro-
18 vides a more reliable basis for establishing a
19 correct verdict than any evidence proffered at
20 the original trial. DNA testing, therefore, can
21 and has resulted in the post-conviction exonera-
22 tion of innocent men and women.

23 (E) In more than 100 cases in the United
24 States, DNA evidence has led to the exonera-
25 tion of innocent men and women who were

1 wrongfully convicted. This number includes at
2 least 12 individuals sentenced to death, some of
3 whom came within days of being executed.

4 (F) In more than a dozen cases, post-con-
5 viction DNA testing that has exonerated an in-
6 nocent person has also enhanced public safety
7 by providing evidence that led to the identifica-
8 tion of the actual perpetrator.

9 (G) Experience has shown that it is not
10 unduly burdensome to make DNA testing avail-
11 able to inmates. The cost of that testing is rel-
12 atively modest and has decreased in recent
13 years. Moreover, the number of cases in which
14 post-conviction DNA testing is appropriate is
15 small, and will decrease as pretrial testing be-
16 comes more common.

17 (H) Under current law in many States, it
18 is difficult to obtain post-conviction DNA test-
19 ing because of time limits on introducing newly
20 discovered evidence. Motions for a new trial
21 based on newly discovered evidence must be
22 made not later than 2 years after conviction,
23 and sometimes much sooner. The result is that
24 laws intended to prevent the use of evidence
25 that has become less reliable over time have

1 been used to preclude the use of DNA evidence
2 that remains highly reliable even decades after
3 trial.

4 (I) Since New York passed the Nation's
5 first post-conviction DNA statute in 1994, a
6 number of States have adopted post-conviction
7 DNA testing procedures, but some of these pro-
8 cedures are unduly restrictive, and many States
9 have not adopted such procedures.

10 (J) In *Herrera v. Collins*, 506 U.S. 390
11 (1993), a majority of the members of the Su-
12 preme Court suggested that a persuasive show-
13 ing of innocence made after trial would render
14 the execution of an inmate unconstitutional.
15 The principle is no different for one who has
16 been sentenced not to death, but to a term of
17 extended incarceration.

18 (K) It shocks the conscience and offends
19 social standards of fairness to deny inmates a
20 right of access to evidence for tests that could
21 produce persuasive evidence of their innocence.

22 (L) If biological material is not subjected
23 to DNA testing in appropriate cases, there is a
24 significant risk that persuasive evidence of inno-
25 cence will not be detected and, accordingly, that

1 innocent persons will be unconstitutionally in-
2 carcerated or executed.

3 (M) Given the irremediable constitutional
4 harm that would result from the punishment of
5 an innocent person, a Federal statute assuring
6 access to evidence for the purpose of DNA test-
7 ing is a congruent and proportional prophylactic
8 measure to prevent constitutional injuries
9 from occurring.

10 (2) PURPOSE.—The purpose of this section is
11 to prevent the imposition of unconstitutional punish-
12 ments through the exercise of power granted by
13 clause 1 of section 8 and clause 2 of section 9 of ar-
14 ticle I of the Constitution of the United States and
15 section 5 of the 14th amendment to the Constitution
16 of the United States.

17 (b) APPLICATION FOR DNA TESTING.—No State
18 shall deny a prisoner in State custody access to evidence
19 for the purpose of DNA testing, if the proposed DNA test-
20 ing has the scientific potential to produce new, noncumu-
21 lative evidence which is material to the claim of the pris-
22 oner that the prisoner did not commit, and which raises
23 a reasonable probability that the prisoner would not have
24 been convicted of—

1 (3) by redesignating paragraph (27), as added
2 by Public Law 106–561, as paragraph (29);

3 (4) in paragraph (29), as redesignated by para-
4 graph (3), by striking the period at the end and in-
5 serting “; and”; and

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

7 “(30) prosecutor-initiated programs to conduct
8 a systematic review of convictions to identify cases
9 in which DNA testing is appropriate and to offer
10 DNA testing to inmates in such cases.”.

11 **Subtitle B—Improving State Sys-**
12 **tems for Providing Competent**
13 **Legal Services in Capital Cases**

14 **SEC. 6201. CAPITAL REPRESENTATION SYSTEM IMPROVE-**
15 **MENT GRANTS.**

16 (a) GRANT AUTHORIZATION.—The Attorney General
17 shall make available grants to States for the purpose of
18 improving the quality of legal representation provided to
19 indigent defendants in State capital cases.

20 (b) DEFINITION.—In this subtitle, the term “legal
21 representation” means legal counsel and investigative, ex-
22 pert, and other services necessary for competent represen-
23 tation.

24 (c) PURPOSES.—Grants awarded under subsection

25 (a) shall—

1 (1) be used to establish, implement, or improve
2 an effective system described in subsection (d) for
3 providing competent legal representation to—

4 (A) indigents charged with an offense sub-
5 ject to capital punishment;

6 (B) indigents who have been sentenced to
7 death and who seek appellate or collateral relief
8 in State court; and

9 (C) indigents who have been sentenced to
10 death and who seek review in the Supreme
11 Court of the United States;

12 (2) supplement, not supplant, existing State
13 and local funding; and

14 (3) not be used to fund representation in par-
15 ticular cases.

16 (d) EFFECTIVE SYSTEM.—An effective system for
17 providing competent legal representation is a system
18 that—

19 (1) invests the responsibility for identifying and
20 appointing qualified attorneys to represent indigents
21 in capital cases in an entity that—

22 (A) is established by statute or by the
23 highest State court with jurisdiction in criminal
24 cases;

1 (B) carries out its core functions independ-
2 ently of the executive, legislative, and judicial
3 branches of State government, provided that
4 the participation of appellate judges is not pre-
5 cluded; and

6 (C) may be structured to take account of
7 the size and demography of the State;

8 (2) requires the entity described in paragraph
9 (1) to—

10 (A) establish qualifications for attorneys
11 who may be appointed to represent indigents in
12 capital cases;

13 (B) establish and maintain a roster of
14 qualified attorneys;

15 (C) appoint 2 attorneys from the roster to
16 represent an indigent in a capital case upon re-
17 ceiving notice of the need;

18 (D) provide for periodic training programs
19 for attorneys representing indigents in capital
20 cases; and

21 (E) monitor the performance of attorneys
22 who are appointed and their attendance at
23 training programs, and remove from the roster
24 attorneys who fail to deliver effective represen-
25 tation or who fail to comply with such require-

1 ments as the entity may establish regarding
2 training programs; and

3 (3) provides attorneys appointed to represent
4 indigents in capital cases—

5 (A) reasonable compensation for actual
6 time and service, computed on an hourly basis,
7 at a rate of compensation that is comparable
8 (subject to cost of living differences among
9 States) to the rate typically paid to attorneys
10 appointed to represent capital clients in Federal
11 court proceedings, except that the requirement
12 of reasonable compensation shall not be inter-
13 preted to require a State to compensate counsel
14 at a rate in excess of the Federal rate; and

15 (B) reasonable reimbursement for the costs
16 of staff, investigators, experts, tests and other
17 support services in a manner comparable to the
18 manner in which such expenses are reimbursed
19 in Federal capital cases.

20 (e) FACTORS.—In determining whether to include or
21 maintain an attorney on the roster of attorneys who may
22 be appointed to represent indigents in capital cases, an
23 entity described in subsection (d)(1) shall—

24 (1) consider whether, during the past 5 years,
25 the attorney—

1 (A) has been sanctioned by a bar associa-
2 tion or court for ethical misconduct relating to
3 the attorney's conduct as defense counsel in a
4 felony case in Federal or State court;

5 (B) has been found, after a final deter-
6 mination by a Federal or State court, to have
7 rendered constitutionally ineffective assistance
8 of counsel in a felony case in Federal or State
9 court; or

10 (C) has asserted under oath or in writing
11 in relation to 3 or more felony cases in Federal
12 or State court that he or she has rendered con-
13 stitutionally ineffective assistance of counsel, re-
14 gardless of whether a court found the attorney
15 to have rendered such ineffective assistance;
16 and

17 (2) if a consideration in paragraph (1) pertains,
18 consider the nature of the act or omission that led
19 to that sanction, finding, or assertion.

20 (f) APPLICATIONS.—

21 (1) IN GENERAL.—The Attorney General shall
22 establish a process by which States may apply for a
23 grant under this section.

1 (2) REQUIREMENTS.—Each application shall
2 include, in addition to such other information as the
3 Attorney General may reasonably require—

4 (A) a description of the communities to be
5 served by the grant, including the nature of ex-
6 isting capital defender services within such com-
7 munities;

8 (B) assurances that Federal funds received
9 under this section shall be used to supplement
10 and not supplant non-Federal funds that would
11 otherwise be available for activities funded
12 under this section;

13 (C) a long-term statewide strategy and de-
14 tailed implementation plan that reflects con-
15 sultation with the judiciary, the organized bar,
16 and the attorney general of the State;

17 (D) a plan for obtaining necessary re-
18 sources to maintain the system following termi-
19 nation of Federal support; and

20 (E) the State's agreement to submit to en-
21 forcement suits under section 6202.

22 (g) FEDERAL SHARE.—The Attorney General shall
23 establish a schedule to ensure that the Federal share of
24 total expenditures to carry out the purposes of a grant
25 under this section shall decrease and the State's share

1 shall increase over the years in which a State receives as-
2 sistance under this section, except that a State shall have
3 no obligation to match any portion of the Federal expendi-
4 ture in the first fiscal year in which it receives such assist-
5 ance.

6 (h) REPORT.—Each State receiving funds under this
7 section shall submit an annual report to the Attorney Gen-
8 eral—

9 (1) explaining the activities carried out with the
10 funds received;

11 (2) evaluating the effectiveness of such activi-
12 ties in establishing or maintaining an effective sys-
13 tem; and

14 (3) containing such additional information as
15 the Attorney General may require.

16 (i) MONITORING.—

17 (1) IN GENERAL.—The Attorney General shall
18 monitor whether a State receiving funds under this
19 section maintains an effective system within the
20 meaning of this section.

21 (2) COMPLIANCE.—If the Attorney General
22 finds that a State does not maintain an effective
23 system, he shall direct the State to take such meas-
24 ures as he deems necessary to achieve compliance
25 with the terms of the grant and may enforce such

1 measures in Federal district court. A State may
2 challenge the need for such measures in Federal dis-
3 trict court.

4 (3) ENFORCEMENT SUIT.—An enforcement suit
5 under section 6202 shall lie regardless of whether
6 the Attorney General takes action under paragraph
7 (2).

8 (j) REPORTS TO CONGRESS.—

9 (1) ATTORNEY GENERAL.—Not later than 90
10 days after the end of each fiscal year for which
11 grants are made under this section, the Attorney
12 General shall submit a report to Congress that in-
13 cludes the size of the grant made under this section
14 to each State for such fiscal year and an assessment
15 of each State’s system for providing competent legal
16 representation to indigents in capital cases.

17 (2) GAO.—Not later than 30 months after the
18 date of enactment of this Act, and every 24 months
19 thereafter if grants were made under this section
20 during the preceding 24-month period, the General
21 Accounting Office shall submit a report to Congress
22 that includes, with respect to each State that pre-
23 scribes, authorizes, or permits the penalty of death
24 for any offense—

1 (A) a detailed description of any system
2 for providing representation, including counsel
3 and investigative, expert, and other services
4 necessary for effective representation, to indi-
5 gent persons in capital cases;

6 (B) an evaluation of the effectiveness of
7 such system in providing such representation,
8 including an assessment as to whether such sys-
9 tem includes the elements set forth in sub-
10 section (d); and

11 (C) a summary of the amounts actually
12 paid by governmental entities for such represen-
13 tation during the fiscal years covered by the re-
14 port.

15 (k) AUTHORIZATION OF APPROPRIATIONS.—To carry
16 out this section there are authorized to be appropriated—

17 (1) for fiscal year 2003, \$50,000,000;

18 (2) for fiscal year 2004, \$75,000,000;

19 (3) for fiscal year 2005, \$100,000,000;

20 (4) for fiscal year 2006, \$100,000,000;

21 (5) for fiscal year 2007, \$75,000,000; and

22 (6) for fiscal year 2008, \$50,000,000.

23 (l) SPECIAL AUTHORIZATION RULE.—In any fiscal
24 year in which the amount appropriated under this section
25 falls below the amount authorized, the Attorney General

1 shall expend such portion of the sum appropriated to carry
2 out the programs under parts D and E of title I of the
3 Omnibus Crime Control and Safe Streets Act of 1968 (re-
4 ferred to in this subsection as the “Byrne programs”), or
5 any successor programs, as is necessary to ensure that the
6 program authorized in this section is funded at the author-
7 ized amount, provided that in no event shall the portion
8 of the funding for the Byrne programs used for this pur-
9 pose exceed 10 percent of the sums appropriated for the
10 Byrne programs.

11 (m) CONFORMING CHANGE.—Section 506 of the Om-
12 nibus Crime Control and Safe Streets Act of 1968 (42
13 U.S.C. 3756) is amended by adding at the end the fol-
14 lowing:

15 “(g) RULE.—Funding under this section is subject
16 to the special authorization rule set forth at section
17 6201(l) of the Innocence Protection Act of 2003.”.

18 **SEC. 6202. ENFORCEMENT SUITS.**

19 (a) RIGHT OF ACTION.—A person, acting on his own
20 behalf and on behalf of the United States, may commence
21 a civil action in a United States district court against an
22 executive officer of a State that receives a grant under
23 section 6201, alleging that the officer fails to maintain an
24 effective system for providing competent legal representa-
25 tion in capital cases within the meaning of section 6201.

1 (b) LIMITATIONS.—

2 (1) IN GENERAL.—A suit may not be brought
3 under this section prior to the date that is 1 year
4 after the date on which the State receives a grant
5 under section 6201.

6 (2) REFILING SUIT.—A suit dismissed with
7 prejudice may not be refiled within 1 year of the
8 date on which the first suit was dismissed.

9 (c) CONSOLIDATION.—All suits pending at the same
10 time in 1 or more Federal districts against the executive
11 officers of a single State shall be consolidated.

12 (d) PROCEDURE.—

13 (1) SERVICE.—A person who files a civil action
14 authorized by subsection (a) shall serve a copy of the
15 complaint to the Attorney General of the United
16 States.

17 (2) INTERVENTION.—Not later than 90 days
18 after a filing under paragraph (1), the Attorney
19 General shall either intervene in the action or notify
20 both the person who filed the action and the Court
21 that the United States declines to intervene.

22 (3) UNITED STATES DECLINES.—If the United
23 States declines to intervene, the person who filed the
24 action shall be entitled to conduct the action.

1 (4) LATER INTERVENTION.—The United States
2 may intervene at a later time only with leave of
3 Court on a showing of good cause.

4 (5) EFFECT OF UNITED STATES INTERVEN-
5 TION.—If the United States intervenes—

6 (A) the Attorney General shall assume re-
7 sponsibility for conducting the action; and

8 (B) the person who filed the action shall be
9 entitled to continue as a party and to partici-
10 pate in all formal and informal pretrial, trial,
11 and appellate proceedings, including settlement
12 negotiations.

13 (e) RELIEF.—

14 (1) IN GENERAL.—If the court concludes that
15 the State system, for which the officer named as de-
16 fendant is responsible, is not effective within the
17 meaning of section 6201(d), or fails to meet any
18 other condition established by the Attorney General
19 under that section, the court shall order appropriate
20 declaratory or injunctive relief.

21 (2) COSTS; FEES.—The court shall also award
22 costs and fees, including attorney and expert witness
23 fees, to the person who commenced the action.

24 (f) STATUS OF GRANT.—

1 (1) IN GENERAL.—The pendency of a suit
2 under this section shall not result in suspension of
3 the grant under section 6201, except as a court may
4 order.

5 (2) ALTERNATIVE GRANT DISBURSEMENT.—If
6 the court finds that the State system, for which the
7 officer named as defendant is responsible, will not
8 become effective in a reasonable period of time, it
9 may order that the grant be disbursed pursuant to
10 section 6203.

11 **SEC. 6203. GRANTS TO QUALIFIED CAPITAL DEFENDER OR-**
12 **GANIZATIONS.**

13 (a) ALTERNATIVE GRANTS.—

14 (1) IN GENERAL.—If a State that authorizes
15 capital punishment does not seek or does not qualify
16 for a grant under section 6201, the Attorney Gen-
17 eral shall award a grant to 1 or more qualified cap-
18 ital defender organizations in that State in an
19 amount determined under subsection (d).

20 (2) LIMITATION.—A grant under this section
21 may not be made to an organization to provide serv-
22 ices in a State in the same fiscal year that State re-
23 ceives a grant under section 6201 except pursuant
24 to section 6202(f).

1 (b) QUALIFIED CAPITAL DEFENDER ORGANIZA-
2 TIONS.—A qualified capital defender organization eligible
3 to receive a grant under this section is a nonprofit organi-
4 zation or public defender organization comprised of attor-
5 neys who specialize or have substantial experience in pro-
6 viding legal services in the State to defendants in capital
7 cases.

8 (c) USES OF FUNDS.—Grants made under this sec-
9 tion may be used to—

10 (1) strengthen systems for providing competent
11 legal representation to—

12 (A) indigents charged with an offense sub-
13 ject to capital punishment;

14 (B) indigents who have been sentenced to
15 death and who seek appellate or collateral relief
16 in State court; and

17 (C) indigents who have been sentenced to
18 death and who seek review in the Supreme
19 Court of the United States;

20 (2) recruit and train attorneys to provide com-
21 petent legal representation in capital cases; and

22 (3) augment the organization's resources for
23 providing competent legal representation in capital
24 cases.

1 (d) FORMULA.—A grant under subsection (a) shall
2 not be more than the amount that results from calculating
3 X percent of the sum appropriated to carry out section
4 6201 pursuant to subsections (k) and (l) of that section,
5 and shall not be less than one-half that amount, where
6 X equals the general population of the State in which the
7 grantee will provide services divided by the aggregate gen-
8 eral population of all States that authorize the death pen-
9 alty.

10 (e) PROHIBITION.—Grants made under this section
11 may not be used to sponsor any political activities, except
12 that—

13 (1) a grantee may use grant funds to respond
14 to requests from a legislative entity regarding activi-
15 ties under the grant; and

16 (2) nothing in this section shall interfere with
17 an attorney's duty to represent a client consistent
18 with applicable ethical rules.

19 (f) CONSIDERATIONS.—

20 (1) IN GENERAL.—In selecting which qualified
21 capital defender organization or organizations pro-
22 viding services in a State shall be awarded a grant
23 under this section, the Attorney General shall con-
24 sider whether an organization—

1 (A) has been found to have filed large
2 numbers of frivolous claims in State capital
3 cases, with the effect of unreasonably delaying
4 or otherwise interfering with the State's admin-
5 istration of its capital sentencing scheme; or

6 (B) employs 1 or more attorneys who, dur-
7 ing the past 5 years—

8 (i) has been sanctioned by a bar asso-
9 ciation or court for ethical misconduct re-
10 lating to the attorney's conduct as defense
11 counsel in a felony case in Federal or State
12 court;

13 (ii) has been found, after a final de-
14 termination by a Federal or State court, to
15 have rendered constitutionally ineffective
16 assistance of counsel in a felony case in
17 Federal or State court; or

18 (iii) has asserted under oath or in
19 writing in relation to 3 or more felony
20 cases in Federal or State court that he or
21 she has rendered constitutionally ineffec-
22 tive assistance of counsel, regardless of
23 whether a court has found the attorney to
24 have rendered such ineffective assistance.

1 (2) NATURE OF THE ACT.—If a consideration
2 in paragraph (1)(B) pertains, the Attorney General
3 shall further consider the nature of the act or omis-
4 sion that led to the sanction, finding, or assertion.

5 (3) NOTICE.—If the Attorney General intends
6 to deny a grant to an organization based in whole
7 or in part on a consideration described in paragraph
8 (1), the Attorney General shall notify, in writing,
9 both the organization and the House and Senate
10 Committees on the Judiciary, describing with speci-
11 ficity the basis for such finding. No grant under this
12 section shall be denied until 30 days after such noti-
13 fication is provided.

14 (4) CONSULTATION.—In carrying out this sec-
15 tion, the Attorney General shall consult with the At-
16 torney General and appropriate judicial officials and
17 officials of the organized bar of the State in which
18 an organization provides services.

19 **SEC. 6204. GRANTS TO TRAIN PROSECUTORS, DEFENSE**
20 **COUNSEL, AND STATE AND LOCAL JUDGES**
21 **HANDLING STATE CAPITAL CASES.**

22 (a) COMPETENT COUNSEL GRANT PROGRAM.—The
23 State Justice Institute Act of 1984 (42 U.S.C. 10701 et
24 seq.) is amended by inserting after section 207 the fol-
25 lowing:

1 **“SEC. 207A. GRANTS TO TRAIN DEFENSE COUNSEL.**

2 “(a) GRANTS AUTHORIZED.—The Institute may
3 make grants to States and units of local government to
4 conduct training programs to improve the performance
5 and competency of defense counsel representing defend-
6 ants charged with capital offenses in State and local
7 courts.

8 “(b) ELIGIBILITY.—Grants authorized by this section
9 may only be made for the training of defense counsel in
10 a State that has capital punishment.

11 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated \$15,000,000 for fiscal
13 years 2003 through 2007 to carry out this section.

14 **“SEC. 207B. GRANTS TO TRAIN STATE AND LOCAL JUDGES.**

15 “(a) GRANTS AUTHORIZED.—The Institute may
16 make grants to State and local courts to conduct programs
17 to train trial judges in handling capital cases.

18 “(b) ELIGIBILITY.—Grants authorized by this section
19 may only be made to a State or local court in a State
20 that has capital punishment.

21 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated \$15,000,000 for fiscal
23 years 2003 through 2007 to carry out this section.”.

24 (b) GRANTS TO TRAIN PROSECUTORS.—

25 (1) GRANTS AUTHORIZED.—The Attorney Gen-
26 eral may make grants to States and units of local

1 government to conduct programs to train prosecu-
 2 tors in handling capital cases.

3 (2) ELIGIBILITY.—Grants authorized by this
 4 subsection may only be made to a State or unit of
 5 local government in a State that has capital punish-
 6 ment.

7 (3) AUTHORIZATION OF APPROPRIATIONS.—
 8 There are authorized to be appropriated
 9 \$15,000,000 for fiscal years 2003 through 2007 to
 10 carry out this subsection.

11 **Subtitle C—Right to Review of the**
 12 **Death Penalty upon the Grant**
 13 **of Certiorari**

14 **SEC. 6301. PROTECTING THE RIGHTS OF DEATH ROW IN-**
 15 **MATES TO REVIEW OF CASES GRANTED CER-**
 16 **TIORARI.**

17 Section 2101 of title 28, United States Code, is
 18 amended by adding at the end the following:

19 “(h) Upon notice that the requisite number of jus-
 20 tices of the Supreme Court have voted to grant certiorari,
 21 the Director of the Bureau of Prisons, the Secretary of
 22 a military branch, or any other Federal official with au-
 23 thority to carry out a death sentence, shall suspend the
 24 execution of the sentence of death until the Supreme

1 Court enters a stay of execution or until certiorari is acted
 2 upon and the case is disposed of by the Supreme Court.

3 “(i) For purposes of this section, the Supreme Court
 4 shall treat a motion for a stay of execution as a petition
 5 for certiorari.

6 “(j) In an appeal from, or petition for certiorari in,
 7 a case in which the sentence is death, a stay of execution
 8 shall immediately issue if the requisite number of justices
 9 vote to grant certiorari. The stay shall remain in effect
 10 until the Supreme Court disposes of the case.”.

11 **Subtitle D—Compensation for the** 12 **Wrongfully Convicted**

13 **SEC. 6401. INCREASED COMPENSATION IN FEDERAL CASES.**

14 Section 2513(e) of title 28, United States Code, is
 15 amended by striking “\$5,000” and inserting “\$10,000 for
 16 each 12-month period of incarceration”.

17 **SEC. 6402. SENSE OF CONGRESS REGARDING COMPENSA-** 18 **TION IN STATE DEATH PENALTY CASES.**

19 It is the sense of Congress that States should provide
 20 reasonable compensation to any person found to have been
 21 unjustly convicted of an offense against the State and sen-
 22 tenced to death.

1 **Subtitle E—Student Loan**
 2 **Repayment for Public Attorneys**

3 **SEC. 6501. STUDENT LOAN REPAYMENT FOR PUBLIC AT-**
 4 **TORNEYS.**

5 (a) IN GENERAL.—The Higher Education Act of
 6 1965 is amended by inserting after section 428K (20
 7 U.S.C. 1078–11) the following:

8 **“SEC. 428L. LOAN FORGIVENESS FOR PUBLIC ATTORNEYS.**

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

12 “(b) DEFINITIONS.—In this section:

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

16 “(A) is continually licensed to practice law;

17 and

18 “(B) prosecutes criminal cases at the State
 19 or local level.

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

22 “(A) is continually licensed to practice law;

23 and

24 “(B) is a full-time employee of a State or
 25 local agency, or of a nonprofit organization op-

1 erating under a contract with a State or unit of
2 local government, which provides legal represen-
3 tation services to indigent persons charged with
4 criminal offenses.

5 “(3) STUDENT LOAN.—The term ‘student loan’
6 means—

7 “(A) a loan made, insured, or guaranteed
8 under this part;

9 “(B) a loan made under part D or E; and

10 “(C) a health education assistance loan
11 made or ensured under part A of title VII of
12 the Public Health Service Act (42 U.S.C. 292
13 et seq.) or under part E of title VIII of such
14 Act (42 U.S.C. 297a et seq.).

15 “(c) PROGRAM AUTHORIZED.—For the purpose of
16 encouraging qualified individuals to enter and continue
17 employment as prosecutors and public defenders, the Sec-
18 retary shall carry out a program, through the holder of
19 a loan, of assuming the obligation to repay (by direct pay-
20 ments on behalf of a borrower) a qualified loan amount
21 for a loan made under section 428 or 428H, in accordance
22 with subsection (d), for any borrower who—

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

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

3 “(d) TERMS OF AGREEMENT.—

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

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

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

19 “(C) if the borrower is required to repay
20 an amount to the Secretary under subpara-
21 graph (B) and fails to repay the amount de-
22 scribed in subparagraph (B), a sum equal to
23 the amount is recoverable by the Government
24 from the employee (or such employee’s estate, if
25 applicable) by such method as is provided by

1 law for the recovery of amounts owing to the
2 Government;

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

8 “(E) the Secretary shall make student loan
9 payments under this section for the period of
10 the agreement, subject to the availability of ap-
11 propriations.

12 “(2) REPAYMENTS.—Any amount repaid by, or
13 recovered from, an individual (or an estate) under
14 this subsection shall be credited to the appropriation
15 account from which the amount involved was origi-
16 nally paid. Any amount so credited shall be merged
17 with other sums in such account and shall be avail-
18 able for the same purposes and period, and subject
19 to the same limitations (if any), as the sums with
20 which the amount was merged.

21 “(3) LIMITATIONS.—

22 “(A) STUDENT LOAN PAYMENT
23 AMOUNT.—Student loan payments made by the
24 Secretary under this section shall be made sub-
25 ject to such terms, limitations, or conditions as

1 may be mutually agreed to by the borrower con-
2 cerned and the Secretary in the agreement de-
3 scribed in this subsection, except that the
4 amount paid by the Secretary under this section
5 may not exceed—

6 “(i) \$6,000 for any borrower in any
7 calendar year; or

8 “(ii) a total of \$40,000 in the case of
9 any borrower.

10 “(B) BEGINNING OF PAYMENTS.—Nothing
11 in this section shall be construed to authorize
12 the Secretary to pay any amount to reimburse
13 a borrower for any repayments made by such
14 borrower prior to the date on which the Sec-
15 retary entered into an agreement with the em-
16 ployee under this subsection.

17 “(e) ADDITIONAL AGREEMENTS.—On completion of
18 the required period of service under such an agreement,
19 the borrower concerned and the Secretary may enter into
20 an additional agreement described in subsection (d) for
21 a successive period of service specified in the agreement
22 (which may be less than 3 years).

23 “(f) AWARD BASIS; PRIORITY.—

24 “(1) AWARD BASIS.—The Secretary shall pro-
25 vide repayment benefits under this section on a first-

1 come, first-served basis (subject to paragraph (2))
2 and subject to the availability of appropriations.

3 “(2) PRIORITY.—The Secretary shall give pri-
4 ority in providing repayment benefits under this sec-
5 tion for a fiscal year to a borrower who—

6 “(A) received repayment benefits under
7 this section for the preceding fiscal year; and

8 “(B) has completed less than 3 years of
9 the first required period of service specified for
10 the borrower in an agreement entered into
11 under subsection (d).

12 “(g) REGULATIONS.—The Secretary is authorized to
13 issue such regulations as may be necessary to carry out
14 the provisions of this section.

15 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated such sums as may be
17 necessary to carry out this section for each fiscal year.”.

18 (b) CANCELLATION OF LOANS.—

19 (1) AMENDMENT.—Section 465(a)(2)(F) of the
20 Higher Education Act of 1965 (20 U.S.C.
21 1087ee(a)(2)(F)) is amended by inserting “, or as a
22 public defender (as defined in section 428L)” after
23 “agencies”.

24 (2) EFFECTIVE DATE.—The amendment made
25 by this subsection shall apply to—

1 (A) eligible loans made before, on, or after
2 the date of enactment of this Act; and

3 (B) service as a public defender that is
4 provided on or after the date of enactment of
5 this Act.

6 (3) CONSTRUCTION.—Nothing in this sub-
7 section or the amendment made by this subsection
8 shall be construed to authorize the Secretary to pay
9 any amount to reimburse a borrower for any repay-
10 ments made by such borrower prior to the date on
11 which the borrower became eligible for cancellation
12 under section 465(a) of the Higher Education Act of
13 1965 (20 U.S.C. 1087ee(a)).

14 **TITLE VII—STRENGTHENING**
15 **THE FEDERAL CRIMINAL LAWS**
16 **Subtitle A—Anti-Atrocity Alien**
17 **Deportation Act**

18 **SEC. 7101. SHORT TITLE.**

19 This subtitle may be cited as the “Anti-Atrocity Alien
20 Deportation Act of 2003”.

1 **SEC. 7102. INADMISSIBILITY AND DEPORTABILITY OF**
2 **ALIENS WHO HAVE COMMITTED ACTS OF**
3 **TORTURE OR EXTRAJUDICIAL KILLINGS**
4 **ABROAD.**

5 (a) INADMISSIBILITY.—Section 212(a)(3)(E) of the
6 Immigration and Nationality Act (8 U.S.C.
7 1182(a)(3)(E)) is amended—

8 (1) in clause (ii), by striking “has engaged in
9 conduct that is defined as genocide for purposes of
10 the International Convention on the Prevention and
11 Punishment of Genocide is inadmissible” and insert-
12 ing “ordered, incited, assisted, or otherwise partici-
13 pated in conduct outside the United States that
14 would, if committed in the United States or by a
15 United States national, be genocide, as defined in
16 section 1091(a) of title 18, United States Code, is
17 inadmissible”;

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

19 “(iii) COMMISSION OF ACTS OF TOR-
20 TURE OR EXTRAJUDICIAL KILLINGS.—Any
21 alien who, outside the United States, has
22 committed, ordered, incited, assisted, or
23 otherwise participated in the commission
24 of—

1 “(I) any act of torture, as de-
2 fined in section 2340 of title 18,
3 United States Code; or

4 “(II) under color of law of any
5 foreign nation, any extrajudicial kill-
6 ing, as defined in section 3(a) of the
7 Torture Victim Protection Act of
8 1991;

9 is inadmissible.”; and

10 (3) in the subparagraph heading, by striking
11 “PARTICIPANTS IN NAZI PERSECUTION OR GENO-
12 CIDE” and inserting “PARTICIPANTS IN NAZI PERSE-
13 CUTION, GENOCIDE, OR THE COMMISSION OF ANY
14 ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

15 (b) DEPORTABILITY.—Section 237(a)(4)(D) of the
16 Immigration and Nationality Act (8 U.S.C.
17 1227(a)(4)(D)) is amended—

18 (1) by striking “clause (i) or (ii)” and inserting
19 “clause (i), (ii), or (iii)”; and

20 (2) in the subparagraph heading, by striking
21 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN
22 GENOCIDE” and inserting “ASSISTED IN NAZI PER-
23 SECUTION, PARTICIPATED IN GENOCIDE, OR COM-
24 MITTED ANY ACT OF TORTURE OR EXTRAJUDICIAL
25 KILLING”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to offenses committed before, on,
3 or after the date of the enactment of this Act.

4 **SEC. 7103. INADMISSIBILITY AND DEPORTABILITY OF FOR-**
5 **IGN GOVERNMENT OFFICIALS WHO HAVE**
6 **COMMITTED PARTICULARLY SEVERE VIOLA-**
7 **TIONS OF RELIGIOUS FREEDOM.**

8 (a) GROUND OF INADMISSIBILITY.—Section
9 212(a)(2)(G) of the Immigration and Nationality Act (8
10 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

11 “(G) FOREIGN GOVERNMENT OFFICIALS
12 WHO HAVE COMMITTED PARTICULARLY SEVERE
13 VIOLATIONS OF RELIGIOUS FREEDOM.—Any
14 alien who, while serving as a foreign govern-
15 ment official, was responsible for or directly
16 carried out, at any time, particularly severe vio-
17 lations of religious freedom, as defined in sec-
18 tion 3 of the International Religious Freedom
19 Act of 1998, are inadmissible.”.

20 (b) GROUND OF DEPORTABILITY.—Section 237(a)(4)
21 of the Immigration and Nationality Act (8 U.S.C.
22 1227(a)(4)) is amended by adding at the end the fol-
23 lowing:

24 “(E) PARTICIPATED IN THE COMMISSION
25 OF SEVERE VIOLATIONS OF RELIGIOUS FREE-

1 DOM.—Any alien described in section
2 212(a)(2)(G) is deportable.”.

3 **SEC. 7104. BAR TO GOOD MORAL CHARACTER FOR ALIENS**
4 **WHO HAVE COMMITTED ACTS OF TORTURE,**
5 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**
6 **LATIONS OF RELIGIOUS FREEDOM.**

7 Section 101(f) of the Immigration and Nationality
8 Act (8 U.S.C. 1101(f)) is amended—

9 (1) by striking the period at the end of para-
10 graph (8) and inserting “; and”; and

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

12 “(9) one who at any time has engaged in con-
13 duct described in section 212(a)(3)(E) (relating to
14 assistance in Nazi persecution, participation in geno-
15 cide, or commission of acts of torture or
16 extrajudicial killings) or 212(a)(2)(G) (relating to
17 severe violations of religious freedom).”.

18 **SEC. 7105. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**
19 **VESTIGATIONS.**

20 (a) AMENDMENT OF THE IMMIGRATION AND NA-
21 TIONALITY ACT.—Section 103 of the Immigration and
22 Nationality Act (8 U.S.C. 1103) is amended by adding
23 at the end the following:

24 “(h) OFFICE OF SPECIAL INVESTIGATORS.—

1 “(1) ESTABLISHMENT.—The Attorney General
2 shall establish within the Criminal Division of the
3 Department of Justice an Office of Special Inves-
4 tigation with the authority to detect and inves-
5 tigate, and, where appropriate, to take legal action
6 to denaturalize any alien described in section
7 212(a)(3)(E).

8 “(2) DELEGATION OF AUTHORITY.—The Attor-
9 ney General may delegate to any office or other com-
10 ponent within the Department of Justice, all or part
11 of the responsibility for determinations of inadmis-
12 sibility of aliens described in section 212(a)(3)(E),
13 determinations of deportability under section
14 237(a)(4)(D), or the removal, prosecution, or extra-
15 dition of such aliens.

16 “(3) FACTORS TO DETERMINE APPROPRIATE
17 LEGAL ACTION.—In determining the appropriate
18 legal action to take against an alien described in sec-
19 tion 212(a)(3)(E), consideration shall be given to—

20 “(A) the availability of prosecution under
21 the laws of the United States for any conduct
22 that may form the basis for removal and
23 denaturalization; or

1 “(B) the removal of the alien to a foreign
2 jurisdiction that is prepared to undertake a
3 prosecution for such conduct.”.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—

5 (1) IN GENERAL.—There are authorized to be
6 appropriated to the Department of Justice such
7 sums as may be necessary to carry out the addi-
8 tional duties established under section 103(h) of the
9 Immigration and Nationality Act (as added by this
10 Act) in order to ensure that the Office of Special In-
11 vestigations fulfills its continuing obligations regard-
12 ing Nazi war criminals.

13 (2) AVAILABILITY OF FUNDS.—Amounts appro-
14 priated pursuant to paragraph (1) shall remain
15 available until expended.

16 **SEC. 7106. REPORT ON IMPLEMENTATION.**

17 Not later than 180 days after the date of enactment
18 of this Act, the Attorney General, in consultation with the
19 Commissioner of Immigration and Naturalization, shall
20 submit to the Committees on the Judiciary of the Senate
21 and the House of Representatives a report on implementa-
22 tion of this subtitle that includes a description of—

23 (1) the procedures used to refer matters to the
24 Office of Special Investigations and other compo-
25 nents within the Department of Justice in a manner

1 consistent with the amendments made by this sub-
2 title;

3 (2) the revisions, if any, made to immigration
4 forms to reflect changes in the Immigration and Na-
5 tionality Act made by the amendments contained in
6 this subtitle; and

7 (3) the procedures developed, with adequate due
8 process protection, to obtain sufficient evidence to
9 determine whether an alien may be inadmissible
10 under the terms of the amendments made by this
11 subtitle.

12 **Subtitle B—Deterring Cargo Theft**

13 **SEC. 7201. PUNISHMENT OF CARGO THEFT.**

14 (a) IN GENERAL.—Section 659 of title 18, United
15 States Code, is amended—

16 (1) by striking “with intent to convert to his
17 own use” each place that term appears;

18 (2) in the first undesignated paragraph—

19 (A) by inserting “trailer,” after
20 “motortruck,”;

21 (B) by inserting “air cargo container,”
22 after “aircraft,”; and

23 (C) by inserting “, or from any intermodal
24 container, trailer, container freight station,

1 warehouse, or freight consolidation facility,”
2 after “air navigation facility”;

3 (3) in the fifth undesignated paragraph, by
4 striking “one year” and inserting “3 years”;

5 (4) in the penultimate undesignated paragraph,
6 by inserting after the first sentence the following:
7 “For purposes of this section, goods and chattel
8 shall be construed to be moving as an interstate or
9 foreign shipment at all points between the point of
10 origin and the final destination (as evidenced by the
11 waybill or other shipping document of the shipment),
12 regardless of any temporary stop while awaiting
13 transshipment or otherwise.”; and

14 (5) by adding at the end the following:

15 “It shall be an affirmative defense (on which the de-
16 fendant bears the burden of persuasion by a preponder-
17 ance of the evidence) to an offense under this section that
18 the defendant bought, received, or possessed the goods,
19 chattels, money, or baggage at issue with the sole intent
20 to report the matter to an appropriate law enforcement
21 officer or to the owner of the goods, chattels, money, or
22 baggage.”.

23 (b) FEDERAL SENTENCING GUIDELINES.—Pursuant
24 to section 994 of title 28, United States Code, the United
25 States Sentencing Commission shall review the Federal

1 sentencing guidelines under section 659 of title 18, United
2 States Code, as amended by this section and, upon com-
3 pletion of the review, promulgate amendments to the Fed-
4 eral Sentencing Guidelines to provide appropriate en-
5 hancement of the applicable guidelines.

6 **SEC. 7202. REPORTS TO CONGRESS ON CARGO THEFT.**

7 The Attorney General shall annually submit to Con-
8 gress a report, which shall include an evaluation of law
9 enforcement activities relating to the investigation and
10 prosecution of offenses under section 659 of title 18,
11 United States Code, as amended by this subtitle.

12 **SEC. 7203. ESTABLISHMENT OF ADVISORY COMMITTEE ON**
13 **CARGO THEFT.**

14 (a) ESTABLISHMENT.—

15 (1) IN GENERAL.—There is established a Com-
16 mittee to be known as the Advisory Committee on
17 Cargo Theft (in this section referred to as the
18 “Committee”).

19 (2) MEMBERSHIP.—

20 (A) COMPOSITION.—The Committee shall
21 be composed of 6 members, who shall be ap-
22 pointed by the President, of whom—

23 (i) 1 shall be an officer or employee of
24 the Department of Justice;

1 (ii) 1 shall be an officer or employee
2 of the Department of Transportation;

3 (iii) 1 shall be an officer or employee
4 of the Department of the Treasury; and

5 (iv) 3 shall be individuals from the
6 private sector who are experts in cargo se-
7 curity.

8 (B) DATE.—The appointments of the ini-
9 tial members of the Committee shall be made
10 not later than 30 days after the date of enact-
11 ment of this Act.

12 (3) PERIOD OF APPOINTMENT; VACANCIES.—
13 Each member of the Committee shall be appointed
14 for the life of the Committee. Any vacancy in the
15 Committee shall not affect its powers, but shall be
16 filled in the same manner as the original appoint-
17 ment.

18 (4) INITIAL MEETING.—Not later than 15 days
19 after the date on which all initial members of the
20 Committee have been appointed, the Committee shall
21 hold its first meeting.

22 (5) MEETINGS.—The Committee shall meet,
23 not less frequently than quarterly, at the call of the
24 Chairperson.

1 (6) QUORUM.—A majority of the members of
2 the Committee shall constitute a quorum, but a less-
3 er number of members may hold hearings.

4 (7) CHAIRPERSON.—The President shall select
5 1 member of the Committee to serve as the Chair-
6 person of the Committee.

7 (b) DUTIES.—

8 (1) STUDY.—The Committee shall conduct a
9 thorough study of, and develop recommendations
10 with respect to, all matters relating to—

11 (A) the establishment of a national com-
12 puter database for the collection and dissemina-
13 tion of information relating to violations of sec-
14 tion 659 of title 18, United States Code (as
15 amended by section 7201(a)); and

16 (B) the establishment of an office within
17 the Federal Government to promote cargo secu-
18 rity and to increase coordination between the
19 Federal Government and the private sector with
20 respect to cargo security.

21 (2) REPORT.—Not later than 1 year after the
22 date of enactment of this Act, the Committee shall
23 submit to the President and to Congress a report,
24 which shall contain a detailed statement of results of

1 the study and the recommendations of the Com-
2 mittee under paragraph (1).

3 (c) POWERS.—

4 (1) HEARINGS.—The Committee may hold such
5 hearings, sit and act at such times and places, take
6 such testimony, and receive such evidence as the
7 Committee considers advisable to carry out the pur-
8 poses of this section.

9 (2) INFORMATION FROM FEDERAL AGENCIES.—

10 The Committee may secure directly from any Fed-
11 eral department or agency such information as the
12 Committee considers necessary to carry out the pro-
13 visions of this section. Upon request of the Chair-
14 person of the Committee, the head of such depart-
15 ment or agency shall furnish such information to the
16 Committee.

17 (3) POSTAL SERVICES.—The Committee may
18 use the United States mails in the same manner and
19 under the same conditions as other departments and
20 agencies of the Federal Government.

21 (4) GIFTS.—The Committee may accept, use,
22 and dispose of gifts or donations of services or prop-
23 erty.

24 (d) PERSONNEL MATTERS.—

25 (1) COMPENSATION OF MEMBERS.—

1 (A) NON-FEDERAL MEMBERS.—Each
2 member of the Committee who is not an officer
3 or employee of the Federal Government shall be
4 compensated at a rate equal to the daily equiva-
5 lent of the annual rate of basic pay prescribed
6 for level IV of the Executive Schedule under
7 section 5315 of title 5, United States Code, for
8 each day (including travel time) during which
9 such member is engaged in the performance of
10 the duties of the Committee.

11 (B) FEDERAL MEMBERS.—Each member
12 of the Committee who is an officer or employee
13 of the United States shall serve without com-
14 pensation in addition to that received for their
15 service as an officer or employee of the United
16 States.

17 (2) TRAVEL EXPENSES.—The members of the
18 Committee shall be allowed travel expenses, includ-
19 ing per diem in lieu of subsistence, at rates author-
20 ized for employees of agencies under subchapter I of
21 chapter 57 of title 5, United States Code, while
22 away from their homes or regular places of business
23 in the performance of services for the Committee.

24 (3) STAFF.—

1 (A) IN GENERAL.—The Chairperson of the
2 Committee may, without regard to the civil
3 service laws and regulations, appoint and termi-
4 nate an executive director and such other addi-
5 tional personnel as may be necessary to enable
6 the Committee to perform its duties. The em-
7 ployment of an executive director shall be sub-
8 ject to confirmation by the Committee.

9 (B) COMPENSATION.—The Chairperson of
10 the Committee may fix the compensation of the
11 executive director and other personnel without
12 regard to the provisions of chapter 51 and sub-
13 chapter III of chapter 53 of title 5, United
14 States Code, relating to classification of posi-
15 tions and General Schedule pay rates, except
16 that the rate of pay for the executive director
17 and other personnel may not exceed the rate
18 payable for level V of the Executive Schedule
19 under section 5316 of such title.

20 (4) DETAIL OF GOVERNMENT EMPLOYEES.—
21 Any Federal Government employee may be detailed
22 to the Committee without reimbursement, and such
23 detail shall be without interruption or loss of civil
24 service status or privilege.

1 amended by inserting “, or attempts so to appro-
2 priate, embezzle, spend, or transfer,” before “any
3 property”.

4 (2) PUBLIC MONEY.—Section 641 of title 18,
5 United States Code, is amended by striking “or” at
6 the end of the first paragraph and by inserting after
7 such paragraph the following:

8 “Whoever attempts to commit an offense described in the
9 preceding paragraph; or”.

10 (3) THEFT BY BANK EXAMINER.—Section 655
11 of title 18, United States Code, is amended by in-
12 scribing “or attempts to steal or so take,” after “un-
13 lawfully takes,”.

14 (4) THEFT, EMBEZZLEMENT, OR
15 MISAPPLICATION BY BANK OFFICER OR EM-
16 PLOYEE.—Sections 656 and 657 of title 18, United
17 States Code, are each amended—

18 (A) by inserting “, or attempts to embez-
19 zle, abstract, purloin, or willfully misapply,”
20 after “willfully misapplies”; and

21 (B) by inserting “or attempted to be em-
22 bezzled, abstracted, purloined, or misapplied”
23 after “misapplied”.

24 (5) PROPERTY MORTGAGED OR PLEDGED TO
25 FARM CREDIT AGENCIES.—Section 658 of title 18,

1 United States Code, is amended by inserting “or at-
2 tempts so to remove, dispose of, or convert,” before
3 “any property”.

4 (6) INTERSTATE OR FOREIGN SHIPMENTS.—
5 Section 659 of title 18, United States Code, is
6 amended—

7 (A) in the first and third paragraphs, by
8 inserting “or attempts to embezzle, steal, or so
9 take or carry away,” after “carries away,”; and

10 (B) in the fourth paragraph by inserting
11 “or attempts to embezzle, steal, or so take,” be-
12 fore “from any railroad car”.

13 (7) WITHIN SPECIAL MARITIME AND TERRI-
14 TORIAL JURISDICTION.—Section 661 of title 18,
15 United States Code, is amended—

16 (A) by inserting “or attempts so to take
17 and carry away,” before “any personal prop-
18 erty”; and

19 (B) by inserting “or attempted to be
20 taken” after “taken” each place it appears.

21 (8) THEFT OR EMBEZZLEMENT FROM EM-
22 PLOYEE BENEFIT PLANS.—Section 664 of title 18,
23 United States Code, is amended by inserting “or at-
24 tempts to embezzle, steal, or so abstract or convert,”
25 before “any of the moneys”.

1 (9) THEFT OR EMBEZZLEMENT FROM EMPLOY-
2 MENT AND TRAINING FUNDS.—Section 665(a) of
3 title 18, United States Code, is amended—

4 (A) by inserting “, or attempts to embez-
5 zle, so misapply, steal, or obtain by fraud,” be-
6 fore “any of the moneys”; and

7 (B) by inserting “or attempted to be em-
8 bezzled, misapplied, stolen, or obtained by
9 fraud” after “obtained by fraud”.

10 (10) THEFT OR BRIBERY CONCERNING PRO-
11 GRAMS RECEIVING FEDERAL FUNDS.—Section
12 666(a)(1)(A) of title 18, United States Code, is
13 amended by inserting “or attempts to embezzle,
14 steal, obtain by fraud, or so convert or misapply,”
15 before “property”.

16 (11) FALSE PRETENSES ON HIGH SEAS.—Sec-
17 tion 1025 of title 18, United States Code, is amend-
18 ed—

19 (A) by inserting “or attempts to obtain”
20 after “obtains”; and

21 (B) by inserting “or attempted to be ob-
22 tained” after “obtained”.

23 (12) EMBEZZLEMENT AND THEFT FROM IN-
24 DIAN TRIBAL ORGANIZATIONS.—Section 1163 of title
25 18, United States Code, is amended by inserting

1 “attempts so to embezzle, steal, convert, or mis-
2 apply,” after “willfully misapplies,”.

3 (13) THEFT FROM GROUP ESTABLISHMENTS ON
4 INDIAN LANDS.—Section 1167 (a) and (b) of title
5 18, United States Code, are each amended by insert-
6 ing “or attempts so to abstract, purloin, misapply,
7 or take and carry away,” before “any money”.

8 (14) THEFT BY OFFICERS AND EMPLOYEES OF
9 GAMING ESTABLISHMENTS ON INDIAN LANDS.—Sec-
10 tion 1168 (a) and (b) of title 18, United States
11 Code, are each amended by inserting “or attempts
12 so to embezzle, abstract, purloin, misapply, or take
13 and carry away,” before “any moneys,”.

14 (15) THEFT OF PROPERTY USED BY THE POST-
15 AL SERVICE.—Section 1707 of title 18, United
16 States Code, is amended by inserting “, or attempts
17 to steal, purloin, or embezzle,” before “any prop-
18 erty” and by inserting “or attempts to appropriate”
19 after “appropriates”.

20 (16) THEFT IN RECEIPT OF STOLEN MAIL MAT-
21 TER.—Section 1708 of title 18, United States Code,
22 is amended in the second paragraph by inserting “or
23 attempts to steal, take, or abstract,” after “ab-
24 stracts,” and by inserting “, or attempts so to ob-
25 tain,” after “obtains”.

1 (17) THEFT OF MAIL MATTER BY OFFICER OR
2 EMPLOYEE.—Section 1709 of title 18, United States
3 Code, is amended—

4 (A) by inserting “or attempts to embezzle”
5 after “embezzles”; and

6 (B) by inserting “, or attempts to steal,
7 abstract, or remove,” after “removes”.

8 (18) MISAPPROPRIATION OF POSTAL FUNDS.—
9 Section 1711 of title 18, United States Code, is
10 amended by inserting “or attempts to loan, use,
11 pledge, hypothecate, or convert to his own use,”
12 after “use”.

13 (19) BANK ROBBERY AND INCIDENTAL
14 CRIMES.—Section 2113(b) of title 18, United States
15 Code, is amended by inserting “or attempts so to
16 take and carry away,” before “any property” each
17 place it appears.

18 (b) SECURITIES CRIMES.—

19 (1) POSSESSION OF TOOLS.—Section 477 of
20 title 18, United States Code, is amended by insert-
21 ing “, or attempts so to sell, give, or deliver,” before
22 “any such imprint”.

23 (2) UTTERING COUNTERFEIT FOREIGN OBLIGA-
24 TIONS OR SECURITIES.—Section 479 of title 18,

1 United States Code, is amended by inserting “or at-
2 tempts to utter or pass,” after “passes,”.

3 (3) MINOR COINS.—Section 490 of title 18,
4 United States Code, is amended by inserting “at-
5 tempts to pass, utter, or sell,” before “or possesses”.

6 (4) SECURITIES OF STATES AND PRIVATE ENTI-
7 TIES.—Section 513(a) of title 18, United States
8 Code, is amended by inserting “or attempts to
9 utter,” after “utters”.

10 **SEC. 7205. CLARIFICATION OF SCIENTER REQUIREMENT**
11 **FOR RECEIVING PROPERTY STOLEN FROM**
12 **AN INDIAN TRIBAL ORGANIZATION.**

13 Section 1163 of title 18, United States Code, is
14 amended in the second paragraph by striking “so”.

15 **SEC. 7206. LARCENY INVOLVING POST OFFICE BOXES AND**
16 **POSTAL STAMP VENDING MACHINES.**

17 Section 2115 of title 18, United States Code, is
18 amended—

19 (1) by striking “or” before “any building”;

20 (2) by inserting “or any post office box or post-
21 al stamp vending machine for the sale of stamps
22 owned by the Postal Service,” after “used in whole
23 or in part as a post office,”; and

24 (3) by inserting “or in such box or machine,”
25 after “so used”.

1 **SEC. 7207. EXPANSION OF FEDERAL THEFT OFFENSES TO**
2 **COVER THEFT OF VESSELS.**

3 (a) VESSEL DEFINED.—Section 2311 of title 18,
4 United States Code, is amended by adding at the end the
5 following:

6 “‘Vessel’ means any watercraft or other contrivance
7 used or designed for transportation or navigation on,
8 under, or immediately above, water.”.

9 (b) TRANSPORTATION OF STOLEN VEHICLES; SALE
10 OR RECEIPT OF STOLEN VEHICLES.—Sections 2312 and
11 2313 of title 18, United States Code, are each amended
12 by striking “motor vehicle or aircraft” and inserting
13 “motor vehicle, vessel, or aircraft”.

14 **Subtitle C—Additional Improve-**
15 **ments and Corrections to the**
16 **Federal Criminal Laws**

17 **SEC. 7301. ENHANCED PENALTIES FOR CULTURAL HERIT-**
18 **AGE CRIMES.**

19 (a) ENHANCED PENALTY FOR ARCHAEOLOGICAL RE-
20 SOURCES.—Section 6(d) of the Archaeological Resources
21 Protection Act of 1979 (16 U.S.C. 470ee(d)) is amended
22 by striking “not more than 10,000” and all that follows
23 through the end of the subsection and inserting “in ac-
24 cordance with title 18, United States Code, or imprisoned
25 not more than ten years or both; but if the sum of the
26 commercial and archaeological value of the archaeological

1 resources involved and the cost of restoration and repair
2 of such resources does not exceed \$500, such person shall
3 be fined in accordance with title 18, United States Code,
4 or imprisoned not more than one year, or both.”.

5 (b) ENHANCED PENALTY FOR EMBEZZLEMENT AND
6 THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section
7 1163 of title 18, United States Code, is amended by strik-
8 ing “five years” and inserting “10 years”.

9 (c) ENHANCED PENALTY FOR ILLEGAL TRAF-
10 FICKING IN NATIVE AMERICAN HUMAN REMAINS AND
11 CULTURAL ITEMS.—Section 1170 of title 18, United
12 States Code, is amended—

13 (1) in subsection (a), by striking “or impris-
14 oned not more than 12 months, or both, and in the
15 case of second or subsequent violation, be fined in
16 accordance with this title, or imprisoned not more
17 than 5 years” and inserting “imprisoned not more
18 than 10 years”; and

19 (2) in subsection (b), by striking “imprisoned
20 not more than one year” and all that follows
21 through the end of the subsection and inserting “im-
22 prisoned not more than 10 years, or both; but if the
23 sum of the commercial and archaeological value of
24 the cultural items involved and the cost of restora-
25 tion and repair of such items does not exceed \$500,

1 such person shall be fined in accordance with this
2 title, imprisoned not more than 1 year, or both.”.

3 **SEC. 7302. ENHANCED ENFORCEMENT OF LAWS AFFECTING**
4 **RACKETEER-INFLUENCED AND CORRUPT OR-**
5 **GANIZATIONS.**

6 Section 1964 of title 18, United States Code, is
7 amended—

8 (1) in subsection (b), by inserting after “The
9 Attorney General” the following: “, the Attorney
10 General of any State, or the Securities and Ex-
11 change Commission”; and

12 (2) in subsection (d), by inserting before the pe-
13 riod the following: “or any State”.

14 **SEC. 7303. INCREASED MAXIMUM CORPORATE PENALTY**
15 **FOR ANTITRUST VIOLATIONS.**

16 (a) RESTRAINT OF TRADE AMONG THE STATES.—
17 Section 1 of the Sherman Act (15 U.S.C. 1) is amended
18 by striking “\$10,000,000” and inserting “\$100,000,000”.

19 (b) MONOPOLIZING TRADE.—Section 2 of the Sher-
20 man Act (15 U.S.C. 2) is amended by striking
21 “\$10,000,000” and inserting “\$100,000,000”.

22 (c) OTHER RESTRAINTS.—Section 3(a) of the Sher-
23 man Act (15 U.S.C. 3(a)) is amended by striking
24 “\$10,000,000” and inserting “\$100,000,000”.

1 **SEC. 7304. TECHNICAL CORRECTION TO ENSURE COMPLI-**
 2 **ANCE OF SENTENCING GUIDELINES WITH**
 3 **PROVISIONS OF ALL FEDERAL STATUTES.**

4 Section 994(a) of title 28, United States Code, is
 5 amended by striking “consistent with all pertinent provi-
 6 sions of this title and title 18, United States Code,” and
 7 inserting “consistent with all pertinent provisions of any
 8 Federal statute”.

9 **SEC. 7305. INCLUSION OF ASSAULT CRIMES AND UNLI-**
 10 **CENSED MONEY TRANSMITTING BUSINESSES**
 11 **AS RACKETEERING ACTIVITY.**

12 Section 1961(1) of title 18, United States Code, is
 13 amended—

14 (1) in subparagraph (A), by inserting “assault
 15 with a dangerous weapon, assault resulting in seri-
 16 ous bodily injury,” after “extortion,”; and

17 (2) in subparagraph (B), by inserting “section
 18 1960 (relating to unlicensed money transmitting
 19 businesses),” after “murder-for-hire,”.

20 **SEC. 7306. INCLUSION OF UNLICENSED MONEY TRANSMIT-**
 21 **TING BUSINESSES AND STRUCTURING CUR-**
 22 **RENCY TRANSACTIONS TO EVADE REPORT-**
 23 **ING REQUIREMENT AS WIRETAP PREDI-**
 24 **CATES.**

25 Section 2516(1) of title 18, United States Code, is
 26 amended—

1 (1) in paragraph (c), by inserting “section 1960
2 (relating to unlicensed money transmitting busi-
3 nesses),” after “specified unlawful activity,”; and

4 (2) in paragraph (g), by inserting “or 5324”
5 after “section 5322”.

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