

107TH CONGRESS
2^D SESSION

S. 2619

To provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2002

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

A BILL

To provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Prison Rape Reduction Act of 2002”.

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

Sec. 1. Short title; table of contents.

- Sec. 2. National prison rape statistics, data, and research.
 Sec. 3. Prison rape prevention and prosecution.
 Sec. 4. Prison rape prevention and prosecution grants.
 Sec. 5. National Prison Rape Reduction Commission.
 Sec. 6. Adoption and effect of national standards.
 Sec. 7. Model standards for acute post-trauma treatment.
 Sec. 8. Requirement that accreditation organizations adopt accreditation standards.
 Sec. 9. Attorney General designation of grant programs for funding reduction.
 Sec. 10. Definitions.

1 **SEC. 2. NATIONAL PRISON RAPE STATISTICS, DATA, AND**
 2 **RESEARCH.**

3 (a) ANNUAL COMPREHENSIVE STATISTICAL RE-
 4 VIEW.—

5 (1) IN GENERAL.—The Bureau of Justice Sta-
 6 tistics of the Department of Justice (in this section
 7 referred to as the “Bureau”) shall carry out, for
 8 each calendar year, a comprehensive statistical re-
 9 view and analysis of the incidence and effects of
 10 prison rape. The statistical review and analysis shall
 11 include, but not be limited to the identification of
 12 the common characteristics of—

13 (A) inmates who have been involved with
 14 prison rape, both victims and perpetrators; and

15 (B) prisons and prison systems with a high
 16 incidence of prison rape.

17 (2) SAMPLING TECHNIQUES.—The analysis
 18 under paragraph (1) shall be based on a random
 19 sample, or other scientifically appropriate sample, of
 20 not less than 10 percent of all Federal, State, and

1 county prisons, and a representative sample of mu-
2 nicipal prisons. The selection of facilities for sam-
3 pling shall be made at the latest practicable date
4 prior to conducting the surveys and shall not be dis-
5 closed to any facility or prison system official prior
6 to the time period studied in the survey. Selection of
7 a facility for sampling during any year shall not pre-
8 clude its selection for sampling in any subsequent
9 year.

10 (3) SURVEYS.—In carrying out the review re-
11 quired by this subsection, the Bureau shall, in addi-
12 tion to such other methods as the Bureau considers
13 appropriate, use surveys and other statistical studies
14 of current and former inmates from a sample of
15 Federal, State, county, and municipal prisons. The
16 Bureau shall ensure the confidentiality of each sur-
17 vey participant.

18 (b) REVIEW PANEL ON PRISON RAPE.—

19 (1) ESTABLISHMENT.—To assist the Bureau in
20 carrying out the review and analysis under sub-
21 section (a), there is established, within the Bureau,
22 the Review Panel on Prison Rape (in this section re-
23 ferred to as the “Panel”).

24 (2) MEMBERSHIP.—

1 (A) COMPOSITION.—The Panel shall be
2 composed of 3 members, each of whom shall be
3 appointed by the Attorney General, in consulta-
4 tion with the Secretary of Health and Human
5 Services.

6 (B) QUALIFICATIONS.—Members of the
7 Panel shall be selected from among individuals
8 with knowledge or expertise in matters to be
9 studied by the Panel.

10 (3) PUBLIC HEARINGS.—

11 (A) IN GENERAL.—The duty of the Panel
12 shall be to carry out, for each calendar year,
13 public hearings concerning the operation of
14 each entity identified in a report under clause
15 (ii) or (iii) of subsection (c)(2)(B). The purpose
16 of these hearings shall be to collect evidence to
17 aid in the identification of common characteris-
18 tics of inmates who have been involved in prison
19 rape, both victims and perpetrators, and the
20 identification of common characteristics of pris-
21 ons and prison systems with a high incidence of
22 prison rape.

23 (B) TESTIMONY AT HEARINGS.—

24 (i) PUBLIC OFFICIALS.—In carrying
25 out the hearings required under subpara-

1 graph (A), the Panel shall request the pub-
2 lic testimony of Federal, State, and local
3 officials (and organizations that represent
4 such officials), including the warden or di-
5 rector of each prison and the head of the
6 prison system encompassing such prison,
7 who bear responsibility for the prevention,
8 detection, and punishment of prison rape
9 at each entity.

10 (ii) VICTIMS.—The Panel may request
11 the testimony of prison rape victims, orga-
12 nizations representing such victims, and
13 other appropriate individuals and organiza-
14 tions.

15 (C) FAILURE TO TESTIFY.—If, after re-
16 ceiving a request by the Panel under subpara-
17 graph (B)(i), a State or local official declines to
18 testify at a reasonably designated time, the
19 Federal funds provided to the entity rep-
20 resented by that official pursuant to the grant
21 programs designated by the Attorney General
22 under section 9 shall be reduced by 20 percent
23 and reallocated to other entities. This reduction
24 shall be in addition to any other reduction pro-
25 vided under this Act.

1 (c) REPORTS.—

2 (1) IN GENERAL.—Not later than March 30 of
3 each year, the Bureau shall submit a report on the
4 activities of the Bureau (including the Review
5 Panel), with respect to prison rape, for the pre-
6 ceding calendar year to—

7 (A) Congress;

8 (B) the Attorney General; and

9 (C) the Secretary of Health and Human
10 Services.

11 (2) CONTENTS.—The report required under
12 paragraph (1) shall include—

13 (A) with respect to the effects of prison
14 rape, statistical, sociological, and psychological
15 data; and

16 (B) with respect to the incidence of prison
17 rape—

18 (i) statistical data aggregated at the
19 Federal, State, prison system, and prison
20 levels;

21 (ii) an identification of the Federal
22 Government, if applicable, and each State
23 and local government (and each prison sys-
24 tem and institution in the representative
25 sample) where the incidence of prison rape

1 exceeds the national median level by not
2 less than 30 percent; and

3 (iii) an identification of jail and police
4 lockup systems in the representative sam-
5 ple where the incidence of prison rape is
6 significantly avoidable.

7 (3) DATA ADJUSTMENTS.—In preparing the in-
8 formation specified in paragraph (2), the Bureau
9 shall, not later than the second year in which sur-
10 veys are conducted under this Act, use established
11 statistical methods to adjust the data as necessary
12 to account for exogenous factors, outside of the con-
13 trol of the State, prison system, or prison, which
14 have demonstrably contributed to the incidence of
15 prison rape. For each such adjustment made, the
16 Bureau shall identify and explain such adjustment
17 in the report.

18 (d) CONTRACTS AND GRANTS.—In carrying out its
19 duties under this section, the Bureau may—

20 (1) contract with the National Research Council
21 of the National Academy of Sciences; and

22 (2) provide grants for research through the Na-
23 tional Science Foundation or the National Institute
24 of Justice.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated \$15,000,000 for each
3 fiscal year to carry out the purposes of this section, which
4 shall remain available until expended.

5 **SEC. 3. PRISON RAPE PREVENTION AND PROSECUTION.**

6 (a) COMPLAINT COLLECTION AND REVIEW.—

7 (1) IN GENERAL.—The Attorney General shall
8 carry out a program to—

9 (A) collect complaints of prison rape from
10 inmates;

11 (B) transmit those complaints to the ap-
12 propriate Federal, State, or local authorities;
13 and

14 (C) provide for periodic reviews of the re-
15 sponse of Federal, State, and local authorities
16 to such complaints.

17 (2) CONFIDENTIALITY.—The Attorney General
18 shall ensure the confidentiality of each complainant.

19 (b) INFORMATION AND ASSISTANCE.—

20 (1) NATIONAL CLEARINGHOUSE.—The Attorney
21 General shall establish a national clearinghouse for
22 the provision of information and assistance to Fed-
23 eral, State, and local authorities responsible for the
24 prevention, investigation, and punishment of in-
25 stances of prison rape.

1 (2) TRAINING AND EDUCATION.—The Attorney
2 General shall conduct periodic training and edu-
3 cation programs for Federal, State, and local au-
4 thorities responsible for the prevention, investiga-
5 tion, and punishment of instances of prison rape.

6 (c) REPORTS.—

7 (1) IN GENERAL.—Not later than February 15
8 of each year, the Attorney General shall submit a re-
9 port to Congress and the Secretary of Health and
10 Human Services. This report shall be available to
11 the Director of the Bureau of Justice Statistics.

12 (2) CONTENTS.—The report required under
13 paragraph (1) shall summarize—

14 (A) the activities of the Department of
15 Justice regarding prison rape abatement and
16 prosecution for the preceding calendar year;

17 (B) the complaints collected by the Depart-
18 ment of Justice; and

19 (C) the actions taken by the Department
20 of Justice with respect to the complaints sum-
21 marized under subparagraph (B).

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated \$5,000,000 for each fis-
24 cal year to carry out the purposes of this section, which
25 shall remain available until expended.

1 **SEC. 4. PRISON RAPE PREVENTION AND PROSECUTION**

2 **GRANTS.**

3 (a) **ENHANCED RESPONSE TO PRISON RAPE**
4 **GRANTS.—**

5 (1) **GRANTS AUTHORIZED.—**The Attorney Gen-
6 eral shall make 1-year grants to States, units of
7 local government, prisons, and prison systems.

8 (2) **USE OF FUNDS.—**Grants awarded under
9 paragraph (1) shall only be used to—

10 (A) undertake more effective efforts to pre-
11 vent prison rape;

12 (B) investigate such incidents; and

13 (C) punish the perpetrators.

14 (3) **MATCHING REQUIREMENT.—**The Federal fi-
15 nancial assistance provided under this subsection
16 may not exceed 50 percent of the total costs of the
17 program being funded.

18 (4) **MAXIMUM AMOUNT.—**The Attorney General
19 shall not award a grant under this subsection in an
20 amount which exceeds \$1,000,000.

21 (5) **APPLICATIONS.—**

22 (A) **IN GENERAL.—**To request a grant
23 under this subsection, the chief executive of a
24 State or unit of local government shall submit
25 an application to the Attorney General at such
26 time, in such manner, and accompanied by such

1 information as the Attorney General may re-
2 quire.

3 (B) CONTENTS.—Each application re-
4 quired by subparagraph (A) shall—

5 (i) include the certification of the
6 chief executive that the State receiving
7 such grant (or the State encompassing the
8 unit of local government receiving such
9 grant) has adopted all national prison rape
10 standards that have been promulgated
11 under this Act; and

12 (ii) specify with particularity the addi-
13 tional preventative, prosecutorial, or ad-
14 ministrative actions to be taken by the
15 State or unit of local government to pre-
16 vent prison rape and to respond to inci-
17 dents of prison rape that occur.

18 (6) REPORT BY GRANTEE.—

19 (A) IN GENERAL.—The Attorney General
20 shall require each grantee to submit, not later
21 than December 31 of the year following the re-
22 ceipt of a grant under this section—

23 (i) a report on the activities carried
24 out with grant amounts during the pre-
25 ceding Federal fiscal year; and

1 (ii) an evaluation of the impact of
2 such activities on the incidence of prison
3 rape and the grantee's response to such in-
4 cidents.

5 (B) DISSEMINATION.—The Attorney Gen-
6 eral shall provide a copy of each report sub-
7 mitted under subparagraph (A) to the National
8 Prison Rape Reduction Commission until such
9 Commission is terminated.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated \$40,000,000 for each
12 fiscal year to fund the grants authorized under subsection
13 (a), which shall remain available until expended.

14 **SEC. 5. NATIONAL PRISON RAPE REDUCTION COMMISSION.**

15 (a) ESTABLISHMENT.—There is established a com-
16 mission to be known as the National Prison Rape Reduc-
17 tion Commission (in this section referred to as the “Com-
18 mission”).

19 (b) MEMBERS.—

20 (1) IN GENERAL.—The Commission shall be
21 composed of 9 members, of whom—

22 (A) 3 shall be appointed by the President;

23 (B) 2 shall be appointed by the Speaker of
24 the House of Representatives, unless the Speak-
25 er is of the same party as the President, in

1 which case 1 shall be appointed by the Speaker
2 of the House of Representatives and 1 shall be
3 appointed by the minority leader of the House
4 of Representatives;

5 (C) 1 shall be appointed by the minority
6 leader of the House of Representatives (in addi-
7 tion to any appointment made under subpara-
8 graph (B));

9 (D) 2 shall be appointed by the majority
10 leader of the Senate, unless the majority leader
11 is of the same party as the President, in which
12 case 1 shall be appointed by the majority leader
13 of the Senate and 1 shall be appointed by the
14 minority leader of the Senate; and

15 (E) 1 member appointed by the minority
16 leader of the Senate (in addition to any ap-
17 pointment made under subparagraph (D)).

18 (2) PERSONS ELIGIBLE.—Each member of the
19 Commission shall be an individual who has knowl-
20 edge or expertise in matters to be studied by the
21 Commission.

22 (3) CONSULTATION REQUIRED.—The President,
23 the Speaker and minority leader of the House of
24 Representatives, and the majority leader and minor-
25 ity leader of the Senate shall consult with one an-

1 other prior to the appointment of the members of
2 the Commission to achieve, to the maximum extent
3 possible, fair and equitable representation of various
4 points of view with respect to the matters to be
5 studied by the Commission.

6 (4) TERM.—Each member shall be appointed
7 for the life of the Commission.

8 (5) TIME FOR INITIAL APPOINTMENTS.—The
9 appointment of the members shall be completed not
10 later than 60 days after the date of enactment of
11 this Act.

12 (6) VACANCIES.—A vacancy in the Commission
13 shall be filled in the manner in which the original
14 appointment was made, and shall be completed not
15 later than 60 days after the date on which the va-
16 cancy occurred.

17 (c) OPERATION.—

18 (1) CHAIRPERSON.—

19 (A) APPOINTMENT.—Not later than 15
20 days after the initial appointment of the mem-
21 bers is completed, the President, the Speaker of
22 the House of Representatives, and the majority
23 leader of the Senate shall jointly appoint a
24 chairperson for the Commission from among
25 the members of the Commission.

1 (B) MAJORITY VOTE.—If the designation
2 of a chairperson does not occur by the date
3 specified in subparagraph (A), the chairperson
4 shall be appointed by the majority vote of the
5 President, the Speaker and minority leader of
6 the House of Representatives, and the majority
7 leader and minority leader of the Senate.

8 (2) MEETINGS.—The Commission shall meet at
9 the call of the chairperson. The initial meeting of the
10 Commission shall take place not later than 30 days
11 after the initial appointment of the members is com-
12 pleted.

13 (3) QUORUM.—A majority of the members of
14 the Commission shall constitute a quorum to con-
15 duct business, but the Commission may establish a
16 lesser quorum for conducting hearings scheduled by
17 the Commission.

18 (4) RULES.—Each member of the Commission
19 shall have 1 vote. The Commission may establish by
20 majority vote any other rules for the conduct of
21 Commission business, if such rules are not incon-
22 sistent with this Act or other applicable law.

23 (d) COMPREHENSIVE STUDY OF THE IMPACTS OF
24 PRISON RAPE.—

1 (1) IN GENERAL.—The Commission shall carry
2 out a comprehensive legal and factual study of the
3 penalogical, physical, mental, medical, social, and
4 economic impacts of prison rape in the United
5 States on—

6 (A) Federal, State, and local governments;
7 and

8 (B) communities and social institutions
9 generally, including individuals, families, and
10 businesses within such communities and social
11 institutions.

12 (2) MATTERS INCLUDED.—The study under
13 paragraph (1) shall include—

14 (A) a review of existing Federal, State,
15 and local government policies and practices with
16 respect to the prevention, detection, and punish-
17 ment of prison rape;

18 (B) an assessment of the relationship be-
19 tween prison rape and prison conditions, and of
20 existing monitoring, regulatory, and enforce-
21 ment practices that are intended to address any
22 such relationship;

23 (C) an assessment of pathological or social
24 causes of prison rape;

1 (D) an assessment of the extent to which
2 the incidence of prison rape contributes to the
3 spread of sexually transmitted diseases and to
4 the transmission of HIV;

5 (E) an assessment of the characteristics of
6 inmates most likely to commit prison rape and
7 the effectiveness of various types of treatment
8 or programs to reduce such likelihood;

9 (F) an assessment of the characteristics of
10 inmates most likely to be victims of prison rape
11 and the effectiveness of various types of treat-
12 ment or programs to reduce such likelihood;

13 (G) an assessment of the impacts of prison
14 rape on individuals, families, social institutions
15 and the economy generally, including an assess-
16 ment of the extent to which the incidence of
17 prison rape contributes to recidivism and to in-
18 creased incidence of sexual assault;

19 (H) an examination of the feasibility and
20 cost of conducting surveillance, undercover ac-
21 tivities, or both, to reduce the incidence of pris-
22 on rape;

23 (I) an assessment of the safety and secu-
24 rity of prison facilities and the relationship of

1 prison facility construction and design to the in-
2 cidence of prison rape;

3 (J) an assessment of the feasibility and
4 cost of any particular proposals for prison re-
5 form;

6 (K) an identification of the need for addi-
7 tional scientific and social science research on
8 the prevalence of prison rape in Federal, State,
9 and local prisons;

10 (L) an assessment of the general relation-
11 ship between prison rape and prison violence;
12 and

13 (M) an assessment of the relationship be-
14 tween prison rape and levels of training, super-
15 vision, and discipline of prison staff.

16 (3) REPORT.—

17 (A) DISTRIBUTION.—Not later than 24
18 months after the date of the initial meeting of
19 the Commission, the Commission shall submit a
20 report on the study carried out under this sub-
21 section to—

22 (i) the President;

23 (ii) the Committees on the Judiciary
24 of the Senate and the House of Represent-
25 atives;

- 1 (iii) the Attorney General;
- 2 (iv) the Secretary of Health and
- 3 Human Services;
- 4 (v) the Director of the Federal Bu-
- 5 reau of Prisons; and
- 6 (vi) the chief executive of each State.

7 (B) CONTENTS.—The report under sub-

8 paragraph (A) shall include—

- 9 (i) the findings and conclusions of the
- 10 Commission;
- 11 (ii) recommended national standards
- 12 for reducing prison rape;
- 13 (iii) recommended protocols for pre-
- 14 serving evidence and treating victims of
- 15 prison rape; and
- 16 (iv) a summary of the materials relied
- 17 on by the Commission in the preparation
- 18 of the report.

19 (e) RECOMMENDATIONS.—

20 (1) IN GENERAL.—In conjunction with the re-

21 port submitted under subsection (d)(3), the Commis-

22 sion shall provide the Attorney General and the Sec-

23 retary of Health and Human Services with rec-

24 ommended national standards for enhancing the de-

1 tection, prevention, reduction, and punishment of
2 prison rape.

3 (2) MATTERS INCLUDED.—The information
4 provided under paragraph (1) shall include rec-
5 ommended national standards relating to—

6 (A) the classification and assignment of
7 prisoners, using proven standardized instru-
8 ments and protocols, in a manner that limits
9 the occurrence of prison rape;

10 (B) the investigation and resolution of rape
11 complaints by responsible prison authorities,
12 local and State police, and Federal and State
13 prosecution authorities;

14 (C) the preservation of physical and testi-
15 monial evidence for use in an investigation of
16 the circumstances relating to the rape;

17 (D) acute-term trauma care for rape vic-
18 tims, including standards relating to—

19 (i) the manner and extent of physical
20 examination and treatment to be provided
21 to any rape victim; and

22 (ii) the manner and extent of any psy-
23 chological examination, psychiatric care,
24 medication, and mental health counseling
25 to be provided to any rape victim;

1 (E) referrals for long-term continuity of
2 care for rape victims;

3 (F) educational and medical testing meas-
4 ures for reducing the incidence of HIV trans-
5 mission due to prison rape;

6 (G) post-rape prophylactic medical meas-
7 ures for reducing the incidence of transmission
8 of sexual diseases due to prison rape;

9 (H) the training of correctional staff suffi-
10 cient to ensure that they understand and appre-
11 ciate the significance of prison rape and the ne-
12 cessity of its eradication;

13 (I) the timely and comprehensive investiga-
14 tion of staff sexual misconduct involving rape or
15 other sexual assault on inmates;

16 (J) ensuring the confidentiality of prison
17 rape complaints and protecting inmates who
18 make complaints of prison rape;

19 (K) data collection and reporting of—

20 (i) prison rape;

21 (ii) prison staff sexual misconduct;

22 and

23 (iii) the resolution of prison rape com-
24 plaints by prison officials and Federal,

1 State, and local investigation and prosecu-
2 tion authorities; and

3 (L) such other matters as may reasonably
4 be related to the detection, prevention, reduc-
5 tion, and punishment of prison rape.

6 (3) LIMITATION.—The Commission shall not
7 propose a recommended standard that would impose
8 substantial additional costs compared to the costs
9 presently expended by Federal, State, and local pris-
10 on authorities.

11 (f) HEARINGS.—

12 (1) IN GENERAL.—The Commission shall hold
13 public hearings. The Commission may hold such
14 hearings, sit and act at such times and places, ad-
15 minister such oaths, take such testimony, and re-
16 ceive such evidence as the Commission considers ad-
17 visable to carry out its duties under this section.

18 (2) WITNESS EXPENSES.—Witnesses requested
19 to appear before the Commission shall be paid the
20 same fees as are paid to witnesses under section
21 1821 of title 28, United State Code. The per diem
22 and mileage allowances for witnesses shall be paid
23 from funds appropriated to the Commission.

24 (g) INFORMATION FROM FEDERAL OR STATE AGEN-
25 CIES.—The Commission may secure directly from any

1 Federal department or agency such information as the
2 Commission considers necessary to carry out its duties
3 under this section. The Commission may request the head
4 of any State or local department or agency to furnish such
5 information to the Commission.

6 (h) PERSONNEL MATTERS.—

7 (1) TRAVEL EXPENSES.—The members of the
8 Commission shall be allowed travel expenses, includ-
9 ing per diem in lieu of subsistence, at rates author-
10 ized for employees of agencies under subchapter I of
11 chapter 57 of title 5, United States Code, while
12 away from their homes or regular places of business
13 in the performance of service for the Commission.

14 (2) DETAIL OF FEDERAL EMPLOYEES.—With
15 the affirmative vote of $\frac{2}{3}$ of the Commission, any
16 Federal Government employee, with the approval of
17 the head of the appropriate Federal agency, may be
18 detailed to the Commission without reimbursement,
19 and such detail shall be without interruption or loss
20 of civil service status, benefits, or privileges.

21 (3) PROCUREMENT OF TEMPORARY AND INTER-
22 MITTENT SERVICES.—Upon the request of the Com-
23 mission, the Attorney General shall provide reason-
24 able and appropriate office space, supplies, and ad-
25 ministrative assistance.

1 (i) CONTRACTS FOR RESEARCH.—

2 (1) NATIONAL RESEARCH COUNCIL.—With a $\frac{2}{3}$
3 affirmative vote, the Commission may select non-
4 governmental researchers and experts to assist the
5 Commission in carrying out its duties under this
6 Act. The National Research Council of the National
7 Academy of Sciences shall contract with the re-
8 searchers and experts selected by the Commission to
9 provide funding in exchange for their services.

10 (2) OTHER ORGANIZATIONS.—Nothing in this
11 subsection shall be construed to limit the ability of
12 the Commission to enter into contracts with other
13 entities or organizations for research necessary to
14 carry out the duties of the Commission under this
15 section.

16 (j) SUBPOENAS.—

17 (1) ISSUANCE.—The Commission may issue
18 subpoenas for the attendance of witnesses and the
19 production of written or other matter.

20 (2) ENFORCEMENT.—In the case of contumacy
21 or refusal to obey a subpoena, the Attorney General
22 may in a Federal court of appropriate jurisdiction
23 obtain an appropriate order to enforce the subpoena.

24 (3) CONFIDENTIALITY OF DOCUMENTARY EVI-
25 DENCE.—Documents provided to the Commission

1 pursuant to a subpoena issued under this subsection
2 shall not be released publicly without the affirmative
3 vote of $\frac{2}{3}$ of the Commission.

4 (k) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the National Acad-
6 emy of Sciences such sums as may be necessary to carry
7 out the purposes of this section. Any sums appropriated
8 shall remain available, without fiscal year limitation, until
9 expended.

10 (l) TERMINATION.—The Commission shall terminate
11 on the date that is 60 days after the date on which the
12 Commission submits the reports required by this section.

13 (m) EXEMPTION.—The Commission shall be exempt
14 from the Federal Advisory Committee Act.

15 **SEC. 6. ADOPTION AND EFFECT OF NATIONAL STANDARDS.**

16 (a) PUBLICATION OF PROPOSED STANDARDS.—

17 (1) IN GENERAL.—Not later than 180 days
18 after receiving the report required under section
19 5(d)(3) from the National Prison Rape Reduction
20 Commission, the Attorney General shall publish a
21 notice of proposed rulemaking for the adoption of
22 national standards for the detection, prevention, re-
23 duction, and punishment of prison rape.

24 (2) INDEPENDENT JUDGMENT.—The standards
25 referred to in paragraph (1) shall be based upon the

1 independent judgment of the Attorney General, after
2 giving due consideration to the recommended na-
3 tional standards provided by the Commission under
4 section 5(e), and being informed by such data, opin-
5 ions, and proposals that the Attorney General deter-
6 mines to be appropriate to consider.

7 (3) LIMITATION.—The Attorney General shall
8 not establish a national standard under this section
9 that would impose substantial additional costs com-
10 pared to the costs presently expended by Federal,
11 State, and local prison authorities.

12 (4) FINAL RULE.—Not later than 1 year after
13 receiving the report specified in paragraph (1), the
14 Attorney General shall publish a final rule adopting
15 national standards for the detection, prevention, re-
16 duction, and punishment of prison rape.

17 (5) TRANSMISSION TO STATES.—Upon pub-
18 lishing the final rule under paragraph (4), the Attor-
19 ney General shall transmit the national standards
20 adopted under such paragraph to the chief executive
21 of each State.

22 (b) APPLICABILITY TO FEDERAL BUREAU OF PRIS-
23 ONS.—The national standards referred to in subsection
24 (a) shall apply to the Federal Bureau of Prisons imme-

1 diately upon adoption of the final rule under subsection
2 (a)(2).

3 (c) FUNDING REDUCTION.—

4 (1) STATE ADOPTION OF NATIONAL STAND-
5 ARDS.—The Attorney General shall reduce by 20
6 percent a State’s allocation of the Federal grant
7 funding designated under section 9 (and reallocate
8 such funding to other States) unless the State en-
9 acts a statute that expressly—

10 (A) adopts the national standards received
11 by the State under subsection (a)(5), as appli-
12 cable to that State; or

13 (B) declines to adopt such national stand-
14 ards, as applicable to that State.

15 (2) EFFECTIVE DATE.—The funding reduction
16 under paragraph (1) shall not occur until 1 year
17 after the transmission of the national standards
18 under subsection (a)(5), or the date of the expiration
19 of the first regular legislative session of the State
20 beginning after the date of such transmission,
21 whichever occurs later.

22 **SEC. 7. MODEL STANDARDS FOR ACUTE POST-TRAUMA**
23 **TREATMENT.**

24 (a) REVIEW OF MODEL PROGRAMS AND PROTO-
25 COLS.—Not later than 1 year after the date of enactment

1 of this Act, the Secretary of Health and Human Services,
2 in consultation with the Attorney General, shall complete
3 a review of model programs and protocols for the response
4 to and treatment of acute trauma for male and female
5 rape victims within prisons and jails.

6 (b) MODEL STANDARDS.—

7 (1) IN GENERAL.—Upon completion of the re-
8 view required by subsection (a), the Secretary shall
9 establish model standards relating to—

10 (A) the preservation of physical and testi-
11 monial evidence for use in an investigation of
12 the circumstances relating to the rape;

13 (B) the manner and extent of physical ex-
14 amination and treatment to be provided to any
15 rape victim;

16 (C) the manner and extent of any psycho-
17 logical examination, psychiatric care (including,
18 if appropriate, medication), and mental health
19 counseling to be provided to any rape victim;

20 (D) the preservation of the confidentiality
21 of information relating to prison rape victims;
22 and

23 (E) the production and dissemination with-
24 in a prison system of model response protocols

1 and programs for the treatment of, investiga-
2 tion of, and response to prison rape.

3 (2) LIMITATION.—The Secretary shall not es-
4 tablish a model standard that would impose substan-
5 tial additional costs compared to the costs presently
6 expended by Federal, State, and local prison au-
7 thorities.

8 (c) SUMMARY.—

9 (1) IN GENERAL.—Upon completion of the re-
10 view required by subsection (a) and the establish-
11 ment of model standards required by subsection (b),
12 the Secretary shall submit a summary of the results
13 of the review and the model standards to the Na-
14 tional Prison Rape Reduction Commission.

15 (2) CONTENTS.—The summary shall include,
16 for each model standard, the estimated costs for im-
17 plementation of such standard and the basis for
18 such estimates.

19 **SEC. 8. REQUIREMENT THAT ACCREDITATION ORGANIZA-**
20 **TIONS ADOPT ACCREDITATION STANDARDS.**

21 (a) ELIGIBILITY FOR FEDERAL GRANTS.—Notwith-
22 standing any other provision of law, an organization re-
23 sponsible for the accreditation of Federal, State, local, or
24 private prisons, jails, or other penal facilities may not ben-
25 efit from any Federal grants during any period in which

1 such organization fails to meet any of the requirements
2 of subsection (b).

3 (b) REQUIREMENTS.—To be eligible to receive Fed-
4 eral grants, an accreditation organization referred to in
5 subsection (a) must meet the following requirements:

6 (1) At all times after 90 days after the date of
7 enactment of this Act, the organization shall have in
8 effect, for each facility that it is responsible for ac-
9 crediting, accreditation standards for the detection,
10 prevention, reduction, and punishment of prison
11 rape.

12 (2) At all times after 1 year after the date of
13 the adoption of the final rule under section 6(a)(4),
14 the organization shall, in addition to any other such
15 standards that it may promulgate relevant to the de-
16 tection, prevention, reduction, and punishment of
17 prison rape, adopt accreditation standards consistent
18 with the national standards adopted pursuant to
19 such final rule.

20 **SEC. 9. ATTORNEY GENERAL DESIGNATION OF GRANT PRO-**
21 **GRAMS FOR FUNDING REDUCTION.**

22 (a) IN GENERAL.—Not later than 120 days after the
23 date of enactment of this Act, and each year thereafter,
24 the Attorney General shall designate an existing grant

1 program or programs to which the funding reductions
2 specified in this Act shall apply.

3 (b) CRITERIA.—The grant program or programs des-
4 ignated under subsection (a) shall be the existing grant
5 programs—

6 (1) that, in the judgment of the Attorney Gen-
7 eral, are most compromised by failure to adopt poli-
8 cies that reduce the incidence of prison rape; and

9 (2) for which aggregate annual Federal appro-
10 priations exceed \$1,000,000,000.

11 **SEC. 10. DEFINITIONS.**

12 In this Act, the following definitions shall apply:

13 (1) CARNAL KNOWLEDGE.—The term “carnal
14 knowledge” means contact between the penis and
15 the vulva or the penis and the anus, including pene-
16 tration of any sort, however slight.

17 (2) INMATE.—The term “inmate” means any
18 person incarcerated or detained in any facility who
19 is accused of, convicted of, sentenced for, or adju-
20 dicated delinquent for, violations of criminal law or
21 the terms and conditions of parole, probation, pre-
22 trial release, or diversionary program.

23 (3) JAIL.—The term “jail” means a confine-
24 ment facility of a Federal, State, or local law en-
25 forcement agency to hold—

1 (A) persons pending adjudication of crimi-
2 nal charges; or

3 (B) persons committed to confinement
4 after adjudication of criminal charges for sen-
5 tences of 1 year or less.

6 (4) HIV.—The term “HIV” means the human
7 immunodeficiency virus.

8 (5) ORAL SODOMY.—The term “oral sodomy”
9 means contact between the mouth and the penis, the
10 mouth and the vulva, or the mouth and the anus.

11 (6) POLICE LOCKUP.—The term “police lock-
12 up” means a temporary holding facility of a Federal,
13 State, or local law enforcement agency to hold—

14 (A) inmates pending bail or transport to
15 jail;

16 (B) inebriates until ready for release; or

17 (C) juveniles pending parental custody or
18 shelter placement.

19 (7) PRISON.—The term “prison” means any
20 confinement facility of a Federal, State, or local gov-
21 ernment, whether administered by such government
22 or by a private organization on behalf of such gov-
23 ernment, and includes—

24 (A) any local jail or police lockup; and

1 (B) any juvenile facility used for the cus-
2 tody or care of juvenile inmates.

3 (8) PRISON RAPE.—The term “prison rape” in-
4 cludes the rape of an inmate in the actual or con-
5 structive control of prison officials.

6 (9) RAPE.—The term “rape” means—

7 (A) the carnal knowledge, oral sodomy,
8 sexual assault with an object, or sexual fondling
9 of a person, forcibly or against that person’s
10 will;

11 (B) the carnal knowledge, oral sodomy,
12 sexual assault with an object, or sexual fondling
13 of a person not forcibly or against the person’s
14 will, where the victim is incapable of giving con-
15 sent because of his or her youth or his or her
16 temporary or permanent mental or physical in-
17 capacity; or

18 (C) the carnal knowledge, oral sodomy,
19 sexual assault with an object, or sexual fondling
20 of a person achieved through the exploitation of
21 the fear or threat of physical violence or bodily
22 injury.

23 (10) SEXUAL ASSAULT WITH AN OBJECT.—The
24 term “sexual assault with an object” means the use
25 of any hand, finger, object, or other instrument to

1 penetrate, however slightly, the genital or anal open-
2 ing of the body of another person.

3 (11) SEXUAL FONDLING.—The term “sexual
4 fondling” means the touching of the private body
5 parts of another person (including the genitalia,
6 anus, groin, breast, inner thigh, or buttocks) for the
7 purpose of sexual gratification.

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