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

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A BILL

To enhance domestic security and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) SHORT TITLE.—This Act may be cited as the "Justice Enhancement and Domestic Security Act of 2003".

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

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Subtitle A—Supporting First Responders

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the ''First Responders Partnership Grant Act of 2003''.

SEC. 1102. PURPOSE.

The purpose of this subtitle is to support first responders to protect homeland security and prevent and respond to acts of terrorism.

SEC. 1103. FIRST RESPONDERS PARTNERSHIP GRANT PROGRAM FOR PUBLIC SAFETY OFFICERS.

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

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

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

(2) used to fund equipment, training and facilities to support public safety officers in their efforts

to protect homeland security and prevent and respond to acts of terrorism.

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

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

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

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

SEC. 1104. APPLICATIONS.

(a) IN GENERAL.—To request a grant under this subtitle, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing such information as the Director may reasonably require.

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

SEC. 1105. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''public safety officer'' means any person serving a public agency with or without compensation as a law enforcement officer, as a firefighter, or as a member of a rescue squad or ambulance crew;

(2) the term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

(3) the term ''unit of local government'' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level;

(4) the term ''Indian tribe'' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

(5) the term ''law enforcement officer'' means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.

SEC. 1106. AUTHORIZATION OF APPROPRIATIONS.

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

Subtitle B—Border Security

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the ''Safe Borders Act of 2003''.

SEC. 1202. AUTHORIZATION OF APPROPRIATIONS FOR HIRING ADDITIONAL INS PERSONNEL.

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

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

number of investigators and associated support staff in the Immigration and Naturalization Service authorized by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56) and the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including such sums as may be necessary to provide facilities, attorney personnel and support staff, and other resources needed to support the increased number of inspectors, investigative staff, and associated support staff.

SEC. 1203. AUTHORIZATION OF APPROPRIATIONS FOR IMPROVEMENTS IN TECHNOLOGY FOR IMPROVING BORDER SECURITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated $250,000,000 to the Immigration and Naturalization Service for purposes of—

(1) making improvements in technology (including infrastructure support, computer security, and information technology development) for improving border security;

(2) expanding, utilizing, and improving technology to improve border security; and

(3) facilitating the flow of commerce and persons at ports of entry, including improving and expanding programs for preenrollment and preclearance.

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

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

SEC. 1204. REPORT ON BORDER SECURITY IMPROVEMENTS.

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

Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56) and sections 101 and 102 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173). The report shall also include the Attorney General's analysis of what additional personnel and other resources, if any, are needed to improve the security of our borders, particularly the United States-Canada border.

Subtitle C—Military Tribunals Authorization

SEC. 1301. SHORT TITLE.

This subtitle may be cited as the ''Military Tribunal Authorization Act of 2003''.

SEC. 1302. FINDINGS.

Congress makes the following findings:

(1) The al Qaeda terrorist organization and its leaders have committed unlawful attacks against the United States, including the August 7, 1998 bombings of the United States embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, the October 12, 2000 attack on the USS COLE and the September 11, 2001 attacks on the United States.

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

United States and have threatened the use of weapons of mass destruction.

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

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

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

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

(7) Congress authorized the President on September 18, 2001, to use all necessary and appropriate force against those nations, organizations, or persons that he determines to have planned, authorized, committed, or aided the September 11 terrorist

attacks or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States, within the meaning of section 5(b) of the War Powers Resolution.

(8) The United States and its allies are engaged in armed conflict with al Qaeda and the Taliban.

(9) Military trials of the terrorists may be appropriate to protect the safety of the public and those involved in the investigation and prosecution, to facilitate the use of classified information as evidence without compromising intelligence or military efforts, and otherwise to protect national security interests.

(10) Military trials that provide basic procedural guarantees of fairness, consistent with the international law of armed conflict and the International Covenant on Civil and Political Rights (opened for signature December 16, 1966), would garner the support of the community of nations.

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

against the Law of Nations; . . . make Rules concerning Captures on Land and Water; . . . make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.''.

(12) Congressional authorization is necessary for the establishment of extraordinary tribunals to adjudicate and punish offenses arising from the September 11, 2001 attacks against the United States and to provide a clear and unambiguous legal foundation for such trials.

SEC. 1303. ESTABLISHMENT OF EXTRAORDINARY TRIBUNALS.

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

(1) are not United States persons;

(2) are members of al Qaeda or members of other terrorist organizations knowingly cooperating with members of al Qaeda in planning, authorizing, committing, or aiding in the September 11, 2001 attacks against the United States, or, although not members of any such organization, knowingly aided

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

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

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

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

(c) AUTHORITY TO ESTABLISH PROCEDURAL RULES.—The Secretary of Defense, in consultation with the Secretary of State and the Attorney General, shall prescribe and publish in the Federal Register, and report to the Committees on the Judiciary of the Senate and the House of Representatives, the rules of evidence and procedure that are to apply to tribunals established under subsection (a).

SEC. 1304. PROCEDURAL REQUIREMENTS.

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

(1) That the tribunal be independent and impartial.

(2) That the accused be notified of the particulars of the offense charged or alleged without delay.

(3) That the proceedings be made simultaneously intelligible for participants not conversant in the English language by including translation or interpretation.

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

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

(6) That the accused have a right to be represented by counsel.

(7) That the accused have the opportunity—

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

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

(C) to present exculpatory evidence.

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

(9) That the proceeding and disposition be expeditious.

(10) That the tribunal apply reasonable rules of evidence designed to ensure admission only of reliable information or material with probative value.

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

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

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

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

(15) That the accused—

(A) be presumed innocent until proven guilty, and

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

(16) That the accused not be compelled to confess guilt or testify against himself.

(17) That, subject to subsections (c) and (d), the trial be open and public and include public availability of the transcripts of the trial and the pronouncement of judgment.

(18) That a convicted person be informed of remedies and appeals and the time limits for the exercise of the person's rights to the remedies and appeals under the rules.

(b) IMPOSITION OF THE DEATH PENALTY.—The requirements of the Uniform Code of Military Justice for the imposition of the death penalty shall apply in any case in which a tribunal established under section 1303 is requested to adjudge the death penalty.

(c) PUBLIC PROCEEDINGS.—Any proceedings conducted by a tribunal established under section 1303, and the proceedings on any appeal of an action of the tribunal, shall be accessible to the public consistent with any demonstrable necessity to secure the safety of observers, witnesses, tribunal judges, counsel, or other persons.

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

(1) identifiable harm to the prosecution of military objectives or interfere with the capture of members of al Qaeda anywhere;

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

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

(e) REVIEW.—

(1) PROCEDURES REQUIRED.—The Secretary of Defense shall provide for prompt review of convictions by tribunals established under section 1303 to ensure that the procedural requirements of a full and fair hearing have been met and that the evidence reasonably supports the convictions.

(2) UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—The procedures established under paragraph (1) shall, at a minimum, allow for review of the proceedings of the tribunals by the United States Court of Appeals for the Armed Forces established under the Uniform Code of Military Justice.

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

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

SEC. 1305. DETENTION.

(a) IN GENERAL.—The President may direct the Secretary of Defense to detain any person who is subject to a tribunal established under section 1303 pursuant to rules and regulations that are promulgated by the Secretary and are consistent with the rules of international law.

(b) DURATION OF DETENTION.—

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

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

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

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

may make successive certifications of the circumstances.

(c) DISCLOSURE OF EVIDENCE.—Evidence that may establish that an accused is not a person described in subsection (a) shall be disclosed to the accused and his counsel, except that a summary of such evidence shall be provided to the accused and his counsel when the Attorney General personally certifies that disclosure of the evidence would cause identifiable harm to the prosecution of military objectives in Afghanistan, to the capture of other persons who are subject to this subtitle or reside outside the United States, or to the prevention of future terrorist acts directed against Americans. A summary of evidence shall be as complete as is possible in order to provide the accused with an evidentiary basis to seek release from detention.

(d) DETENTION REVIEW.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review any determination under this section that the requirements of this section for detaining an accused are satisfied.

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

(1) detained at an appropriate location designated by the Secretary of Defense;

(2) treated humanely, without any adverse distinction based on race, color, religion, gender, birth, wealth, or any similar criteria;

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

(4) sheltered under hygienic conditions and provided necessary means of personal hygiene; and

(5) allowed the free exercise of religion consistent with the requirements of such detention.

SEC. 1306. SENSE OF CONGRESS.

It is the sense of Congress that the President should seek the cooperation of United States allies and other nations in conducting the investigations and prosecutions, including extraditions, of the persons who are responsible for the September 11, 2001 attacks on the United States, and use to the fullest extent possible multilateral institutions and mechanisms for carrying out such investigations and prosecutions.

SEC. 1307. DEFINITIONS.

In this subtitle:

(1) SEPTEMBER 11, 2001 ATTACKS ON THE UNITED STATES.—The term ''September 11, 2001 attacks on the United States'' means the attacks on the Pentagon in the metropolitan area of Washington, District of Columbia, and the World Trade

Center, New York, New York, on September 11, 2001, and includes the hijackings of American Airlines flights 77 and 11 and United Airlines flights 175 and 93 on that date.

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

SEC. 1308. TERMINATION OF AUTHORITY.

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

Subtitle D—Anti Terrorist Hoaxes and False Reports

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the ''Anti Terrorist Hoax and False Report Act of 2003''.

SEC. 1402. FINDINGS.

Congress makes the following findings:

(1) The expert resources available to the Government to deal with Federal crimes involving actual, potential or threatened use of chemical, biological, and nuclear weapons and weapons of mass destruction are limited.

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

quire the attention of Federal investigative, scientific, and public health officers and employees.

(3) Recent episodes demonstrate that even isolated false reports and hoaxes present a serious threat to the Nation and can have a substantial adverse effect on interstate and foreign commerce, causing needless worry or even panic in the general public, interrupting vital interstate and foreign travel and communications facilities, disrupting commercial and business activities that depend on interstate travel and communications, and encouraging copycat episodes.

(4) State and local law enforcement and government agencies are often the first responders to any report of a chemical, biological, or nuclear threat or to a report of a weapon of mass destruction, whether real or a hoax, and Federal law enforcement authorities often work closely with, and depend upon, State and local first responders in deploying scarce Federal resources after such a report.

(5) A comprehensive prohibition on such false reports and hoaxes is necessary to preserve scarce and vital Federal resources, avoid substantial adverse effects on interstate and foreign commerce,

and to protect the national security of the United States.

SEC. 1403. HOAXES, FALSE REPORTS AND REIMBURSEMENT.

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

"§ 881. False information and hoaxes.

''(a) UNLAWFUL ACTS.—It shall be unlawful for any person—

''(1) to impart or convey or cause to be imparted or conveyed false information, knowing the information is false, concerning an attempt or alleged attempt being made, or to be made, to do any act which would be a crime under section 175, 229, 831, or 2332a of this title, and under circumstances where such information may reasonably be believed; or

''(2) to transfer or distribute or cause to be transferred or distributed any device or material, knowing or intending that the device or material resembles a nuclear, chemical, or biological weapon, or other weapon of mass destruction (as defined in section 2332a(c)(2) of this title), and under circumstances where such device or material may rea-

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

"(b) CRIMINAL PENALTIES.—

"(1) Any person who violates subsection (a)(1) or (a)(2) shall—

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

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

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

"(b) REIMBURSEMENT.—

"(1) Notwithstanding and in addition to sections 3663 and 3663A of this title and any other civil or criminal penalty authorized by law, the court shall order any person convicted of an offense under subsection (a)(1) or (a)(2) to reimburse—

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

"(B) any Federal, State, or local government entity for any losses and expenses incurred incident to an emergency or investigative response to the offense.

"(2) A person who is subject to an order of reimbursement under this subsection shall be jointly and severally liable with each other person, if any, who is subject to an order of reimbursement for the same losses and expenses.

"(3) An order of reimbursement under this subsection shall, for purposes of enforcement, be treated as a civil judgment.

"(c) CIVIL REMEDIES.—

"(1) Any person aggrieved by reason of the conduct prohibited by subsection (a)(1) or (a)(2) may commence a civil action. In such an action, the court may award appropriate relief, including injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to re-

cover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation.

"(2) If the Attorney General of the United States has reasonable cause to believe that any person or group of persons has been injured by conduct prohibited by subsection (a)(1) or (a)(2), the Attorney General may commence a civil action. In such an action, the court may award appropriate relief, including injunctive relief and compensatory damages to persons aggrieved as described in paragraph (1) and to any Federal, State, or local government entity that would be entitled to reimbursement under subsection (b). The court, to vindicate the public interest, may also assess a civil penalty in an amount not exceeding $5,000 for a first violation, or $10,000 for any subsequent violation.

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

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

"881. False information and hoaxes.".

Subtitle E—Amendments to Federal Antiterrorism Laws

SEC. 1501. ATTACKS AGAINST MASS TRANSIT CLARIFICATION OF DEFINITION.

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

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air.''.

SEC. 1502. RELEASE OR DETENTION OF A MATERIAL WITNESS.

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

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

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

"(b) RELEASE OR DETENTION.—A person who is arrested pursuant to an order issued under subsection (a) shall be treated in accordance with section 3142, and may be detained only upon satisfaction of the conditions in section 3142(f)(2), except that no material witness may be detained because of inability to comply with any condition of release if the testimony of that person can adequately be secured by deposition or, in a matter before a grand jury, by appearance before the grand jury.

"(c) DELAY OF RELEASE.—The release of a person who is arrested or detained under this section may be delayed for a reasonable period of time until the deposition of the person can be taken pursuant to the Federal Rules of Criminal Procedure or the person appears before the grand jury, in a matter before a grand jury.

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

requirements of rule 807(C) of the Federal Rules of Evidence.

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

SEC. 1503. CLARIFICATION OF SUNSET PROVISION IN USA PATRIOT ACT.

Section 224(a) of the USA PATRIOT ACT (Public Law 107–56) is amended by inserting before the period the following: "and any provision of law amended or modified by this title and the amendments made by this title (except for the sections excepted) shall take effect January 1, 2006, as in effect on the day before the effective date of this Act".

TITLE II—PROTECTING AMERICA'S CHILDREN AND SENIORS

Subtitle A—Children's Safety

PART 1—NATIONAL AMBER ALERT NETWORK

SEC. 2111. SHORT TITLE.

This part may be cited as the ''National AMBER Alert Network Act of 2003''.

SEC. 2112. NATIONAL COORDINATION OF AMBER ALERT COMMUNICATIONS NETWORK.

(a) COORDINATION WITHIN DEPARTMENT OF JUSTICE.—The Attorney General shall assign an officer of the Department of Justice to act as the national coordinator of the AMBER Alert communications network regarding abducted children. The officer so designated shall be known as the AMBER Alert Coordinator of the Department of Justice.

(b) DUTIES.—In acting as the national coordinator of the AMBER Alert communications network, the Coordinator shall—

(1) seek to eliminate gaps in the network, including gaps in areas of interstate travel;

(2) work with States to encourage the development of additional elements (known as local AMBER plans) in the network;

(3) work with States to ensure appropriate regional coordination of various elements of the network; and

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

(A) the development of the network; and

(B) regional coordination of alerts on abducted children through the network.

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

(2) The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

(3) In preparation for carrying out duties under subsection (b), the Coordinator shall consult with the National Center for Missing and Exploited Children and other private sector entities and organizations (including non-profit organizations) having expertise in matters relating to such duties.

SEC. 2113. MINIMUM STANDARDS FOR ISSUANCE AND DISSEMINATION OF ALERTS THROUGH AMBER ALERT COMMUNICATIONS NETWORK.

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

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

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

(b) LIMITATIONS.—(1) The minimum standards established under subsection (a) shall be adoptable on a voluntary basis only.

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

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

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

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

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

SEC. 2114. GRANT PROGRAM FOR NOTIFICATION AND COMMUNICATIONS SYSTEMS ALONG HIGHWAYS FOR RECOVERY OF ABDUCTED CHILDREN.

(a) PROGRAM REQUIRED.—The Secretary of Transportation shall carry out a program to provide grants to States for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children.

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

(1) the development or enhancement of electronic message boards along highways and the placement of additional signage along highways; and

(2) the development or enhancement of other means of disseminating along highways alerts and other information for the recovery of abducted children.

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

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

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

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

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

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

(a) PROGRAM REQUIRED.—The Attorney General shall carry out a program to provide grants to States for the development or enhancement of programs and activities for the support of AMBER Alert communications plans.

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

(1) the development and implementation of education and training programs, and associated materials, relating to AMBER Alert communications plans;

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

(3) such other activities as the Attorney General considers appropriate for supporting the AMBER Alert communications program.

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

(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Attorney General shall, to the maximum extent practicable, ensure the distribution of grants

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

(e) ADMINISTRATION.—The Attorney General shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

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

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

PART 2—PROSECUTIONAL REMEDIES AND TOOLS AGAINST THE EXPLOITATION OF CHILDREN TODAY

SEC. 2121. SHORT TITLE.

This part may be cited as the ''Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2003'' or ''PROTECT Act''.

SEC. 2122. FINDINGS.

Congress finds the following:

(1) Obscenity and child pornography are not entitled to protection under the First Amendment under Miller v. California, 413 U.S. 15 (1973) (obscenity), or New York v. Ferber, 458 U.S. 747

(1982) (child pornography) and thus may be prohibited.

(2) The Government has a compelling state interest in protecting children from those who sexually exploit them, including both child molesters and child pornographers. ''The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance,'' New York v. Ferber, 458 U.S. 747, 757 (1982) (emphasis added), and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain. Osborne v. Ohio, 495 U.S. 103, 110 (1990).

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

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

able from depictions of real children; (B) create depictions of virtual children using compositions of real children to create an unidentifiable child; or (C) disguise pictures of real children being abused by making the image look computer generated.

(5) Evidence submitted to the Congress, including from the National Center for Missing and Exploited Children, demonstrates that technology already exists to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear computer generated. The technology will soon exist, if it does not already, to make depictions of virtual children look real.

(6) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and/or related media.

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

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

(8) Child pornography circulating on the Internet has, by definition, been digitally uploaded or scanned into computers and has been transferred over the Internet, often in different file formats, from trafficker to trafficker. An image seized from a collector of child pornography is rarely a first-generation product, and the retransmission of images can alter the image so as to make it difficult for even an expert conclusively to opine that a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, this task can be even harder since proper forensic delineation may depend on the quality of the image scanned and the tools used to scan it.

(9) The impact on the government's ability to prosecute child pornography offenders is already evident. The Ninth Circuit has seen a significant adverse effect on prosecutions since the 1999 Ninth Circuit Court of Appeals decision in Free Speech Coalition. After that decision, prosecutions generally have been brought in the Ninth Circuit only in the most clear-cut cases in which the government can

specifically identify the child in the depiction or otherwise identify the origin of the image. This is a fraction of meritorious child pornography cases. The National Center for Missing and Exploited Children testified that, in light of the Supreme Court's affirmation of the Ninth Circuit decision, prosecutors in various parts of the country have expressed concern about the continued viability of previously indicted cases as well as declined potentially meritorious prosecutions.

(10) In the absence of congressional action, this problem will continue to grow increasingly worse. The mere prospect that the technology exists to create computer or computer-generated depictions that are indistinguishable from depictions of real children will allow defendants who possess images of real children to escape prosecution, for it threatens to create a reasonable doubt in every case of computer images even when a real child was abused. This threatens to render child pornography laws that protect real children unenforceable.

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

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

(12) The Supreme Court's 1982 Ferber v. New York decision holding that child pornography was not protected drove child pornography off the shelves of adult bookstores. Congressional action is necessary to ensure that open and notorious trafficking in such materials does not reappear.

SEC. 2123. CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.

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

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting the following:

''(3) knowingly—

''(A) reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer; or

''(B) advertises, promotes, presents, distributes, or solicits through the mails, or in interstate or foreign commerce by any means, including by computer, any material in a man-

ner that conveys the impression that the material is, or contains, an obscene visual depiction of a minor engaging in sexually explicit conduct;'';

(B) in paragraph (4), by striking ''or'' at the end;

(C) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(6) knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct—

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

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

"(C) which distribution, offer, sending, or provision is accomplished using the mails or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer,

for purposes of inducing or persuading a minor to participate in any activity that is illegal.";

(2) in subsection (b)(1), by striking "(1), (2), (3), or (4)" and inserting "(1), (2), (3), (4), or (6)"; and

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

"(c) It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) that—

"(1)(A) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

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

"(2) the alleged child pornography was not produced using any actual minor or minors.

No affirmative defense under paragraph (2) shall be available in any prosecution that involves obscene child pornography or child pornography as described in section

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

SEC. 2124. ADMISSIBILITY OF EVIDENCE.

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

''(e) ADMISSIBILITY OF EVIDENCE.—On motion of the government, in any prosecution under this chapter, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who

is depicted in any child pornography shall not be admissible and may be redacted from any otherwise admissible evidence, and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor.''.

SEC. 2125. DEFINITIONS.

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

(1) in paragraph (1), by inserting before the semicolon the following: ''and shall not be construed to require proof of the actual identity of the person'';

(2) in paragraph (8)—

(A) in subparagraph (B), by inserting ''is obscene and'' before ''is'';

(B) in subparagraph (C), by striking ''or'' at the end; and

(C) by striking subparagraph (D) and inserting the following:

''(D) such visual depiction—

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

genital, or oral-anal, whether between persons of the same or opposite sex; and

"(ii) lacks serious literary, artistic, political, or scientific value; or

"(E) the production of such visual depiction involves the use of an identifiable minor engaging in sexually explicit conduct; and"; and

(3) in paragraph (9)(A)(ii)—

(A) by striking "(ii) who is" and inserting the following:

"(ii)(I) who is"; and

(B) by striking "and" at the end and inserting the following: "or

"(II) who is virtually indistinguishable from an actual minor; and".

SEC. 2126. RECORDKEEPING REQUIREMENTS.

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

(1) in subsection (d)(2), by striking "of this section" and inserting "of this chapter or chapter 71,";

(2) in subsection (h)(3), by inserting ", computer generated image or picture," after "video tape"; and

(3) in subsection (i)—

(A) by striking ''not more than 2 years'' and inserting ''not more than 5 years''; and

(B) by striking ''5 years'' and inserting ''10 years''.

SEC. 2127. EXTRATERRITORIAL PRODUCTION OF CHILD PORNOGRAPHY FOR DISTRIBUTION IN THE UNITED STATES.

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

(1) by striking ''subsection (d)'' each place that term appears and inserting ''subsection (e)'';

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

(3) by inserting after subsection (b) the following:

''(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its territories or possessions, for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

''(2) The circumstance referred to in paragraph (1) is that—

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

"(B) the person transports such visual depiction to the United States, its territories or possessions, by any means, including by computer or mail.".

SEC. 2128. CIVIL REMEDIES.

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

"(f) CIVIL REMEDIES.—

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

"(2) RELIEF.—In any action commenced in accordance with paragraph (1), the court may award appropriate relief, including—

"(A) temporary, preliminary, or permanent injunctive relief;

"(B) compensatory and punitive damages; and

"(C) the costs of the civil action and reasonable fees for attorneys and expert witnesses.".

SEC. 2129. ENHANCED PENALTIES FOR RECIDIVISTS.

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

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

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

SEC. 2131. MISCELLANEOUS PROVISIONS.

(a) APPOINTMENT OF TRIAL ATTORNEYS.—

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

Criminal Division of the Department of Justice or to appropriate U.S. Attorney's Offices, and those trial attorneys shall have as their primary focus, the investigation and prosecution of Federal child pornography laws.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out this subsection.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—

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

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

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

(B) an outcome-based measurement of performance; and

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

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines are adequate to deter and punish conduct that involves a violation of paragraph (3)(B) or (6) of section 2252A(a) of title 18, United States Code, as created by this Act. With respect to the guidelines for section 2252A(a)(3)(B), the Commission shall consider the relative culpability of promoting, presenting, describing, or distributing material in violation of that section as compared with solicitation of such material.

PART 3—REAUTHORIZATION OF THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

SEC. 2141. SHORT TITLE.

This part may be cited as the ''Protecting Our Children Comes First Act of 2003''.

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

Section 404(b)(2) of the Missing Childrens Assistance Act (42 U.S.C. 5773(b)(2)) is amended by striking ''$10,000,000 for each of fiscal years 2000, 2001, 2002, and 2003'' and inserting ''$20,000,000 for each of fiscal years 2003, 2004, 2005, and 2006''.

SEC. 2143. AUTHORIZATION OF APPROPRIATIONS.

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

SEC. 2144. FORENSIC AND INVESTIGATIVE SUPPORT OF MISSING AND EXPLOITED CHILDREN.

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

''(f) Under the direction of the Secretary of the Treasury, officers and agents of the Secret Service are authorized, at the request of any State or local law enforcement agency or the National Center for Missing and Exploited Children, to provide forensic and investigative assistance in support of any investigation involving missing or exploited children.''.

SEC. 2145. CREATION OF A CYBER-TIPLINE.

Section 404(b)(1) of the Missing Children's Assistance Act (42 U.S.C. 5773(b)(1)) is amended—

(1) in subparagraph (F), by striking ''and'' at the end;

(2) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(H) coordinate the operation of a CyberTipline to provide online users an effective means of reporting Internet-related child sexual exploitation in the areas of distribution of child pornography, online enticement of children for sexual acts, and child prostitution.''.

SEC. 2146. SERVICE PROVIDER REPORTING OF CHILD PORNOGRAPHY AND RELATED INFORMATION.

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

(1) in subsection (b)—

(A) in paragraph (1), by inserting '', from a nongovernmental source,'' after ''obtains'';

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

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

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

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

(2) in subsection (c), by inserting '', or pursuant to,'' after ''to comply with''; and

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

''(D) where the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.''.

SEC. 2147. CONTENTS DISCLOSURE OF STORED COMMUNICATIONS.

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

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) in paragraph (6)—

(i) in subparagraph (A)(ii), by inserting ''or'' at the end;

(ii) by striking subparagraph (B); and

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

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

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

''(6) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or''; and

(2) in subsection (c)—

(A) in paragraph (4), by striking ''or'' at the end;

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

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

''(5) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or''.

PART 4—NATIONAL CHILD PROTECTION AND VOLUNTEERS FOR CHILDREN IMPROVEMENT

SEC. 2151. SHORT TITLE.

This part may be cited as the ''National Child Protection and Volunteers for Children Improvement Act of 2003''.

SEC. 2152. DEFINITIONS.

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

(1) in paragraph (10), by striking ''and'' at the end; and

(2) by inserting after paragraph (10) the following:

''(10A) the term 'qualified State program' means the policies and procedures referred to in section 3(a)(1) of a State that are in place in order to implement this Act, including policies and procedures that require—

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

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

''(C) the designation of the authorized agencies that may receive national criminal history background check requests from qualified entities; and

''(D) the designation of the qualified entities that shall submit background check requests to an authorized agency;

"(10B) the term 'routinely' means—

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

"(B) instances where 90 percent or more of nationwide background check requests are returned to qualified entities within 30 business days; and".

SEC. 2153. STRENGTHENING AND ENFORCING THE NATIONAL CHILD PROTECTION ACT AND THE VOLUNTEERS FOR CHILDREN ACT.

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

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "A State may" and inserting the following: "REQUEST.—A State may";

(ii) by inserting after "procedures" the following: "meeting the guidelines set forth in subsection (b)";

(iii) by inserting after "regulation)" the following: "or a qualified State program"; and

(iv) by striking ''convicted of'' and all that follows through the period and inserting ''convicted of, or is under pending arrest or indictment for, a crime that renders the provider unfit to provide care to children, the elderly, or individuals with disabilities.'';

(B) in paragraph (2)—

(i) by striking ''The authorized agency'' and inserting the following: ''RESPONSE.—The authorized agency'';

(ii) by striking ''make reasonable efforts to'';

(iii) by striking ''15'' and inserting ''20''; and

(iv) by adding at the end the following: ''The Attorney General shall respond to the inquiry of the State authorized agency within 15 business days of the request. A State is not in violation of this section if the Attorney General fails to respond to the inquiry within 15 business days of the request.''; and

(C) by striking paragraph (3), and inserting the following:

"(3) ABSENCE OF QUALIFIED STATE PROGRAM.—

"(A) REQUEST.—Not later than 12 months after the date of enactment of the National Child Protection and Volunteers for Children Improvement Act of 2002, a qualified entity doing business in a State that does not have a qualified State program may request a national criminal background check from the Attorney General for the purpose of determining whether a provider has been convicted of, or is under pending arrest or indictment for, a crime that renders the provider unfit to provide care to children, the elderly, or individuals with disabilities.

"(B) REVIEW AND RESPONSE.—The Attorney General shall respond to the request of a qualified entity made under subparagraph (A) not later than 20 business days after the request is made."; and

(2) in subsection (b)—

(A) in paragraph (4), by striking "shall make" and inserting "may make"; and

(B) in paragraph (5)—

(i) by inserting after ''qualified entity'' the following: ''or by a State authorized agency that disseminates criminal history records information directly to qualified entities''; and

(ii) by striking ''pursuant to subsection (a)(3)''.

SEC. 2154. DISSEMINATION OF INFORMATION.

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

''SEC. 6. DISSEMINATION OF INFORMATION.

''Notwithstanding any other provision of law, the Attorney General and authorized agencies of States may disseminate criminal history background check record information to a qualified entity.

''SEC. 7. OFFICE FOR VOLUNTEER AND PROVIDER SCREENING.

''(a) IN GENERAL.—The Attorney General shall establish an Office for Volunteer and Provider Screening (referred to in this Act as the 'Office') which shall serve as a point of contact for qualified entities to request a national criminal background check pursuant to section 3(a)(3).

"(b) MODEL GUIDELINES.—The Office shall provide model guidelines concerning standards to guide qualified entities in making fitness determinations regarding care providers based upon the criminal history record information of those providers.".

SEC. 2155. FEES.

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

(1) by striking "In the case" and inserting the following:

"(1) IN GENERAL.—In the case"; and

(2) by adding at the end the following:

"(2) VOLUNTEER WITH QUALIFIED ENTITY.—In the case of a national criminal fingerprint background check conducted pursuant to section 3(a)(3) on a person who volunteers with a qualified entity, the fee collected by the Federal Bureau of Investigation shall not exceed $5.

"(3) PROVIDER.—In the case of a national criminal fingerprint background check on a provider who is employed by or applies for a position with a qualified entity, the fee collected by the Federal Bureau of Investigation shall not exceed $18.".

SEC. 2156. STRENGTHENING STATE FINGERPRINT TECHNOLOGY.

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

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

(2) purchase electric fingerprint imaging machines for use throughout the State to send fingerprint images to the Attorney General to conduct background checks.

(b) ADDITIONAL FUNDS.—In addition to funds provided in subsection (a), funds shall be provided to each State and the District of Columbia to hire personnel to provide information and training to each county law enforcement agency within the State regarding all requirements for input of criminal and disposition data into the 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

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

(2) DELETION OF INFORMATION.—Each representative assigned under paragraph (1) shall review the requested information and delete all information that is not needed by the requesting entity in making an employment decision.

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

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

(2) imprisoned not more than 1 year.

SEC. 2158. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this part—

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

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

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

PART 5—CHILDREN'S CONFINEMENT CONDITIONS IMPROVEMENT

SEC. 2161. FINDINGS.

Congress finds that—

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

(2) pretrial release or detention of juveniles awaiting trial in adult criminal court should only occur after consideration of their special characteristics and the nature of their offenses;

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

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

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

vided access to programs that address their educational, substance abuse treatment, health, mental health, and vocational needs;

(5) juveniles detained or incarcerated under the jurisdiction of an adult criminal court should be provided with the mechanisms to report instances of physical, mental, or psychological abuse or intimidation, and allegations of such abuse or intimidation should be promptly investigated, and if proven correct, should be properly remedied;

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

(7) according to recent studies, juveniles who are placed in adult facilities are more likely to commit future crimes;

(8) housing juveniles with, or in close proximity to, adult inmates creates difficulties and potentially unsafe conditions for jail and prison personnel, and juveniles and adult inmates, since many adult jails and prisons lack the physical structure, programming, and trained personnel to manage juveniles effectively;

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

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

(11) rural States and economically depressed communities have pronounced difficulties in providing secure custody for juvenile offenders apart from adult inmates.

SEC. 2162. PURPOSE.

The purpose of this part is to provide incentives and funding assistance for States to reduce dangerous and unsafe conditions in the detention and incarceration of juvenile offenders under the jurisdiction of an adult criminal court, including separating those juvenile offenders from adult prisoners and ensuring that corrections officers who supervise them receive training in supervision issues unique to juveniles.

SEC. 2163. DEFINITION.

In this part, the term ''juvenile'' means an individual who has not reached the age of 18.

SEC. 2164. JUVENILE SAFE INCARCERATION GRANT PROGRAM.

(a) GRANT AUTHORITY.—The Assistant Attorney General for the Office of Justice Programs, established under section 101 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, in consultation with the Office of Juvenile Justice and Delinquency Prevention, may make grants to States, units of local government, and Indian tribes for the development and implementation of programs designed to—

(1) alter existing correctional facilities, or develop separate facilities, to provide separate facilities for juveniles who are detained or are serving sentences in adult prisons or jails under the jurisdiction of an adult criminal court;

(2) provide correctional staff who are responsible for supervising juveniles who are detained or are serving sentences in adult prisons or jails under the jurisdiction of an adult criminal court with orientation and ongoing training to address the developmental, educational, vocational, and mental and physical health needs of those offenders;

(3) provide ombudsmen to monitor the treatment of juveniles who are detained or are serving sentences in adult prisons or jails under the jurisdiction of an adult criminal court;

(4) provide access to educational programs, vocational training, mental and physical health assessment and treatment, and drug treatment for juveniles who are serving sentences under the jurisdiction of an adult criminal court; or

(5) seek alternatives, including the expansion of juvenile facilities, to housing juveniles under the jurisdiction of an adult criminal court with adult inmates.

(b) ADMINISTRATION.—

(1) GUIDELINES.—The Assistant Attorney General may issue guidelines necessary to carry out this section.

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

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

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

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

(D) certify that the State applicant (or the State in which the applicant is located) has developed guidelines on the use of isolation and separation and on the appropriate use of force against incarcerated juveniles, and has prohibited the use of electroshock devices, 4-point restraints, chemical restraints, and restraint chairs.

(c) APPLICATIONS.—

(1) IN GENERAL.—To request funds under this section, applicants shall submit an application to the Assistant Attorney General in such form and containing such information as the Assistant Attorney General may reasonably require.

(2) COMPETITIVE GRANTS.—Funding under this section shall be awarded on a competitive basis based on criteria established by the Assistant Attorney General and specified in program guidelines.

(d) FEDERAL SHARE.—

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

(2) IN-KIND CONTRIBUTIONS.—In-kind contributions may constitute a portion of the non-Federal share of a grant under this section.

(e) GEOGRAPHIC DISTRIBUTION.—

(1) IN GENERAL.—The Assistant Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards under this section is made, with rural representation.

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

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

(f) TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.—

(1) TECHNICAL ASSISTANCE AND TRAINING.—The Assistant Attorney General may provide technical assistance and training in furtherance of the purposes of this section.

(2) EVALUATION.—In addition to any evaluation requirements that may be prescribed for grantees, the Assistant Attorney General may carry out or make arrangements for a rigorous evaluation of the programs that receive support under this section.

(3) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this subsection may be carried out directly by the Assistant Attorney General or through grants, contracts, or cooperative arrangements with other entities.

(g) AUTHORIZATION OF APPROPRIATIONS.—

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

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

SEC. 2165. RURAL STATE FUNDING.

(a) IN GENERAL.—The Assistant Attorney General, in consultation with the Office of Juvenile Justice and Delinquency Prevention, shall provide grants to provide custodial facilities appropriate for violent juvenile offenders in rural States and economically distressed communities that lack the resources to provide secure custody.

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

(c) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Assistant Attorney General shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, subject to the availability of qualified applicants for the awards.

(d) EVALUATIONS; DISSEMINATION OF FINDINGS.—

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

(2) DISSEMINATION OF FINDINGS.—The Assistant Attorney General shall disseminate the findings made as a result of the evaluation to the States and the Committees on the Judiciary of the Senate and the House of Representatives.

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

SEC. 2166. GAO STUDY.

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

SEC. 2167. FAMILY UNITY DEMONSTRATION PROJECT.

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

"(1) $5,400,000 for fiscal years 2003 and 2004; and

"(2) such sums as may be necessary for each of fiscal years 2005 through 2007.".

Subtitle B—Senior's Safety

SEC. 2201. SHORT TITLE.

This subtitle may be cited as the "Seniors Safety Act of 2003".

SEC. 2202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

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

(2) In 1997, 7 percent of victims of serious violent crime were 50 years of age or older.

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

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

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

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

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

(7) Seniors over 50 years of age reportedly account for 37 percent of the estimated $40,000,000,000 in losses each year due to telemarketing fraud.

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

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

(10) It has been estimated that—

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

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

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

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

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

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

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

(1) combat nursing home fraud and abuse;

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

(3) develop strategies for preventing and punishing crimes that target or otherwise disproportionately affect seniors by collecting appropriate data—

(A) to measure the extent of crimes committed against seniors; and

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

(4) prevent and deter criminal activity, such as telemarketing fraud, that results in economic and physical harm against seniors, and ensure appropriate restitution.

SEC. 2203. DEFINITIONS.

In this subtitle:

(1) CRIME.—The term ''crime'' means any criminal offense under Federal or State law.

(2) NURSING HOME.—The term ''nursing home'' means any institution or residential care facility defined as such for licensing purposes under State law, or if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary of Health and Human Services, pursuant to section 1908(e) of the Social Security Act (42 U.S.C. 1396g(e)).

(3) SENIOR.—The term ''senior'' means an individual who is more than 55 years of age.

PART 1—COMBATING CRIMES AGAINST SENIORS

SEC. 2211. ENHANCED SENTENCING PENALTIES BASED ON AGE OF VICTIM.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under

section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission (referred to in this section as the ''Commission'') shall review and, if appropriate, amend section 3A1.1(a) of the Federal sentencing guidelines to include the age of a crime victim as one of the criteria for determining whether the application of a sentencing enhancement is appropriate.

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

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious economic and physical harms associated with criminal activity targeted at seniors due to their particular vulnerability;

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

(3) consult with individuals or groups representing seniors, law enforcement agencies, victims organizations, and the Federal judiciary as part of the review described in subsection (a);

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

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

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

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

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

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

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for offenses involving seniors.

SEC. 2212. STUDY AND REPORT ON HEALTH CARE FRAUD SENTENCES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under 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;

(5) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

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

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

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

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

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

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

Sections 1341 and 1343 of title 18, United States Code, are each amended by inserting before the last sentence the following: ''If the violation results in serious bod-

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

SEC. 2214. SAFEGUARDING PENSION PLANS FROM FRAUD AND THEFT.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Fraud in relation to retirement arrangements

''(a) DEFINITION.—

''(1) RETIREMENT ARRANGEMENT.—In this section, the term 'retirement arrangement' means—

''(A) any employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

''(B) any qualified retirement plan within the meaning of section 4974(c) of the Internal Revenue Code of 1986;

''(C) any medical savings account described in section 220 of the Internal Revenue Code of 1986; or

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

"(2) CERTAIN ARRANGEMENTS INCLUDED.—The term 'retirement arrangement' shall include any arrangement that has been represented to be an arrangement described in any subparagraph of paragraph (1) (whether or not so described).

"(3) EXCEPTION FOR GOVERNMENTAL PLAN.—Except as provided in paragraph (1)(D), the term 'retirement arrangement' shall not include any governmental plan (as defined in section 3(32) of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32))).

"(b) PROHIBITION AND PENALTIES.—Whoever executes, or attempts to execute, a scheme or artifice—

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

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

person in connection with the establishment or maintenance of a retirement arrangement;

shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) ENFORCEMENT.—

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

"(2) EFFECT ON OTHER AUTHORITY.—Nothing in this subsection may be construed to preclude the Secretary of Labor or the head of any other appropriate Federal agency from investigating a violation of this section in relation to a retirement arrangement subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or any other provision of Federal law.".

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

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

"1348. Fraud in relation to retirement arrangements.".

SEC. 2215. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING PENSION PLANS.

(a) IN GENERAL.—

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

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

(B) upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty in an amount equal to the greatest of—

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

(ii) the amount of pecuniary loss sustained by the victim; or

(iii) not more than—

(I) $50,000 for each such violation in the case of an individual; or

(II) $100,000 for each such violation in the case of a person other than an individual.

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

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

(b) EXCEPTION.—No civil penalty may be imposed pursuant to subsection (a) with respect to conduct involving a retirement arrangement that—

(1) is an employee pension benefit plan subject to title I of the Employee Retirement Income Security Act of 1974; and

(2) for which the civil penalties may be imposed under section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132).

(c) DETERMINATION OF PENALTY AMOUNT.—In determining the amount of the penalty under subsection (a), the district court may consider the effect of the penalty on the violator or other person's ability to—

(1) restore all losses to the victims; or

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

SEC. 2216. PUNISHING BRIBERY AND GRAFT IN CONNECTION WITH EMPLOYEE BENEFIT PLANS.

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

"§ 1954. Bribery and graft in connection with employee benefit plans

''(a) DEFINITIONS.—In this section—

''(1) the term 'employee benefit plan' means any employee welfare benefit plan or employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

''(2) the terms 'employee organization', 'administrator', and 'employee benefit plan sponsor' mean any employee organization, administrator, or plan sponsor, as defined in title I of the Employment Retirement Income Security Act of 1974; and

''(3) the term 'applicable person' means—

''(A) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan;

''(B) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan;

''(C) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan;

''(D) a person who, or an officer, counsel, agent, or employee of an organization that, provides benefit plan services to such plan; or

"(E) a person with actual or apparent influence or decisionmaking authority in regard to such plan.

"(b) BRIBERY AND GRAFT.—Whoever—

"(1) being an applicable person, receives or agrees to receive or solicits, any fee, kickback, commission, gift, loan, money, or thing of value, personally or for any other person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan;

"(2) directly or indirectly, gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value, to any applicable person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan; or

"(3) attempts to give, accept, or receive any thing of value with the intent to be corruptly influenced in violation of this section;

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

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

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

"(2) payment to, or acceptance in good faith by, any employee benefit plan sponsor, or person acting on behalf of the sponsor, of anything of value relating to the decision or action of the sponsor to establish, terminate, or modify the governing instruments of an employee benefit plan in a manner that does not violate—

"(A) title I of the Employee Retirement Income Security Act of 1974;

"(B) any regulation or order promulgated under title I of the Employee Retirement Income Security Act of 1974; or

"(C) any other provision of law governing the plan.".

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

"1954. Bribery and graft in connection with employee benefit plans.".

PART 2—PREVENTING TELEMARKETING FRAUD

SEC. 2221. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF TELEMARKETING FRAUD.

(a) CENTRALIZED SERVICE.—

(1) REQUIREMENT.—The Federal Trade Commission shall, after consultation with the Attorney General, establish procedures to—

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

(B) provide to individuals described in subparagraph (A), and to any other persons, information on telemarketing fraud, including—

(i) general information on telemarketing fraud, including descriptions of the most common telemarketing fraud schemes;

(ii) information on means of referring complaints on telemarketing fraud to appropriate law enforcement agencies, including the Director of the Federal Bureau of

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

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

(C) refer complaints described in subparagraph (A) to appropriate entities, including State consumer protection agencies or entities and appropriate law enforcement agencies, for potential law enforcement action.

(2) CENTRAL LOCATION.—The service under the procedures under paragraph (1) shall be provided at and through a single site selected by the Commission for that purpose.

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

(b) CREATION OF FRAUD CONVICTION DATABASE.—

(1) ESTABLISHMENT.—The Attorney General shall establish and maintain a computer database containing information on the corporations and companies convicted of offenses for telemarketing fraud under Federal and State law.

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

(3) USE OF DATABASE.—The Attorney General shall make information in the database available to the Federal Trade Commission for purposes of providing information as part of the service under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 2222. BLOCKING OF TELEMARKETING SCAMS.

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—Section 2325(1) of title 18, United States Code, is amended by striking ''telephone calls'' and inserting ''wire communications utilizing a telephone service''.

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

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

"§ 2328. Blocking or termination of telephone service

"(a) DEFINITIONS.—In this section:

"(1) REASONABLE NOTICE TO THE SUBSCRIBER.—

"(A) IN GENERAL.—The term 'reasonable notice to the subscriber', in the case of a subscriber of a common carrier, means any information necessary to provide notice to the subscriber that—

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

"(ii) such use constitutes sufficient grounds for the immediate discontinuance or refusal of the leasing, furnishing, or

maintaining of the facilities to or for the subscriber.

"(B) INCLUDED MATTER.—The term includes any tariff filed by the common carrier with the Federal Communications Commission that contains the information specified in subparagraph (A).

"(2) WIRE COMMUNICATION.—The term 'wire communication' has the same meaning given that term in section 2510(1).

"(3) WIRE COMMUNICATIONS FACILITY.—The term 'wire communications facility' means any facility (including instrumentalities, personnel, and services) used by a common carrier for purposes of the transmission, receipt, forwarding, or delivery of wire communications.

"(b) BLOCKING OR TERMINATING TELEPHONE SERVICE.—If a common carrier subject to the jurisdiction of the Federal Communications Commission is notified in writing by the Attorney General, acting within the jurisdiction of the Attorney General, that any wire communications facility furnished by that common carrier is being used or will be used by a subscriber for the purpose of transmitting or receiving a wire communication in interstate 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.

"(2) SUPPORTING INFORMATION.—In any action brought under this subsection, the court may direct that the Attorney General present evidence in support of the notice made under subsection (b) to which such action relates.".

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

"2328. Blocking or termination of telephone service.".

PART 3—PREVENTING HEALTH CARE FRAUD

SEC. 2231. INJUNCTIVE AUTHORITY RELATING TO FALSE CLAIMS AND ILLEGAL KICKBACK SCHEMES INVOLVING FEDERAL HEALTH CARE PROGRAMS.

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

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ", or" and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(D) committing or about to commit an offense under section 1128B of the Social Security Act (42 U.S.C. 1320a–7b),"; and

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

(b) CIVIL ACTIONS.—

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

''(g) CIVIL ACTIONS.—

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

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

''(3) PROCEDURES.—An action under paragraph (1) shall be governed by—

''(A) the procedures with regard to subpoenas, statutes of limitations, standards of

proof, and collateral estoppel set forth in section 3731 of title 31, United States Code; and

"(B) the Federal Rules of Civil Procedure.

"(4) NO EFFECT ON OTHER REMEDIES.—Nothing in this section may be construed to affect the availability of any other criminal or civil remedy.

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

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

SEC. 2232. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

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

(1) in subsection (a), by inserting ", or any allegation of fraud or false claims (whether criminal or civil) in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))),'' after "Federal 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;

"(D) as permitted by a court at the request of a defendant in an administrative, civil, or criminal action brought by the United States, upon a showing that grounds may exist for a motion to exclude evidence obtained under this section; or

"(E) at the request of an attorney for the Government, upon a showing that such matters may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such law.

"(3) MANNER OF COURT ORDERED DISCLOSURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if a court orders the disclosure of any record described in paragraph (1), the disclosure—

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

"(ii) shall be undertaken in a manner that preserves the confidentiality and privacy of individuals who are the subject of 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) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

"(2) either—

"(A) identifies an individual; or

"(B) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.".

SEC. 2233. EXTENDING ANTIFRAUD SAFEGUARDS TO THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

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

SEC. 2234. GRAND JURY DISCLOSURE.

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

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

(2) by inserting after subsection (b) the following:

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

SEC. 2235. INCREASING THE EFFECTIVENESS OF CIVIL INVESTIGATIVE DEMANDS IN FALSE CLAIMS INVESTIGATIONS.

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

(1) in subsection (a)(1), in the second sentence, by inserting ", except to the Deputy Attorney General or to an Assistant Attorney General" before the period at the end; and

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

application to a United States district court showing that such disclosure would assist the Department of Justice in carrying out its statutory responsibilities.''.

PART 4—PROTECTING RESIDENTS OF NURSING HOMES

SEC. 2241. NURSING HOME RESIDENT PROTECTION.

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

"§ 1349. Pattern of violations resulting in harm to residents of nursing homes and related facilities

''(a) DEFINITIONS.—In this section:

''(1) ENTITY.—The term 'entity' means—

''(A) any residential health care facility (including facilities that do not exclusively provide residential health care services);

''(B) any entity that manages a residential health care facility; or

''(C) any entity that owns, directly or indirectly, a controlling interest or a 50 percent or 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

in a pattern of violations that would affect the health, safety, or care of individuals residing in a residential health care facility, and that results in or has the potential to result in physical or mental harm to 1 or more such residents, the Attorney General may petition an appropriate district court of the United States for appropriate equitable and declaratory relief to eliminate the pattern of violations.

"(3) PROCEDURES.—In any action under this subsection—

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

"(B) the action may not be brought more than 6 years after the date on which the violation occurred;

"(C) the United States shall be required to prove each charge by a preponderance of the evidence;

"(D) the civil investigative demand procedures set forth in the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) and regulations promulgated pursuant to that Act shall apply to any investigation; and

"(E) the filing or resolution of a matter shall not preclude any other remedy that is available to the United States or any other person.

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

(b) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—Section 3486(a)(1) of title 18, United States Code, as amended by section 2232 of this Act, is amended by inserting ", act or activity involving section 1349 of this title" after "Federal health care offense".

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

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

PART 5—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

SEC. 2251. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS AND REGULATORY AGENCIES.

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

(1) in each of paragraphs (3), (4), and (5), by striking ''in the case of property referred to in subsection (a)(1)(C)'' and inserting ''in the case of property forfeited in connection with an offense resulting in a pecuniary loss to a financial institution or regulatory agency,''; and

(2) in paragraph (7), by striking ''In the case of property referred to in subsection (a)(1)(D)'' and inserting ''in the case of property forfeited in connection with an offense relating to the sale of assets acquired or held by any Federal financial institution or regulatory agency, or person appointed by such agency, as receiver, conservator, or liquidating agent for a financial institution''.

SEC. 2252. VICTIM RESTITUTION.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

''(r) VICTIM RESTITUTION.—

"(1) SATISFACTION OF ORDER OF RESTITUTION.—

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

"(B) EXCEPTION.—If there are 1 or more identifiable victims entitled to restitution from a defendant, and the defendant has no assets other than the property subject to forfeiture with which to pay restitution to the victim or victims, the attorney for the Government may move to dismiss a forfeiture allegation against the defendant before entry of a judgment of forfeiture in order to allow the property to be used by the defendant to pay restitution in whatever manner the court determines to be appropriate if the court grants the motion. In granting a motion under this subparagraph, the court shall include a provision ensuring that costs associated with the identification, seizure, management, and disposition of the property are recovered by the United States.

"(2) RESTORATION OF FORFEITED PROPERTY.—

"(A) IN GENERAL.—If an order of forfeiture is entered pursuant to this section and the defendant has no assets other than the forfeited property to pay restitution to 1 or more identifiable victims who are entitled to restitution, the Government shall restore the forfeited property to the victims pursuant to subsection (i)(1) once the ancillary proceeding under subsection (n) has been completed and the costs of the forfeiture action have been deducted.

"(B) DISTRIBUTION OF PROPERTY.—On a motion of the attorney for the Government, the court may enter any order necessary to facilitate the distribution of any property restored under this paragraph.

"(3) VICTIM DEFINED.—In this subsection, the term 'victim'—

"(A) means a person other than a person with a legal right, title, or interest in the forfeited property sufficient to satisfy the standing requirements of subsection (n)(2) who may be entitled to restitution from the forfeited funds pursuant to section 9.8 of part 9 of title 28, Code of Federal Regulations (or any successor to that regulation); and

"(B) includes any person who is the victim of the offense giving rise to the forfeiture, or of any offense that was part of the same scheme, conspiracy, or pattern of criminal activity, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity.".

SEC. 2253. BANKRUPTCY PROCEEDINGS NOT USED TO SHIELD ILLEGAL GAINS FROM FALSE CLAIMS.

(a) CERTAIN ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—

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

(2) CONFORMING AMENDMENT.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (17), by striking "or" at the end;

(B) in paragraph (18), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(19) the commencement or continuation of an action under section 3729 of title 31.".

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

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

(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—

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

"§ 111. False claims

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

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

"111. False claims.".

SEC. 2254. FORFEITURE FOR RETIREMENT OFFENSES.

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

"(9) CRIMINAL FORFEITURE.—

"(A) IN GENERAL.—The court, in imposing a sentence on a person convicted of a retirement offense, shall order the person to forfeit property, real or personal, that constitutes or that is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

"(B) RETIREMENT OFFENSE DEFINED.—In this paragraph, if a violation, conspiracy, or solicitation relates to a retirement arrangement (as defined in section 1348 of title 18, United States Code), the term 'retirement offense' means a violation of—

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

"(ii) section 411, 501, or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111, 1131, 1141).".

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

"(H) Any property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of, criminal conspiracy to violate, or solicitation to commit a crime of violence involving, a retirement offense (as defined in section 982(a)(9)(B)).".

TITLE III—DETERRING IDENTITY THEFT AND ASSISTING VICTIMS OF CRIME AND DOMESTIC VIOLENCE

Subtitle A—Deterring Identity Theft

PART 1—IDENTITY THEFT VICTIMS ASSISTANCE

SEC. 3111. SHORT TITLE.

This part may be cited as the "Identity Theft Victims Assistance Act of 2003".

SEC. 3112. FINDINGS.

Congress finds that—

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

(2) victims of identity theft often have extraordinary difficulty restoring their credit and regaining control of their identity because of the viral nature of identity theft;

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

(4) victims are often required to contact numerous Federal, State, and local law enforcement agencies, consumer credit reporting agencies, and creditors over many years, as each event of fraud arises;

(5) the Government, business entities, and credit reporting agencies have a shared responsibility to assist identity theft victims, to mitigate the harm that results from fraud perpetrated in the victim's name;

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

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

(B) evidencing their true identity and claim of identity theft to consumer credit reporting agencies and business entities;

(7) one of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes; and

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

SEC. 3113. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) IN GENERAL.—Chapter 47 title 18, United States Code, is amended by adding after section 1028 the following:

"§ 1028A. Treatment of identity theft mitigation

''(a) DEFINITIONS.—As used in this section—

''(1) the term 'business entity' means any corporation, trust, partnership, sole proprietorship, or unincorporated association, including any financial service provider, financial information repository, creditor (as that term is defined in section 103 of

the Truth in Lending Act (15 U.S.C. 1602)), telecommunications, utilities, or other service provider;

"(2) the term 'consumer' means an individual;

"(3) the term 'financial information' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

"(A) account numbers and balances;

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

"(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

"(4) the term 'financial information repository' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or 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—

"(A) the victim;

"(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim; or

"(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

"(2) RULE OF CONSTRUCTION.—

"(A) IN GENERAL.—No provision of Federal or State law prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this section.

"(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this section requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law.

"(c) VERIFICATION OF IDENTITY AND CLAIM.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (b)(1), the victim shall provide to the business 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

this section with respect to an individual in connection with an identity theft to other business entities, law enforcement authorities, victims, or any person alleging to be a victim, if—

"(1) the business entity complies with subsection (c); and

"(2) such disclosure was made—

"(A) for the purpose of detection, investigation, or prosecution of identity theft; or

"(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

"(e) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under subsection (b) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

"(1) this section does not require disclosure of the information; or

"(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information.

"(f) NO NEW RECORDKEEPING OBLIGATION.—Nothing 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—

"(A) to conduct investigations;

"(B) to administer oaths or affirmations; or

"(C) to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for a violation of this section, no State may, during the pendency of that action, institute an action under this subsection against any defendant named in the complaint in that action for violation of that practice.

"(5) VENUE; SERVICE OF PROCESS.—

"(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States—

"(i) where the defendant resides;

"(ii) where the defendant is doing business; or

"(iii) that meets applicable requirements relating to venue under section 1391 of title 28.

"(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

"(i) resides;

"(ii) is doing business; or

"(iii) may be found.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

"1028A. Treatment of identity theft mitigation.".

SEC. 3114. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) CONSUMER REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

"(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

"(1) BLOCK.—Except as provided in paragraph (3) and not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall block the reporting of any information identified by the consumer in the file of the con-

1 sumer 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

"(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions; or

"(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error.

"(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under subsection (a)(5)(B).

"(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have 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—

"(I) does not maintain a file on the consumer from which consumer reports are produced;

"(II) is not, at the time of the request of the consumer under paragraph (1), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

"(III) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.

"(ii) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this subsection, with regard to any request of a consumer under this subsection, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use if—

"(I) the consumer, in accordance with the provisions of paragraph (1), identifies, to a consumer reporting 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.''.

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

''(j) Any person who knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.''.

(c) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

''SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

''(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepre-

sented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

"(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 4 years from the date of the defendant's violation if—

"(1) the plaintiff is the victim of an identity theft; or

"(2) the plaintiff—

"(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

"(B) has not materially and willfully misrepresented such a claim.".

SEC. 3115. COORDINATING COMMITTEE STUDY OF COORDINATION AMONG FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking "and the Commissioner of Immigration and Naturalization" and

inserting "the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,"; and

(2) in subsection (c), by striking "2 years after the effective date of this Act." and inserting "on December 28, 2004.".

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) CONSULTATION.—In discharging its duties, the coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities, including telecommunications and utility companies, and organizations representing consumers.".

(c) REPORT DISTRIBUTION AND CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by subsection (b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the coordinating committee, shall report on the activities of the coordinating committee to—

"(A) the Committee on the Judiciary of the Senate;

"(B) the Committee on the Judiciary of the House of Representatives;

"(C) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(D) the Committee on Financial Services of the House of Representatives.";

(2) in subparagraph (E), by striking "and" at the end; and

(3) by striking subparagraph (F) and inserting the following:

"(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

"(G) a comprehensive description of coordination activities between Federal, State,

and local law enforcement agencies that address identity theft; and

"(H) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

"(i) facilitate more effective investigation and prosecution of cases involving—

"(I) identity theft; and

"(II) the creation and distribution of false identification documents;

"(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and

"(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person.".

PART 2—IDENTITY THEFT PREVENTION

SEC. 3121. SHORT TITLE.

This part may be cited as the "Identity Theft Prevention Act of 2003".

SEC. 3122. FINDINGS.

Congress finds that—

(1) the crime of identity theft has become one of the major law enforcement challenges of the new economy, as vast quantities of sensitive, personal information are now vulnerable to criminal interception and misuse;

(2) in November 2002, Americans were alerted to the dangers of identity theft when Federal prosecutors announced that 3 individuals had allegedly sold the credit and personal information of 30,000 people, the largest single identity theft case in United States history;

(3) hundreds of thousands of Americans are victims of identity theft each year, resulting in an annual cost to industry of more than $3,500,000,000.

(4) several indicators reveal that despite increased public awareness of the crime, the number of incidents of identity theft continues to rise;

(5) in December 2001, the Federal Trade Commission received an average of more than 3,000 identity theft calls per week, a 700 percent increase since the Identity Theft Data Clearinghouse began operation in November 1999;

(6) allegations of social security number fraud increased by 500 percent between 1998 and 2001, from 11,000 to 65,000;

(7) a national credit reporting agency reported that consumer requests for fraud alerts increased by 53 percent during fiscal year 2001;

(8) identity theft violates the privacy of American citizens and ruins their good names;

(9) victims of identity theft may suffer restricted access to credit and diminished employment opportunities, and may spend years repairing the damage to credit histories caused by identity theft;

(10) businesses and government agencies that handle sensitive personal information of consumers have a responsibility to protect this information from identity thieves; and

(11) the private sector can better protect consumers by implementing effective fraud alerts, affording greater consumer access to credit reports, truncating of credit card numbers, and establishing other prevention measures.

SEC. 3123. IDENTITY THEFT PREVENTION.

(a) CHANGES OF ADDRESS.—

(1) DUTY OF ISSUERS OF CREDIT.—Section 132 of the Truth in Lending Act (15 U.S.C. 1642) is amended—

(A) by inserting ''(a) IN GENERAL.—'' before ''No credit''; and

(B) by adding at the end the following:

''(b) CONFIRMATION OF CHANGES OF ADDRESS.—If a card issuer receives a request for an additional credit card with respect to an existing credit account not later than 30 days after receiving notification of a change of address for that account, the card issuer shall—

''(1) not later than 5 days after sending the additional card to the new address, notify the cardholder of the request at both the new address and the former address; and

''(2) provide to the cardholder a means of promptly reporting incorrect changes.''.

(2) ENFORCEMENT.—

(A) FEDERAL TRADE COMMISSION.—Except as provided in subparagraph (B), compliance with section 132(b) of the Truth in Lending Act (as added by this subsection) shall be enforced by the Federal Trade Commission in the same manner and with the same power and 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

under section 25 or 25A of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System;

(cc) a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a national nonmember bank) or an insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(dd) a savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

(II) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration in the case of a card issuer that is a Federal credit union, as defined in that Act.

(C) VIOLATIONS TREATED AS VIOLATIONS OF OTHER LAWS.—

(i) IN GENERAL.—For the purpose of the exercise by any agency referred to in this paragraph of its powers under any Act referred to in this paragraph, a violation of section 132(b) of the Truth in Lending Act (as added by this subsection) shall be deemed to be a violation of a requirement imposed under that Act.

(ii) AGENCY AUTHORITY.—In addition to its powers under any provision of law specifically referred to in subparagraph (A) or (B), each of the agencies referred to in those subparagraphs may exercise, for the purpose of enforcing compliance with section 132(b) of the Truth in Lending Act, any other authority conferred on such agency by law.

(b) FRAUD ALERTS.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding at the end the following:

''(g) FRAUD ALERTS.—

''(1) DEFINED TERM.—In this subsection, the term 'fraud alert' means a statement in the file of

a consumer that notifies all prospective users of a consumer report made with respect to that consumer that—

"(A) the consumer's identity may have been used, without the consumer's consent, to fraudulently obtain goods or services in the consumer's name; and

"(B) the consumer does not authorize the issuance or extension of credit in the name of the consumer unless the issuer of such credit—

"(i) obtains express preauthorization from the consumer at a telephone number designated by the consumer; or

"(ii) utilizes another reasonable means of communications to obtain the express preauthorization of the consumer.

"(2) INCLUSION OF FRAUD ALERT IN CONSUMER FILE.—Upon the request of a consumer and upon receiving proper identification, a consumer reporting agency shall include a fraud alert in the file of that consumer.

"(3) NOTICE SENT BY CONSUMER REPORTING AGENCIES.—A consumer reporting agency shall notify each person procuring consumer credit information with respect to a consumer of the existence of

a fraud alert in the file of that consumer, regardless of whether a full credit report, credit score, or summary report is requested.

"(4) PROCEDURES TO RECEIVE FRAUD ALERTS.—Any person who uses a consumer credit report in connection with a credit transaction shall establish reasonable procedures to receive fraud alerts transmitted by consumer reporting agencies.

"(5) VIOLATIONS.—

"(A) CONSUMER REPORTING AGENCY.—Any consumer reporting agency that fails to notify any user of a consumer credit report of the existence of a fraud alert in that report shall be in violation of this section.

"(B) USER OF A CONSUMER REPORT.—Any user of a consumer report that fails to comply with preauthorization procedures contained in a fraud alert and issues or extends credit in the name of the consumer to a person other than the consumer shall be in violation of this section.

"(6) EXCEPTIONS.—

"(A) RESELLERS.—

"(i) IN GENERAL.—The provisions of this subsection do not apply to a consumer

reporting agency that acts as a reseller of information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent database of the assembled or merged information from which new consumer reports are produced.

"(ii) LIMITATION.—A reseller of assembled or merged information shall preserve any fraud alert placed on a consumer report by another consumer reporting agency.

"(B) EXEMPT INSTITUTIONS.—The requirement under this subsection to place a fraud alert in a consumer file shall not apply to—

"(i) a check services company, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments; or

"(ii) a demand deposit account information service company, which issues reports regarding account closures due to

fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a demand deposit account at the inquiring bank or financial institution.''.

SEC. 3124. TRUNCATION OF CREDIT CARD ACCOUNT NUMBERS.

(a) IN GENERAL.—Except as provided in this section, no person, firm, partnership, association, corporation, or limited liability company that accepts credit cards for the transaction of business shall print more than the last 5 digits of the credit card account number or the expiration date upon any receipt provided to the cardholder.

(b) LIMITATION.—This section—

(1) applies only to receipts that are electronically printed; and

(2) does not apply to transactions in which the sole means of recording the cardholder's credit card account number is by handwriting or by an imprint or copy of the credit card.

(c) EFFECTIVE DATE.—This section shall take effect—

(1) on the date that is 4 years after the date of enactment of this Act, with respect to any cash register or other machine or device that electronically prints receipts for credit card transactions that is in use prior to the date of enactment of this Act; and

(2) on the date that is 18 months after the date of enactment of this Act, with respect to any cash register or other machine or device that electronically prints receipts for credit card transactions that is first put into use on or after the date of enactment of this Act.

(d) EFFECT ON STATE LAW.—Nothing in this section prevents a State from imposing requirements that are the same or substantially similar to the requirements of this section at any time before the effective date of this section.

SEC. 3125. FREE ANNUAL CREDIT REPORT.

Section 612(c) of the Fair Credit Reporting Act (15 U.S.C. 1681j(c)) is amended to read as follows:

"(c) FREE ANNUAL DISCLOSURE.—Upon the request of the consumer and without charge to the consumer, a consumer reporting agency shall make all the disclosures listed under section 609 once during any 12-month period.".

PART 3—SOCIAL SECURITY NUMBER MISUSE PREVENTION

SEC. 3131. SHORT TITLE.

This part may be cited as the ''Social Security Number Misuse Prevention Act of 2003''.

SEC. 3132. FINDINGS.

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of social security numbers has contributed to a growing range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used social security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a social security number in order to pay taxes, to qualify for social security benefits, or to seek employment. An unintended consequence of these requirements is that social security numbers have become one of the tools that can be used to fa-

cilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Federal Government to take steps to stem the abuse of social security numbers.

(4) The display, sale, or purchase of social security numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should seek to profit from the display, sale, or purchase of social security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this part provides each individual that has been assigned a social security number some degree of protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

SEC. 3133. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028 the following:

"§ 1028A. Prohibition of the display, sale, or purchase of social security numbers

''(a) DEFINITIONS.—In this section:

''(1) DISPLAY.—The term 'display' means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual's social security number.

''(2) PERSON.—The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(3) PURCHASE.—The term 'purchase' means providing directly or indirectly, anything of value in exchange for a social security number.

''(4) SALE.—The term 'sale' means obtaining, directly or indirectly, anything of value in exchange for a social security number.

''(5) STATE.—The term 'State' means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the 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

"(D) when the transmission of the number is incidental to, and in the course of, the sale, lease, franchising, or merger of all, or a portion of, a business;

"(6) if the transfer of such a number is part of a data matching program involving a Federal, State, or local agency; or

"(7) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program;

except that, nothing in this subsection shall be construed as permitting a professional or commercial user to display or sell a social security number to the general public.

"(f) LIMITATION.—Nothing in this section shall prohibit or limit the display, sale, or purchase of social security numbers as permitted under title V of the Gramm-Leach-Bliley Act, or for the purpose of affiliate sharing as permitted under the Fair Credit Reporting Act, except that no entity regulated under such Acts may make social security numbers available to the general public, as may be determined by the appropriate regulators under such Acts. For purposes of this subsection, the general public shall not include affiliates or unaffiliated third-party busi-

ness entities as may be defined by the appropriate regulators.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following:

''1028A. Prohibition of the display, sale, or purchase of social security numbers.''.

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Attorney General shall conduct a study and prepare a report on all of the uses of social security numbers permitted, required, authorized, or excepted under any Federal law. The report shall include a detailed description of the uses allowed as of the date of enactment of this Act and shall evaluate whether such uses should be continued or discontinued by appropriate legislative action.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall report to Congress findings under this subsection. The report shall include such recommendations for legislation based on criteria the Attorney General determines to be appropriate.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 30 days

after the date on which the final regulations promulgated under section 3135 are published in the Federal Register.

SEC. 3134. APPLICATION OF PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code (as amended by section 3(a)(1)), is amended by inserting after section 1028A the following:

"§ 1028B. Display, sale, or purchase of public records containing social security numbers

''(a) DEFINITION.—In this section, the term 'public record' means any governmental record that is made available to the general public.

''(b) IN GENERAL.—Except as provided in subsections (c), (d), and (e), section 1028A shall not apply to a public record.

''(c) PUBLIC RECORDS ON THE INTERNET OR IN AN ELECTRONIC MEDIUM.—

''(1) IN GENERAL.—Section 1028A shall apply to any public record first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity after the date of enactment

of this section, except as limited by the Attorney General in accordance with paragraph (2).

"(2) EXCEPTION FOR GOVERNMENT ENTITIES ALREADY PLACING PUBLIC RECORDS ON THE INTERNET OR IN ELECTRONIC FORM.—Not later than 60 days after the date of enactment of this section, the Attorney General shall issue regulations regarding the applicability of section 1028A to any record of a category of public records first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity prior to the date of enactment of this section. The regulations will determine which individual records within categories of records of these government entities, if any, may continue to be posted on the Internet or in electronic form after the effective date of this section. In promulgating these regulations, the Attorney General may include in the regulations a set of procedures for implementing the regulations and shall consider the following:

"(A) The cost and availability of technology available to a governmental entity to redact social security numbers from public records first provided in electronic form after the effective date of this section.

"(B) The cost or burden to the general public, businesses, commercial enterprises, non-profit organizations, and to Federal, State, and local governments of complying with section 1028A with respect to such records.

"(C) The benefit to the general public, businesses, commercial enterprises, non-profit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028A should apply to such records.

Nothing in the regulation shall permit a public entity to post a category of public records on the Internet or in electronic form after the effective date of this section if such category had not been placed on the Internet or in electronic form prior to such effective date.

"(d) HARVESTED SOCIAL SECURITY NUMBERS.—Section 1028A shall apply to any public record of a government entity which contains social security numbers extracted from other public records for the purpose of displaying or selling such numbers to the general public.

"(e) ATTORNEY GENERAL RULEMAKING ON PAPER RECORDS.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Attorney General shall determine the feasibility and advisability of applying section 1028A to the records listed in paragraph (2) when they appear on paper or on another nonelectronic medium. If the Attorney General deems it appropriate, the Attorney General may issue regulations applying section 1028A to such records.

"(2) LIST OF PAPER AND OTHER NONELECTRONIC RECORDS.—The records listed in this paragraph are as follows:

"(A) Professional or occupational licenses.

"(B) Marriage licenses.

"(C) Birth certificates.

"(D) Death certificates.

"(E) Other short public documents that display a social security number in a routine and consistent manner on the face of the document.

"(3) CRITERIA FOR ATTORNEY GENERAL REVIEW.—In determining whether section 1028A should apply to the records listed in paragraph (2), the Attorney General shall consider the following:

"(A) The cost or burden to the general public, businesses, commercial enterprises, non-profit organizations, and to Federal, State, and local governments of complying with section 1028A.

"(B) The benefit to the general public, businesses, commercial enterprises, non-profit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028A should apply to such records.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code (as amended by section 3(a)(2)), is amended by inserting after the item relating to section 1028A the following:

"1028B. Display, sale, or purchase of public records containing social security numbers.".

(b) STUDY AND REPORT ON SOCIAL SECURITY NUMBERS IN PUBLIC RECORDS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study and prepare a report on social security numbers in public records. In developing the report, the Comptroller General shall consult with the Administrative Office of the United States Courts, State and local governments

that store, maintain, or disseminate public records, and other stakeholders, including members of the private sector who routinely use public records that contain social security numbers.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a detailed description of the activities and results of the study and recommendations for such legislative action as the Comptroller General considers appropriate. The report, at a minimum, shall include—

(A) a review of the uses of social security numbers in non-federal public records;

(B) a review of the manner in which public records are stored (with separate reviews for both paper records and electronic records);

(C) a review of the advantages or utility of public records that contain social security numbers, including the utility for law enforcement, and for the promotion of homeland security;

(D) a review of the disadvantages or drawbacks of public records that contain social security numbers, including criminal activity, com-

promised personal privacy, or threats to homeland security;

(E) the costs and benefits for State and local governments of removing social security numbers from public records, including a review of current technologies and procedures for removing social security numbers from public records; and

(F) an assessment of the benefits and costs to businesses, their customers, and the general public of prohibiting the display of social security numbers on public records (with separate assessments for both paper records and electronic records).

(c) EFFECTIVE DATE.—The prohibition with respect to electronic versions of new classes of public records under section 1028B(b) of title 18, United States Code (as added by subsection (a)(1)) shall not take effect until the date that is 60 days after the date of enactment of this Act.

SEC. 3135. RULEMAKING AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and 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:

(A) The benefit to a particular business, to customers of the business, and to the general public of the display, sale, or purchase of an individual's social security number.

(B) The costs that businesses, customers of businesses, and the general public may incur as a result of prohibitions on the display, sale, or purchase of social security numbers.

(C) The risk that a particular business practice will promote the use of a social security number to commit fraud, deception, or crime.

(D) The presence of adequate safeguards and procedures to prevent—

(i) misuse of social security numbers by employees within a business; and

(ii) misappropriation of social security numbers by the general public, while permitting internal business uses of such numbers.

(E) The presence of procedures to prevent identity thieves, stalkers, and other individuals with ill intent from posing as legitimate businesses to obtain social security numbers.

SEC. 3136. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT DOCUMENTS.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:

''(x) No Federal, State, or local agency may display the social security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF APPEARANCE OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATION.—

(1) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(A) by inserting ''(I)'' after ''(vi)''; and

(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) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

SEC. 3137. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

"(a) IN GENERAL.—A commercial entity may not require an individual to provide the individual's social security number when purchasing a commercial good or service or deny an individual the good or service for refusing to provide that number except—

"(1) for any purpose relating to—

"(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act;

"(B) a background check of the individual conducted by a landlord, lessor, employer, voluntary service agency, or other entity as determined by the Attorney General;

"(C) law enforcement; or

"(D) a Federal, State, or local law requirement; or

"(2) if the social security number is necessary to verify the identity of the consumer to effect, administer, or enforce the specific transaction requested or authorized by the consumer, or to prevent 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-

clause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

"(2) INTERVENTION.—

"(A) IN GENERAL.—On receiving notice under paragraph (1)(B), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

"(B) EFFECT OF INTERVENTION.—If the Attorney General intervenes in the action under paragraph (1), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

"(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

"(A) conduct investigations;

"(B) administer oaths or affirmations; or

"(C) compel the attendance of witnesses or the production of documentary and other evidence.

"(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under this section, no State may, during the pendency of that action, institute an action under paragraph (1) against any defendant named in the complaint in that action for violation of that practice.

"(5) VENUE; SERVICE OF PROCESS.—

"(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

"(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

"(i) is an inhabitant; or

"(ii) may be found.

"(f) SUNSET.—This section shall not apply on or after the date that is 6 years after the effective date of this section.".

(b) EVALUATION AND REPORT.—Not later than the date that is 6 years and 6 months after the date of enactment of this Act, the Attorney General, in consultation with the chairman of the Federal Trade Commission, shall issue a report evaluating the effectiveness and efficiency of section 1150A of the Social Security Act (as added by subsection (a)) and shall make recommendations to Congress as to any legislative action determined to be necessary or advisable with respect to such section, including a recommendation regarding whether to reauthorize such section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests to provide a social security number occurring after the date that is 1 year after the date of enactment of this Act.

SEC. 3138. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—The first sentence of section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking ''who'' and inserting ''who—'';

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(B) makes such a statement or representation for such use with knowing disregard for the truth; or

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to'';

(C) by inserting ''or each receipt of such benefits while withholding disclosure of such fact'' after ''each such statement or representation'';

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation''; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation''.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—The first sentence of section 1129A(a) of the Social Security Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI,

that the person knows or should know is false or misleading;

"(2) makes such a statement or representation for such use with knowing disregard for the truth; or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to".

(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8(a)), as amended by subsection (a)(1), is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesignating the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following:

"(3) Any person (including an organization, agency, or other entity) who—

"(A) uses a social security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

"(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;

"(C) knowingly alters a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

"(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;

"(E) counterfeits a social security card, or possesses a counterfeit social security card with intent to display, sell, or purchase it;

"(F) discloses, uses, compels the disclosure of, or knowingly displays, sells, or purchases the social security account number of any person in violation of the laws of the United States;

"(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

"(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number which purports to be a social security account number; or

"(I) being an officer or employee of a Federal, State, or local agency in possession of any individual's social security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (vi)(II) or (x) of section 205(c)(2)(C), shall

be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.''.

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking ''In the case of amounts recovered arising out of a determination relating to title VIII or XVI,'' and inserting ''In the case of any other amounts recovered under this section,''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ''charging fraud or false statements''.

(2) Section 1129(c)(1) of the Social Security Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking ''and representations'' and inserting '', representations, or actions''.

(3) Section 1129(e)(1)(A) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by

striking ''statement or representation referred to in subsection (a) was made'' and inserting ''violation occurred''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations of sections 1129 and 1129A of the Social Security Act (42 U.S.C. 1320–8 and 1320a–8a), as amended by this section, committed after the date of enactment of this Act.

(2) VIOLATIONS BY GOVERNMENT AGENTS IN POSSESSION OF SOCIAL SECURITY NUMBERS.—Section 1129(a)(3)(I) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)(I)), as added by subsection (b), shall apply with respect to violations of that section occurring on or after the effective date described in section 3133(c).

SEC. 3139. CRIMINAL PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's social security number for purposes of locating or identifying an individual with the intent to physically

injure, harm, or use the identity of the individual for any illegal purpose.

(b) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following:

''(9) except as provided in subsections (e) and (f) of section 1028A of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in section 1028A(a) of title 18, United States Code) any individual's social security account number without having met the prerequisites for consent under section 1028A(d) of title 18, United States Code; or

''(10) obtains any individual's social security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;''.

SEC. 3140. CIVIL ACTIONS AND CIVIL PENALTIES.

(a) CIVIL ACTION IN STATE COURTS.—

(1) IN GENERAL.—Any individual aggrieved by an act of any person in violation of this part or any

amendments made by this part may, if otherwise permitted by the laws or rules of the court of a State, bring in an appropriate court of that State—

(A) an action to enjoin such violation;

(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater; or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of the regulations prescribed under this part. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this Act, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

(2) STATUTE OF LIMITATIONS.—An action may be commenced under this subsection not later than the earlier of—

(A) 5 years after the date on which the alleged violation occurred; or

(B) 3 years after the date on which the alleged violation was or should have been reasonably discovered by the aggrieved individual.

(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedies available to the individual.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who the Attorney General determines has violated any section of this part or of any amendments made by this part shall be subject, in addition to any other penalties that may be prescribed by law—

(A) to a civil penalty of not more than $5,000 for each such violation; and

(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the social security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the first sentence of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty action under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a–7a) to the Secretary shall be deemed to be a reference to the Attorney General.

SEC. 3141. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this part or the amendments made by this part, the Federal Government shall have injunctive authority with respect to any violation by a public entity of any provision of this part or of any amendments made by this part.

Subtitle B—Crime Victim Assistance

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the ''Crime Victims Assistance Act of 2003''.

PART 1—VICTIM RIGHTS IN THE FEDERAL SYSTEM

SEC. 3211. RIGHT TO CONSULT CONCERNING DETENTION.

(a) RIGHT TO CONSULT CONCERNING DETENTION.—Section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) is amended by striking paragraph (2) and inserting the following:

''(2) A responsible official shall—

''(A) arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender; and

''(B) consult with a victim prior to a detention hearing to obtain information that can be presented to the court on the issue of any threat the suspected offender may pose to the safety of the victim.''.

(b) COURT CONSIDERATION OF THE VIEWS OF VICTIMS.—Chapter 207 of title 18, United States Code, is amended—

(1) in section 3142—

(A) in subsection (g)—

(i) in paragraph (3), by striking "and" at the end;

(ii) by redesignating paragraph (4) as paragraph (5); and

(iii) by inserting after paragraph (3) the following:

"(4) the views of the victim; and"; and

(B) by adding at the end the following:

"(k) VIEWS OF THE VICTIM.—During a hearing under subsection (f), the judicial officer shall inquire of the attorney for the Government if the victim has been consulted on the issue of detention and the views of such victim, if any.".

(2) in section 3156(a)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) the term "victim" includes all persons defined as victims in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(e)(2)).".

SEC. 3212. RIGHT TO A SPEEDY TRIAL.

Section 3161(h)(8)(B) of title 18, United States Code, is amended by adding at the end the following:

''(v) The interests of the victim (as defined in section 10607(e)(2) of title 42, United States Code) in the prompt and appropriate disposition of the case, free from unreasonable delay.''.

SEC. 3213. RIGHT TO CONSULT CONCERNING PLEA.

(a) RIGHT TO CONSULT CONCERNING PLEA.—Section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) is amended—

(1) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(2) by inserting after paragraph (3) the following:

''(4) A responsible official shall make reasonable efforts to notify a victim of, and consider the views of a victim about, any proposed or contemplated plea agreement. In determining what is reasonable, the responsible official should consider factors relevant to the wisdom and practicality of giving notice and considering views in the context of the particular case, including—

''(A) the impact on public safety and risks to personal safety;

''(B) the number of victims;

"(C) the need for confidentiality, including whether the proposed plea involves confidential information or conditions;

"(D) whether time is of the essence in negotiating or entering a proposed plea; and

"(E) whether the victim is a possible witness in the case and the effect that relaying any information may have upon the right of the defendant to a fair trial.".

(b) COURT CONSIDERATION OF THE VIEWS OF VICTIMS.—Rule 11 of the Federal Rules of Criminal Procedure is amended—

(1) by redesignating subdivisions (g) and (h) as subdivisions (h) and (i), respectively; and

(2) by inserting after subdivision (f) the following:

"(g) VIEWS OF THE VICTIM.—Notwithstanding the acceptance of a plea of guilty, the court should not enter a judgment upon such plea without making inquiry of the attorney for the Government if the victim (as defined in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990) has been consulted on the issue of the plea and the views of such victim, if any.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (b) shall become effective as provided in paragraph (3).

(2) ACTION BY JUDICIAL CONFERENCE.—

(A) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to provide enhanced opportunities for victims to be heard on the issue of whether or not the court should accept a plea of guilty or nolo contendere.

(B) INAPPLICABILITY OF OTHER LAW.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference of the United States under this paragraph.

(3) CONGRESSIONAL ACTION.—Except as otherwise provided by law, if the Judicial Conference of the United States—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendments

made by subsection (b), then the amendments made by subsection (b) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendments made by subsection (b), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendments made by subsection (b) shall become effective 360 days after the date of enactment of this Act.

(4) APPLICATION.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the Judicial Conference of the United States under para-

graph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 3214. ENHANCED PARTICIPATORY RIGHTS AT TRIAL.

(a) AMENDMENTS TO VICTIM RIGHTS CLARIFICATION ACT.—Section 3510 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

''(c) APPLICATION TO TELEVISED PROCEEDINGS.—This section applies to any victim viewing proceedings pursuant to section 235 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 10608), or any rule issued thereunder.

''(d) STANDING.—

''(1) IN GENERAL.—At the request of any victim of an offense, the attorney for the Government may assert the right of the victim under this section to attend and observe the trial.

''(2) VICTIM STANDING.—If the attorney for the Government declines to assert the right of a victim under this section, then the victim has standing to assert such right.

"(3) APPELLATE REVIEW.—An adverse ruling on a motion or request by an attorney for the Government or a victim under this subsection may be appealed or petitioned under the rules governing appellate actions, provided that no appeal or petition shall constitute grounds for delaying a criminal proceeding.".

(b) AMENDMENT TO VICTIMS' RIGHTS AND RESTITUTION ACT OF 1990.— Section 502(b) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10606(b)) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim at trial would be materially affected if the victim heard the testimony of other witnesses."; and

(2) in paragraph (5), by striking "attorney" and inserting "the attorney".

SEC. 3215. ENHANCED PARTICIPATORY RIGHTS AT SENTENCING.

(a) VIEWS OF THE VICTIM.—Section 3553(a) of title 18, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following:

''(7) the impact of the crime upon any victim of the offense as reflected in any victim impact statement and the views of any victim of the offense concerning punishment, if such statement or views are presented to the court; and''.

(b) ENHANCED RIGHT TO BE HEARD CONCERNING SENTENCE.—Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (c)(3)(E), by striking ''if the sentence is to be imposed for a crime of violence or sexual abuse,''; and

(2) by amending subdivision (f) to read as follows:

''(f) DEFINITION. For purposes of this rule, 'victim' means any individual against whom an offense has been committed for which a sentence is to be imposed, but the right of allocution under subdivision (c)(3)(E) may be exercised instead by—

"(1) a parent or legal guardian if the victim is below the age of eighteen years or incompetent; or

"(2) one or more family members or relatives designated by the court if the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (b) shall become effective as provided in paragraph (3).

(2) ACTION BY JUDICIAL CONFERENCE.—

(A) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to provide enhanced opportunities for victims to participate during the presentencing and sentencing phase of the criminal process.

(B) INAPPLICABILITY OF OTHER LAW.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by

the Judicial Conference of the United States under this paragraph.

(3) CONGRESSIONAL ACTION.—Except as otherwise provided by law, if the Judicial Conference of the United States—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendments made by subsection (b), then the amendments made by subsection (b) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendments made by subsection (b), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendments made by subsection (b) shall become effective 360 days after the date of enactment of this Act.

(4) APPLICATION.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the Judicial Conference of the United States under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 3216. RIGHT TO NOTICE CONCERNING SENTENCE ADJUSTMENT.

Paragraph (6) of section 503(c) of the Victims' Rights and Restitution Act of 1990, as redesignated by section 3213 of this Act, is amended by striking subparagraph (A) and inserting:

''(A) the scheduling of a parole hearing or a hearing on modification of probation or supervised release for the offender;''.

SEC. 3217. RIGHT TO NOTICE CONCERNING DISCHARGE FROM PSYCHIATRIC FACILITY.

Paragraph (6) of section 503(c) of the Victims' Rights and Restitution Act of 1990, as redesignated by section 3213 of this Act, is amended by striking subparagraph (B) and inserting:

"(B) the escape, work release, furlough, discharge or conditional discharge, or any other form of release from custody of the offender, including an offender who was found not guilty by reason of insanity;".

SEC. 3218. RIGHT TO NOTICE CONCERNING EXECUTIVE CLEMENCY.

(a) NOTICE.—Paragraph (6) of section 503(c) of the Victims' Rights and Restitution Act of 1990, as redesignated by section 3213 of this Act, is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

"(C) the grant of executive clemency, including any pardon, reprieve, commutation of sentence, or remission of fine, to the offender; and".

(b) REPORTING REQUIREMENT.—The Attorney General shall submit biannually to the Committees on the Judiciary of the House of Representatives and the Senate a report on executive clemency matters or cases delegated for review or investigation to the Attorney General by the President, including for each year—

(1) the number of petitions so delegated;

(2) the number of reports submitted to the President;

(3) the number of petitions for executive clemency granted and the number denied;

(4) the name of each person whose petition for executive clemency was granted or denied and the offenses of conviction of that person for which executive clemency was granted or denied; and

(5) with respect to any person granted executive clemency, the date that any victim of an offense that was the subject of that grant of executive clemency was notified, pursuant to Department of Justice regulations, of a petition for executive clemency, and whether such victim submitted a statement concerning the petition.

SEC. 3219. PROCEDURES TO PROMOTE COMPLIANCE.

(a) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Attorney General of the United States shall promulgate regulations to enforce the rights of victims of crime described in section 502 of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10606) and to ensure compliance by responsible officials with the obligations described in section 503 of that Act (42 U.S.C. 10607).

(b) CONTENTS.—The regulations promulgated under subsection (a) shall—

(1) establish an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

(2) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of victims of crime, and otherwise assist such employees and offices in responding more effectively to the needs of victims;

(3) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of victims of crime; and

(4) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.

PART 2—VICTIM ASSISTANCE INITIATIVES

SEC. 3221. PILOT PROGRAMS TO ENFORCE COMPLIANCE WITH STATE CRIME VICTIM'S RIGHTS LAWS.

(a) DEFINITIONS.—In this section:

(1) COMPLIANCE AUTHORITY.—The term ''compliance authority'' means one of the compliance authorities established and operated under a program under subsection (b) to enforce the rights of victims of crime.

(2) DIRECTOR.—The term ''Director'' means the Director of the Office for Victims of Crime.

(3) OFFICE.—The term ''Office'' means the Office for Victims of Crime.

(b) PILOT PROGRAMS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Attorney General, acting through the Director, shall establish and carry out a program to provide for pilot programs in 5 States to establish and operate compliance authorities to enforce the rights of victims of crime.

(2) AGREEMENTS.—

(A) IN GENERAL.—The Attorney General, acting through the Director, shall enter into an agreement with a State to conduct a pilot program referred to in paragraph (1), which agree-

ment shall provide for a grant to assist the State in carrying out the pilot program.

(B) CONTENTS OF AGREEMENT.—The agreement referred to in subparagraph (A) shall specify that—

(i) the compliance authority shall be established and operated in accordance with this section; and

(ii) except with respect to meeting applicable requirements of this section concerning carrying out the duties of a compliance authority under this section (including the applicable reporting duties under subsection (f) and the terms of the agreement), a compliance authority shall operate independently of the Office.

(C) NO AUTHORITY OVER DAILY OPERATIONS.—The Office shall have no supervisory or decisionmaking authority over the day-to-day operations of a compliance authority.

(c) OBJECTIVES.—

(1) MISSION.—The mission of a compliance authority established and operated under a pilot program under this section shall be to promote compli-

ance and effective enforcement of State laws regarding the rights of victims of crime.

(2) DUTIES.—A compliance authority established and operated under a pilot program under this section shall—

(A) receive and investigate complaints relating to the provision or violation of the rights of a crime victim; and

(B) issue findings following such investigations.

(3) OTHER DUTIES.—A compliance authority established and operated under a pilot program under this section may—

(A) pursue legal actions to define or enforce the rights of victims;

(B) review procedures established by public agencies and private organizations that provide services to victims, and evaluate the delivery of services to victims by such agencies and organizations;

(C) coordinate and cooperate with other public agencies and private organizations concerned with the implementation, monitoring, and enforcement of the rights of victims and 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

(C) a therapist whose work includes treatment of crime victims; and

(3) Federal funds received under this section will be used to supplement, and not to supplant, non-Federal funds that would otherwise be available to enforce the rights of victims of crime.

(e) PREFERENCE.—In awarding grants under this section, the Attorney General shall give preference to a State that provides legal standing to prosecutors and victims of crime to assert the rights of victims of crime.

(f) OVERSIGHT.—

(1) TECHNICAL ASSISTANCE.—The Director may provide technical assistance and training to a State that receives a grant under this section to achieve the purposes of this section.

(2) ANNUAL REPORT.—Each State that receives a grant under this section shall submit to the Director, for each year in which funds from a grant received under this section are expended, a report that contains—

(A) a summary of the activities carried out under the grant and an assessment of the effectiveness of such activities in promoting compliance and effective implementation of the laws of

that State regarding the rights of victims of crime;

(B) a strategic plan for the year following the year covered under subparagraph (A); and

(C) such other information as the Director may require.

(g) REVIEW OF PROGRAM EFFECTIVENESS.—

(1) IN GENERAL.—The Director of the National Institute for Justice shall conduct an evaluation of the pilot programs carried out under this section to determine the effectiveness of the compliance authorities that are the subject of the pilot programs in carrying out the mission and duties described in subsection (c).

(2) REPORT.—Not later than 5 years after the date of enactment of this Act, the Director of the National Institute of Justice shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a written report on the results of the evaluation required by paragraph (1).

(h) GRANT PERIOD.—A grant under this section shall be made for a period not longer than 4 years, but may be renewed for a period not to exceed 2 years on such terms as the Director may require.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, to remain available until expended, $8,000,000 for fiscal years 2003 and 2004, and such sums as may be necessary for fiscal years 2005 and 2006.

(2) EVALUATIONS.—Up to 5 percent of the amount authorized to be appropriated under paragraph (1) in any fiscal year may be used for administrative expenses incurred in conducting the evaluations and preparing the report required by subsection (g).

SEC. 3222. INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.

The Victims of Crime Act of 1984 is amended by inserting after section 1404C the following:

"SEC. 1404D. VICTIM NOTIFICATION GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates

and developments relating to the criminal proceedings at issue on a timely and efficient basis.

"(b) INTEGRATION OF SYSTEMS.—Systems developed and implemented under this section may be integrated with existing case management systems operated by the recipient of the grant.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, in addition to funds made available by section 1402(d)(4)(C)—

"(1) $10,000,000 for fiscal years 2003 and 2004;

"(2) $5,000,000 for fiscal year 2005; and

"(3) $5,000,000 for fiscal year 2006.

"(d) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section.".

SEC. 3223. RESTORATIVE JUSTICE GRANTS.

(a) PURPOSES.—The purposes of this section are to—

(1) hold juvenile offenders accountable for their offenses;

(2) involve victims and the community in the juvenile justice process;

(3) obligate the offender to pay restitution to the victim and to the community through community service or through financial or other forms of restitution; and

(4) equip juvenile offenders with the skills needed to live responsibly and productively.

(b) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall make grants, in accordance with such regulations as the Attorney General may prescribe, to units of local governments, tribal governments, and qualified private entities to establish restorative justice programs, such as victim and offender mediation, family and community conferences, family and group conferences, sentencing circles, restorative panels, and reparative boards, as an alternative to, or in addition to, incarceration.

(c) PROGRAM CRITERIA.—A program funded by a grant made under this section shall—

(1) be fully voluntary by both the victim and the offender (who must admit responsibility), once the prosecuting agency has determined that the case is appropriate for this program;

(2) include as a critical component accountability conferences, at which the victim will have the opportunity to address the offender directly, to describe the impact of the offense against the victim, and the opportunity to suggest possible forms of restitution;

(3) require that conferences be attended by the victim, the offender and, when possible, the parents or guardians of the offender, and the arresting officer; and

(4) provide an early, individualized assessment and action plan to each juvenile offender in order to prevent further criminal behavior through the development of appropriate skills in the juvenile offender so that the juvenile is more capable of living productively and responsibly in the community.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal years 2003 and 2004 for grants to establish programs; and

(2) $5,000,000 for each of fiscal years 2005 and 2006 to continue programs established in fiscal years 2003 and 2004.

PART 3—AMENDMENTS TO VICTIMS OF CRIME ACT

SEC. 3231. FORMULA FOR DISTRIBUTIONS FROM THE CRIME VICTIMS FUND.

(a) FORMULA FOR FUND DISTRIBUTIONS.—Section 4102(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is amended to read as follows:

"(c) FUND DISTRIBUTION; RETENTION OF SUMS IN FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FISCAL YEAR LIMITATION.—

"(1)(A) Except as provided in subparagraphs (B) an (C), the total amount to be distributed from the Fund in any fiscal year shall be not less than 105 percent nor more than 115 percent of the total amount distributed from the Fund in the previous fiscal year, provided that the amount shall at a minimum be sufficient fully provide grants in accordance with sections 10602(a)(1), 10603(a)(1), and 10603(c)(2) of this title.

"(B) In any fiscal year that there is an insufficient amount in the Fund to fully provide grants in accordance with sections 10602(a)(1), 10603(a)(1), and 10603(c)(2) of this title, the amounts made available for grants under sections 10602(a), 10603(a), and 10603(c) shall be reduced by an equal percentage.

"(C) In any fiscal year that the total amount available in the Fund is more than 2 times the total amount distributed in the previous fiscal year, up to 125 percent of the amount distributed in the previous fiscal year may be distributed.

"(2) In each fiscal year, the Director shall distribute amounts from the Fund in accordance with subsection (d). Notwithstanding any other provision of law, all sums deposited in the Fund that are not distributed shall remain in reserve in the Fund for obligation in future fiscal years, without fiscal year limitation.".

(b) ESTABLISHMENT OF BASE AMOUNT FOR TOTAL VICTIM ASSISTANCE GRANTS.—Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1)) is amended by adding at the end the following:

"Except as provided in subsection 10601(c)(1)(B), the total amount distributed to States under this subsection in any fiscal year shall not be less than the average amount distributed for this purpose during the previous three fiscal years.".

(c) ESTABLISHMENT OF BASE AMOUNT FOR OVC DISCRETIONARY GRANTS.—Section 1404(c)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(2)) is amended by inserting after "(2)" the following:

"Except as provided in subsection 10601(c)(1)(B), the amount available for grants under this subsection in any fiscal year shall not be less than the average amount available for this purpose during the previous three fiscal years.".

SEC. 3232. CLARIFICATION REGARDING ANTITERRORISM EMERGENCY RESERVE.

Section 1402(d)(5)(C) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(C)) is amended by inserting ", and any amounts used to replenish such reserve," after "any such amounts carried over".

SEC. 3233. PROHIBITION ON DIVERTING CRIME VICTIMS FUND TO OFFSET INCREASED SPENDING.

(a) PURPOSE.—The purpose of this section is to ensure that amounts deposited in the Crime Victims Fund (as established by section 1402(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(a)) are distributed in a timely manner to assist victims of crime as intended by current law and are not diverted to offset increased spending.

(b) TREATMENT OF CRIME VICTIMS FUND.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended by adding at the end the following:

"(h) For purposes of congressional points of order, the Congressional Budget Act of 1974, and the Balanced

Budget and Emergency Deficit Control Act of 1985, any limitation on spending from the Fund included in the President's budget or enacted in appropriations legislation for fiscal year 2003 or any subsequent fiscal year shall not be scored as discretionary savings.''.

Subtitle C—Violence Against Women Act Enhancements

SEC. 3301. TRANSITIONAL HOUSING ASSISTANCE GRANTS.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Housing and Urban Development and the Secretary of Health and Human Services, shall award grants under this section to organizations, States, units of local government, and Indian tribes (referred to in this section as the ''recipient'') to carry out programs to provide assistance to individuals, and the dependents of individuals—

(1) who are homeless or in need of transitional housing or other housing assistance as a result of fleeing a situation of domestic violence; and

(2) for whom emergency shelter services or other crisis intervention services are unavailable or insufficient.

(b) GRANTS.—Grants awarded under this section may be used for programs that provide—

(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses such as payment of security deposits and other costs incidental to relocation to transitional housing for persons described in subsection (a); and

(2) support services designed to enable an individual, or dependent of an individual, who is fleeing a situation of domestic violence to—

(A) locate and secure permanent housing; and

(B) integrate into a community by providing that individual or dependent with services, such as transportation, counseling, child care services, case management, employment counseling, and other assistance.

(c) DURATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual, or dependent of an individual, who receives assistance under this section shall receive that assistance for not more than 18 months.

(2) WAIVER.—The recipient of a grant under this section may waive the restriction under paragraph (1) for not more than an additional 6 month

period with respect to any individual, or dependent of an individual, who—

(A) has made a good-faith effort to acquire permanent housing; and

(B) has been unable to acquire permanent housing.

(d) APPLICATION.—

(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this section.

(3) APPLICATION.—Nothing in this subsection shall be construed to require—

(A) victims to participate in the criminal justice system in order to receive services; or

(B) domestic violence advocates to breach client confidentiality.

(e) REPORT TO THE ATTORNEY GENERAL.—

(1) IN GENERAL.—A recipient of a grant under this section shall annually prepare and submit to the Attorney General a report describing—

(A) the number of individuals and dependents assisted under this section; and

(B) the types of housing assistance and support services provided under this section.

(2) CONTENTS.—Each report prepared and submitted under paragraph (1) shall include information regarding—

(A) the amount of housing assistance provided to each individual, or dependent of an individual, assisted under this section and the reason for that assistance;

(B) the number of months each individual, or dependent of an individual, received assistance under this section;

(C) the number of individuals and dependents of those individuals who—

(i) were eligible to receive assistance under this section; and

(ii) were not provided with assistance under this section solely due to a lack of available housing; and

(D) the type of support services provided to each individual, or dependent of an individual, assisted under this section.

(f) REPORT TO CONGRESS.—

(1) REPORTING REQUIREMENT.—The Attorney General shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in the report submitted under subsection (e).

(2) AVAILABILITY OF REPORT.—In order to coordinate efforts to assist the victims of domestic violence, the Attorney General shall transmit a copy of the report submitted under paragraph (1) to—

(1) the Office of Community Planning and Development at the United States Department of Housing and Urban Development; and

(2) the Office of Women's Health at the United States Department of Health and Human Services.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2003 through 2007.

(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year, not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

(3) MINIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), unless all eligible applications submitted by any States, units of local government, Indian tribes, or organizations within a State for a grant under this section have been funded, that State, together with the grantees within the State (other than Indian tribes), shall be allocated in each fiscal year, not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

(B) EXCEPTION.—The United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.25 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

SEC. 3302. SHELTER SERVICES FOR BATTERED WOMEN AND CHILDREN.

(a) STATE SHELTER GRANTS.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by striking ''populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation'' and inserting ''populations underserved because of race, ethnicity, age, disability, religion, alienage status, geographic location (including rural isolation), or language barriers, and any other populations determined by the Secretary to be underserved''.

(b) SECRETARIAL RESPONSIBILITIES.—Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10404(a)) is amended—

(1) by striking ''an employee'' and inserting ''1 or more employees'';

(2) by striking ''of this title.'' and inserting ''of this title, including carrying out evaluation and monitoring under this title.''; and

(3) by striking ''The individual'' and inserting ''Any individual''.

(c) RESOURCE CENTERS.—Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended—

(1) in subsection (a)(2), by inserting ''on providing information, training, and technical assistance'' after ''focusing''; and

(2) in subsection (c), by adding at the end the following:

''(8) Providing technical assistance and training to local entities carrying out domestic violence programs that provide shelter, related assistance, or transitional housing assistance.

''(9) Improving access to services, information, and training, concerning family violence, within Indian tribes and Indian tribal agencies.

''(10) Providing technical assistance and training to appropriate entities to improve access to services, information, and training concerning family violence occurring in underserved populations.''.

(d) CONFORMING AMENDMENT.—Section 309(6) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(6)) is amended by striking ''the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands'' and inserting ''the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States''.

(e) REAUTHORIZATION.—Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $175,000,000 for each of fiscal years 2003 through 2006.

"(2) SOURCE OF FUNDS.—Amounts made available under paragraph (1) may be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211).";

(2) in subsection (b), by striking "under subsection 303(a)" and inserting "under section 303(a)";

(3) in subsection (c), by inserting "not more than the lesser of $7,500,000 or" before "5"; and

(4) by adding at the end the following:

"(f) EVALUATION, MONITORING, AND ADMINISTRATION.—Of the amounts appropriated under subsection (a) for each fiscal year, not more than 1 percent shall be used

by the Secretary for evaluation, monitoring, and administrative costs under this title.''.

(f) STATE DOMESTIC VIOLENCE COALITION GRANT ACTIVITIES.—Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended—

(1) in subsection (a)(4), by striking ''underserved racial, ethnic or language-minority populations'' and inserting ''underserved populations described in section 303(a)(2)(C)''; and

(2) in subsection (c), by striking ''the U.S. Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands'' and inserting ''the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States''.

TITLE IV—SUPPORTING LAW ENFORCEMENT AND THE EFFECTIVE ADMINISTRATION OF JUSTICE

Subtitle A—Support for Public Safety Officers and Prosecutors

PART 1—PROVIDING RELIABLE OFFICERS, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS, AND TRAINING IN OUR NEIGHBORHOODS

SEC. 4101. SHORT TITLE.

This part may be cited as the ''Providing Reliable Officers, Technology, Education, Community Prosecutors, and Training in Our Neighborhoods Act of 2003'' or ''PROTECTION Act''.

SEC. 4102. AUTHORIZATIONS.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting ''and prosecutor'' after ''increase police''; and

(2) inserting ''to enhance law enforcement access to new technologies, and'' after ''presence,''.

(b) HIRING AND REDEPLOYMENT GRANT 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

grants pursuant to this subsection for any fiscal year;

"(B) paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year; and

"(C) paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.".

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting "integrity and ethics" after "specialized"; and

(B) by inserting "and" after "enforcement officers";

(2) in paragraph (7) by inserting "school officials, religiously-affiliated organizations," after "enforcement officers";

(3) by striking paragraph (8) and inserting the following:

"(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary

schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;'';

(4) in paragraph (10) by striking ''and'' at the end;

(5) in paragraph (11) by striking the period that appears at the end and inserting ''; and''; and

(6) by adding at the end the following:

''(12) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens.''.

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''use up to 5 percent of the funds appropriated under subsection (a) to'' after ''The Attorney General may'';

(B) by inserting at the end the following: ''In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes.'';

(2) in paragraph (2) by inserting ''under subsection (a)'' after ''the Attorney General''; and

(3) in paragraph (3)—

(A) by striking ''the Attorney General may'' and inserting ''the Attorney General shall'';

(B) by inserting ''regional community policing institutes'' after ''operation of''; and

(C) by inserting ''representatives of police labor and management organizations, community residents,'' after ''supervisors,''.

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k), respectively; and

(3) striking subsection (e) and inserting the following:

"(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

"(1) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

"(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

"(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, predict, and respond pro-actively to local crime and disorder

problems, as well as to engage in regional crime analysis.

"(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

"(1) hire additional prosecutors who will be assigned to community prosecution programs, including programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

"(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

"(3) establish programs to assist local prosecutors' 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

Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended by inserting after ''criminal laws'' the following: ''including sheriffs deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.''.

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;'';

(B) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness,

and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(C) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Edu-

cation, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

''(i) $1,150,000,000 for fiscal year 2003;

''(ii) $1,150,000,000 for fiscal year 2004;

''(iii) $1,150,000,000 for fiscal year 2005;

''(iv) $1,150,000,000 for fiscal year 2006;

''(v) $1,150,000,000 for fiscal year 2007; and

''(vi) $1,150,000,000 for fiscal year 2008.''; and

(2) in subparagraph (B)—

(A) by striking ''3 percent'' and inserting ''5 percent'';

(B) by striking ''1701(f)'' and inserting ''1701(g)'';

(C) by striking the second sentence and inserting ''Of the remaining funds, if there is a demand for 50 percent of appropriated hiring funds, as determined by eligible hiring applications from law enforcement agencies having jurisdiction over areas with populations exceeding 150,000, no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations less than 150,000 or by public and private entities that serve areas with populations less than 150,000.'';

(D) by striking "85 percent" and inserting "$600,000,000"; and

(E) by striking "1701(b)," and all that follows through "of part Q" and inserting the following: "1701 (b) and (c), $350,000,000 to grants for the purposes specified in section 1701(e), and $200,000,000 to grants for the purposes specified in section 1701(f).".

PART 2—HOMETOWN HEROES SURVIVORS BENEFITS

SEC. 4111. SHORT TITLE.

This part may be cited as the "Hometown Heroes Survivors Benefits Act of 2003".

SEC. 4112. FATAL HEART ATTACK OR STROKE ON DUTY PRESUMED TO BE DEATH IN LINE OF DUTY FOR PURPOSES OF PUBLIC SAFETY OFFICER SURVIVOR BENEFITS.

(a) IN GENERAL.—Section 1201 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by adding at the end the following:

"(k) For purposes of this section, if a public safety officer dies as the direct and proximate result of a heart attack or stroke suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, that officer shall be presumed to

have died as the direct and proximate result of a personal injury sustained in the line of duty.''.

(b) APPLICABILITY.—Subsection (k) of section 1201 of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by subsection (a)) shall apply to deaths occurring on or after January 1, 2002.

PART 3—FEDERAL PROSECUTORS RETIREMENT BENEFIT EQUITY

SEC. 4121. SHORT TITLE.

This part may be cited as the ''Federal Prosecutors Retirement Benefit Equity Act of 2003''.

SEC. 4122. INCLUSION OF FEDERAL PROSECUTORS IN THE DEFINITION OF A LAW ENFORCEMENT OFFICER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Section 8331(20) of title 5, United States Code, is amended by striking ''position.'' and inserting ''position and a Federal prosecutor.''.

(2) FEDERAL PROSECUTOR DEFINED.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (27), by striking ''and'' at the end;

(B) in paragraph (28), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(29) 'Federal prosecutor' means—

''(A) an assistant United States attorney under section 542 of title 28; or

''(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States.''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) IN GENERAL.—Section 8401(17) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) in subparagraph (D), by adding ''and'' after the semicolon; and

(C) by adding at the end the following:

''(E) a Federal prosecutor;''.

(2) FEDERAL PROSECUTOR DEFINED.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (33), by striking ''and'' at the end;

(B) in paragraph (34), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(35) 'Federal prosecutor' means—

"(A) an assistant United States attorney under section 542 of title 28; or

"(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States.".

(c) TREATMENT UNDER CERTAIN PROVISIONS OF LAW (UNRELATED TO RETIREMENT) TO REMAIN UNCHANGED.—

(1) ORIGINAL APPOINTMENTS.—Subsections (d) and (e) of section 3307 of title 5, United States Code, are amended by adding at the end of each the following: "The preceding sentence shall not apply in the case of an original appointment of a Federal prosecutor as defined under section 8331(29) or 8401(35).".

(2) MANDATORY SEPARATION.—Sections 8335(b) and 8425(b) of title 5, United States Code, are amended by adding at the end of each the following: "The preceding provisions of this subsection shall not apply in the case of a Federal prosecutor as defined under section 8331(29) or 8401(35).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after the date that is 120 days after the date of enactment of this Act.

SEC. 4123. PROVISIONS RELATING TO INCUMBENTS.

(a) DEFINITIONS.—In this section, the term—

(1) ''Federal prosecutor'' means—

(A) an assistant United States attorney under section 542 of title 28, United States Code; or

(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States; and

(2) ''incumbent'' means an individual who is serving as a Federal prosecutor on the effective date of this section.

(b) DESIGNATED ATTORNEYS.—If the Attorney General of the United States makes any designation of an attorney to meet the definition under subsection (a)(1)(B) for purposes of being an incumbent under this section—

(1) such designation shall be made before the effective date of this section; and

(2) the Attorney General shall submit to the Office of Personnel Management before that effective date—

(A) the name of the individual designated; and

(B) the period of service performed by that individual as a Federal prosecutor before that effective date.

(c) NOTICE REQUIREMENT.—Not later than 9 months after the date of enactment of this Act, the Department of Justice shall take measures reasonably designed to provide notice to incumbents on—

(1) their election rights under this part; and

(2) the effects of making or not making a timely election under this part.

(d) ELECTION AVAILABLE TO INCUMBENTS.—

(1) IN GENERAL.—An incumbent may elect, for all purposes, to be treated—

(A) in accordance with the amendments made by this part; or

(B) as if this part had never been enacted.

(2) FAILURE TO ELECT.—Failure to make a timely election under this subsection shall be treated in the same way as an election under paragraph (1)(A), made on the last day allowable under paragraph (3).

(3) TIME LIMITATION.—An election under this subsection shall not be effective unless the election is made not later than the earlier of—

(A) 120 days after the date on which the notice under subsection (c) is provided; or

(B) the date on which the incumbent involved separates from service.

(e) LIMITED RETROACTIVE EFFECT.—

(1) EFFECT ON RETIREMENT.—In the case of an incumbent who elects (or is deemed to have elected) the option under subsection (d)(1)(A), all service performed by that individual as a Federal prosecutor shall—

(A) to the extent performed on or after the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, as amended by this part; and

(B) to the extent performed before the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of such title, as if the amendments made by this part had then been in effect.

(2) NO OTHER RETROACTIVE EFFECT.—Nothing in this part (including the amendments made by this part) shall affect any of the terms or conditions of an individual's employment (apart from those governed by subchapter III of chapter 83 or chapter 84 of title 5, United States Code) with respect to any period of service preceding the date on which

such individual's election under subsection (d) is made (or is deemed to have been made).

(f) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—An individual who makes an election under subsection (d)(1)(A) may, with respect to prior service performed by such individual, contribute to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if the amendments made by section 4122 had then been in effect.

(2) EFFECT OF NOT CONTRIBUTING.—If no part of or less than the full amount required under paragraph (1) is paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be reduced in a manner similar to that described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(3) PRIOR SERVICE DEFINED.—For purposes of this section, the term ''prior service'' means, with respect to any individual who makes an election under subsection (d)(1)(A), service performed by such indi-

vidual before the date as of which appropriate retirement deductions begin to be made in accordance with such election.

(g) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—If an incumbent makes an election under subsection (d)(1)(A), the Department of Justice shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under paragraph (2) with respect to such service.

(2) AMOUNT REQUIRED.—The amount the Department of Justice is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (over and above those actually paid) that would have been required if the amendments made by section 4122 had then been in effect.

(3) CONTRIBUTIONS TO BE MADE RATABLY.—Government contributions under this subsection on behalf of an incumbent shall be made by the Department of Justice ratably (on at least an annual basis)

over the 10-year period beginning on the date referred to in subsection (f)(3).

(h) REGULATIONS.—Except as provided under section 4124, the Office of Personnel Management shall prescribe regulations necessary to carry out this part, including provisions under which any interest due on the amount described under subsection (f) shall be determined.

(i) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act.

SEC. 4124. DEPARTMENT OF JUSTICE ADMINISTRATIVE ACTIONS.

(a) DEFINITION.—In this section the term ''Federal prosecutor'' has the meaning given under section 4123(a)(1).

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Attorney General of the United States shall—

(A) consult with the Office of Personnel Management on this part (including the amendments made by this part); and

(B) promulgate regulations for making designations of Federal prosecutors who are not assistant United States attorneys.

(2) CONTENTS.—Any regulations promulgated under paragraph (1) shall ensure that attorneys designated as Federal prosecutors who are not assistant United States attorneys have routine employee responsibilities that are substantially similar to those of assistant United States attorneys assigned to the litigation of criminal cases, such as the representation of the United States before grand juries and in trials, appeals, and related court proceedings.

(c) DESIGNATIONS.—The designation of any Federal prosecutor who is not an assistant United States attorney for purposes of this part (including the amendments made by this part) shall be at the discretion of the Attorney General of the United States.

Subtitle B—Rural Law Enforcement Improvement and Training Grants

SEC. 4201. RURAL LAW ENFORCEMENT RETENTION GRANT PROGRAM.

Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is amended by adding at the end the following:

"(d) RETENTION GRANTS.—

"(1) IN GENERAL.—The Attorney General may make grants to units of local government and tribal

governments located outside a Standard Metropolitan Statistical Area, which grants shall be targeted specifically for the retention for 1 additional year of police officers funded through the COPS Universal Hiring Program, the COPS FAST Program, the Tribal Resources Grant Program-Hiring, or the COPS in Schools Program.

"(2) PREFERENCE.—In making grants under this subsection, the Attorney General shall give preference to grantees that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers described in paragraph (1).

"(3) LIMIT ON GRANT AMOUNTS.—The total amount of a grant made under this subsection shall not exceed 20 percent of the original grant to the grantee.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2003 through 2007.

"(B) SET-ASIDE.—Of the amount made available for grants under this subsection for

each fiscal year, 10 percent shall be awarded to tribal governments.''.

SEC. 4202. RURAL LAW ENFORCEMENT TECHNOLOGY GRANT PROGRAM.

Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by striking subsection (k) and inserting the following:

''(k) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—

''(1) IN GENERAL.—Grants made under subsection (a) may be used to assist the police departments of units of local government and tribal governments located outside a Standard Metropolitan Statistical Area, in employing professional, scientific, and technological advancements that will help those police departments to—

''(A) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate and operate more effectively; and

''(B) develop and improve access to crime solving technologies, including DNA analysis,

photo enhancement, voice recognition, and other forensic capabilities.

"(2) COST SHARE REQUIREMENT.—A recipient of a grant made under subsection (a) and used in accordance with this subsection shall provide matching funds from non-Federal sources in an amount equal to not less than 10 percent of the total amount of the grant made under this subsection, subject to a waiver by the Attorney General for extreme hardship.

"(3) ADMINISTRATION.—The COPS Office shall administer the grant program under this subsection.

"(4) NO SUPPLANTING.—Federal funds provided under this subsection shall be used to supplement and not to supplant local funds allocated to technology.

"(5) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated $40,000,000 for each of fiscal years 2003 through 2007 to carry out this subsection.

"(B) SET-ASIDE.—Of the amount made available for grants under this subsection for

each fiscal year, 10 percent shall be awarded to tribal governments.''.

SEC. 4203. RURAL 9–1–1 SERVICE.

(a) PURPOSE.—The purpose of this section is to provide access to, and improve a communications infrastructure that will ensure a reliable and seamless communication between, law enforcement, fire, and emergency medical service providers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area and in States.

(b) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall make grants, in accordance with such regulations as the Attorney General may prescribe, to units of local government and tribal governments located outside a Standard Metropolitan Statistical Area for the purpose of establishing or improving 9–1–1 service in those communities. Priority in making grants under this section shall be given to communities that do not have 9–1–1 service.

(c) DEFINITION.—In this section, the term ''9–1–1 service'' refers to telephone service that has designated 9–1–1 as a universal emergency telephone number in the community served for reporting an emergency to appropriate authorities and requesting assistance.

(d) LIMIT ON GRANT AMOUNT.—The total amount of a grant made under this section shall not exceed $250,000.

(e) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal years 2003 and 2004, to remain available until expended.

(2) SET-ASIDE.—Of the amount made available for grants under this section, 10 percent shall be awarded to tribal governments.

SEC. 4204. SMALL TOWN AND RURAL LAW ENFORCEMENT TRAINING PROGRAM.

(a) IN GENERAL.—There is established a Rural Policing Institute, which shall be administered by the National Center for State and Local Law Enforcement Training of the Federal Law Enforcement Training Center (FLETC) as part of the Small Town and Rural Training (STAR) Program to—

(1) assess the needs of law enforcement in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area;

(2) develop and deliver export training programs regarding topics such as drug enforcement, airborne counterdrug operations, domestic violence,

hate and bias crimes, computer crimes, law enforcement critical incident planning related to school shootings, and other topics identified in the training needs assessment to law enforcement officers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area; and

(3) conduct outreach efforts to ensure that training programs under the Rural Policing Institute reach law enforcement officers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $10,000,000 for fiscal years 2003 and 2004, and $5,000,000 for each of fiscal years 2005 through 2008 to carry out this section, including contracts, staff, and equipment.

(2) SET-ASIDE.—Of the amount made available for grants under this section for each fiscal year, 10 percent shall be awarded to tribal governments.

Subtitle C—FBI Reform

SEC. 4301. SHORT TITLE.

This subtitle may be cited as the ''Federal Bureau of Investigation Reform Act of 2003''.

PART 1—WHISTLEBLOWER PROTECTION

SEC. 4311. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

"§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

''(a) DEFINITION.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

''(b) PROHIBITED PRACTICES.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

''(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

"(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

"(d) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee

of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.''.

PART 2—FBI SECURITY CAREER PROGRAM

SEC. 4321. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 4322. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this part as the ''Director'') shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) POLICY IMPLEMENTATION.—The Director shall ensure that the policies of the Attorney General estab-

lished in accordance with this subtitle are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 4323. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this subtitle.

SEC. 4324. SECURITY CAREER PROGRAM BOARDS.

(a) ESTABLISHMENT.—The Director acting through the Director of Security shall establish a security career program board to advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) COMPOSITION OF BOARD.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) CHAIRPERSON.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) SUBORDINATE BOARDS.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 4325. DESIGNATION OF SECURITY POSITIONS.

(a) DESIGNATION.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this subtitle.

(b) REQUIRED POSITIONS.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 4326. CAREER DEVELOPMENT.

(a) CAREER PATHS.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(1) IN GENERAL.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this part as a ''Special Agent'') is used in the consideration of persons for security positions.

(2) POLICY.—The Attorney General shall establish a policy that permits a particular security posi-

tion to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) REPORT.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this subtitle are designed to provide for the selection of the best qualified

individual for a position, consistent with other applicable law.

(e) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) LENGTH OF ASSIGNMENT.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this subtitle

with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 4327. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) QUALIFICATION REQUIREMENTS.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 4328. EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) OTHER PROGRAMS.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 4329. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) IN GENERAL.—The Attorney General shall submit any requirement that is established under section 4327 to the Director of the Office of Personnel Management for approval.

(b) FINAL APPROVAL.—If the Director does not disapprove the requirements established under section 4327 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be

approved by the Director of the Office of Personnel Management.

PART 3—FBI COUNTERINTELLIGENCE POLYGRAPH PROGRAM

SEC. 4331. DEFINITIONS.

In this part:

(1) POLYGRAPH PROGRAM.—The term ''polygraph program'' means the counterintelligence screening polygraph program established under section 4332.

(2) POLYGRAPH REVIEW.—The term ''Polygraph Review'' means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 4332. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau

of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 4333. REGULATIONS.

(a) IN GENERAL.—The Attorney General shall prescribe regulations for the polygraph program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) CONSIDERATIONS.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alter-

native means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 4334. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to en-

hance the personnel security program of the Federal Bureau of Investigation.

(b) POLYGRAPH REVIEW RESULTS.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

PART 4—REPORTS

SEC. 4341. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) CONTENTS.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express

statutory authority, and the source of the legal authority for that program or activity.

(c) RECOMMENDATIONS.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

PART 5—ENDING THE DOUBLE STANDARD

SEC. 4351. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking ''for more than 14 days''.

SEC. 4352. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) IN GENERAL.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) CONTENTS.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

PART 6—ENHANCING SECURITY AT THE DEPARTMENT OF JUSTICE

SEC. 4361. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing informa-

tion related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 4362. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal years 2003 and 2004;

(2) $17,000,000 for fiscal year 2005; and

(3) $22,000,000 for fiscal year 2006.

SEC. 4363. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide pol-

icy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal years 2003 and 2004;

(2) $7,500,000 for fiscal year 2005; and

(3) $8,000,000 for fiscal year 2006.

Subtitle D—DNA Sexual Assault Justice Act

SEC. 4401. SHORT TITLE.

This subtitle may be cited as the ''DNA Sexual Assault Justice Act of 2003''.

SEC. 4402. ASSESSMENT OF BACKLOG IN DNA ANALYSIS OF SAMPLES.

(a) ASSESSMENT.—The Attorney General, acting through the Director of the National Institute of Justice, shall survey Federal, State, local, and tribal law enforcement jurisdictions to assess the amount of DNA evidence contained in rape kits and in other evidence from sexual assault crimes that has not been subjected to testing and analysis.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the assessment carried out under subsection (a).

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the results of the assessment carried out under subsection (a);

(B) the number of rape kit samples and other evidence from sexual assault crimes that have not been subjected to DNA testing and analysis; and

(C) a plan for carrying out additional assessments and reports on the backlog in crime scene DNA testing and analysis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Justice to carry out this section $500,000 for fiscal years 2003 and 2004.

SEC. 4403. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by striking the heading and inserting "**AUTHORIZATION OF DEBBIE SMITH DNA BACKLOG GRANTS.**"; and

(2) in subsection (a)—

(A) in paragraph (2), by inserting "including samples from rape kits and samples from

other sexual assault evidence, including samples taken in cases with no identified suspect'' after ''crime scene''; and

(B) by adding at the end the following:

''(4) To ensure that DNA testing and analysis of samples from rape kits and nonsuspect cases are carried out in a timely manner.''.

SEC. 4404. INCREASED GRANTS FOR ANALYSIS OF DNA SAMPLES FROM CONVICTED OFFENDERS AND CRIME SCENES.

Section 2(j) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(j)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'' at the end; and

(B) by striking subparagraph (C) and inserting the following:

''(C) $15,000,000 for fiscal year 2003;

''(D) $15,000,000 for fiscal year 2004;

''(E) $15,000,000 for fiscal year 2005;

''(F) $15,000,000 for fiscal year 2006; and

''(G) $15,000,000 for fiscal year 2007.

Amounts made available to carry out the purposes specified in subsection (a)(1) shall remain available until expended.''; and

(2) in paragraph (2), by striking subparagraphs (C) and (D) and inserting the following:

"(C) $75,000,000 for fiscal year 2003;

"(D) $75,000,000 for fiscal year 2004;

"(E) $75,000,000 for fiscal year 2005;

"(F) $75,000,000 for fiscal year 2006; and

"(G) $25,000,000 for fiscal year 2007.

Amounts made available to carry out the purposes specified in paragraphs (2) and (3) of subsection (a) shall remain available until expended.".

SEC. 4405. AUTHORITY OF LOCAL GOVERNMENTS TO APPLY FOR AND RECEIVE DNA BACKLOG ELIMINATION GRANTS.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ", units of local government, or Indian tribes" after "eligible States"; and

(ii) by inserting ", unit of local government, or Indian tribe" after "State"; and

(B) in paragraph (3), by striking ''or by units of local government'' and inserting '', units of local government, or Indian tribes'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''or unit of local government, or the head of the Indian tribe'' after ''State'' each place that term appears;

(B) in paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(C) in paragraph (3), by inserting '', unit of local government, or Indian tribe'' after ''State'' the first time that term appears;

(D) in paragraph (4), by inserting '', unit of local government, or Indian tribe'' after ''State''; and

(E) in paragraph (5), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(3) in subsection (c), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''or a unit of local government'' and inserting '', a unit of local government, or an Indian tribe''; and

(ii) in subparagraph (B), by striking ''or a unit of local government'' and inserting '', a unit of local government, or an Indian tribe''; and

(B) in paragraph (2)(A), by inserting '', units of local government, and Indian tribes,'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' each place that term appears; and

(B) in paragraph (2), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State''; and

(B) in paragraph (2), by inserting ", units of local government, or Indian tribes" after "States"; and

(8) in subsection (h), by inserting ", unit of local government, or Indian tribe" after "State" each place that term appears.

SEC. 4406. IMPROVING ELIGIBILITY CRITERIA FOR BACKLOG GRANTS.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" after the semicolon;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(6) if the applicant is a unit of local government, certify that the applicant participates in a State laboratory system;

"(7) provide assurances that, not later than 3 years after the date on which the application is submitted, the State, unit of local government, or Indian tribe will implement a plan for forwarding, not later than 180 days after a DNA evidence sample is obtained, all samples collected in cases of sexual as-

sault to a laboratory that meets the quality assurance standards for testing under subsection (d); and

"(8) upon issuance of the regulations specified in section 10(d), certify that the State, unit of local government, or Indian tribe is in compliance with those regulations."; and

(2) by adding at the end the following:

"(k) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a State or unit of local government that has a significant rape kit or nonsuspect case backlog per capita as compared with other applicants.".

SEC. 4407. QUALITY ASSURANCE STANDARDS FOR COLLECTION AND HANDLING OF DNA EVIDENCE.

(a) NATIONAL PROTOCOL.—

(1) IN GENERAL.—The Attorney General shall review national, State, local, and tribal government protocols, that exist on or before the date of enactment of this Act, on the collection and processing of DNA evidence at crime scenes.

(2) RECOMMENDED PROTOCOL.—Based upon the review described in paragraph (1), the Attorney General shall develop a recommended national protocol for the collection of DNA evidence at crime

scenes, including crimes of rape and other sexual assault.

(b) STANDARDS, PRACTICE, AND TRAINING FOR SEXUAL ASSAULT FORENSIC EXAMINATIONS.—Section 1405(a) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note) is amended—

(1) in paragraph (2), by inserting ''and emergency response personnel'' after ''health care students''; and

(2) in paragraph (3), by inserting ''and DNA evidence collection'' after ''sexual assault forensic examinations''.

SEC. 4408. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) AUTHORIZATION OF GRANTS.—The Attorney General shall make grants to eligible entities to—

(1) establish and maintain sexual assault examiner programs;

(2) carry out sexual assault examiner training and certification; and

(3) acquire or improve forensic equipment.

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' means—

(1) a State;

(2) a unit of local government;

(3) a college, university, or other institute of higher learning;

(4) an Indian tribe;

(5) sexual assault examination programs, including sexual assault nurse examiner (SANE) programs, sexual assault forensic examiner (SAFE) programs, and sexual assault response team (SART) programs; and

(6) a State sexual assault coalition.

(c) APPLICATION.—To receive a grant under this section—

(1) an eligible entity shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require; and

(2) an existing or proposed sexual assault examination program shall also—

(A) certify that the program complies with the standards and recommended protocol developed by the Attorney General pursuant to section 1405 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note); and

(B) certify that the applicant is aware of, and utilizing, uniform protocols and standards

issued by the Department of Justice on the collection and processing of DNA evidence at crime scenes.

(d) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to proposed or existing sexual assault examination programs that are serving, or will serve, populations currently underserved by existing sexual assault examination programs.

(e) RESTRICTIONS ON USE OF FUNDS.—

(1) SUPPLEMENTAL FUNDS.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources for the purposes of this section.

(2) ADMINISTRATIVE COSTS.—An eligible entity may not use more than 5 percent of the funds it receives under this section for administrative expenses.

(3) NONEXCLUSIVITY.—Nothing in this section shall be construed to limit or restrict the ability of proposed or existing sexual assault examination programs to apply for and obtain Federal funding from any other agency or department or any other Federal grant program.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, to remain available until expended, $30,000,000 for each of fiscal years 2003 through 2007 to carry out this section.

SEC. 4409. DNA EVIDENCE TRAINING GRANTS.

(a) AUTHORIZATION OF GRANTS.—The Attorney General shall make grants to eligible entities to—

(1) train law enforcement personnel and all other first responders at crime scenes, including investigators, in the handling of sexual assault cases and the collection and use of DNA samples for use as forensic evidence;

(2) train State and local prosecutors on the use of DNA samples for use as forensic evidence; and

(3) train law enforcement personnel to recognize, detect, report, and respond to drug-facilitated sexual assaults.

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' means—

(1) a State;

(2) a unit of local government;

(3) a college, university, or other institute of higher learning; and

(4) an Indian tribe.

(c) APPLICATION.—To receive a grant under this section, the chief executive officer of a State, unit of local government, or university, or the head of a tribal government that desires a grant under this section shall submit to the Attorney General—

(1) an application in such form and containing such information as the Attorney General may require;

(2) certification that the applicant is aware of, and utilizing, uniform protocols and standards issued by the Department of Justice on the collection and processing of DNA evidence at crime scenes;

(3) certification that the applicant is aware of, and utilizing, the national sexual assault forensic examination training protocols developed under section 1405(a) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note); and

(4) if the applicant is a unit of local government, certification that the applicant participates in a State laboratory system.

(d) RESTRICTIONS ON USE OF FUNDS.—

(1) SUPPLEMENTAL FUNDS.—Funds made available under this section shall not be used to sup-

plant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources for the purposes of this section.

(2) ADMINISTRATIVE COSTS.—An eligible entity may not use more than 5 percent of the funds it receives under this section for administrative expenses.

(3) NONEXCLUSIVITY.—Nothing in this section shall be construed to limit or restrict the ability of an eligible entity to apply for and obtain Federal funding from any other agency or department or any other Federal grant program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice $10,000,000 for each of fiscal years 2003 through 2007 to carry out this section.

SEC. 4410. AUTHORIZING JOHN DOE DNA INDICTMENTS.

(a) LIMITATIONS.—Section 3282 of title 18, United States Code, is amended—

(1) by striking ''Except'' and inserting the following:

''(a) LIMITATION.—Except''; and

(2) by adding at the end the following:

''(b) DNA PROFILE INDICTMENT.—

"(1) IN GENERAL.—In any indictment found for an offense under chapter 109A, if the identity of the accused is unknown, it shall be sufficient to describe the accused as an individual whose name is unknown, but who has a particular DNA profile.

"(2) EXCEPTION.—Any indictment described in paragraph (1), which is found within 5 years after the offense under chapter 109A shall have been committed, shall not be subject to—

"(A) the limitations period described in subsection (a); and

"(B) the provisions of chapter 208 until the individual is arrested or served with a summons in connection with the charges contained in the indictment.

"(3) DEFINITION.—For purposes of this subsection, the term 'DNA profile' means a set of DNA identification characteristics.".

(b) RULES OF CRIMINAL PROCEDURE.—Rule 7 of the Federal Rules of Criminal Procedure is amended in subdivision (c)(1) by adding at the end the following: "For purposes of an indictment referred to in section 3282 of title 18, United States Code, if the identity of the defendant is unknown, it shall be sufficient to describe the defendant, in the indictment, as an individual whose name

is unknown, but who has a particular DNA profile, as defined in that section 3282.''.

SEC. 4411. INCREASED GRANTS FOR COMBINED DNA INDEX SYSTEM (CODIS).

Section 210306 of the DNA Identification Act of 1994 (42 U.S.C.14134) is amended—

(1) by striking ''There'' and inserting the following:

''(a) IN GENERAL.—There''; and

(2) by adding at the end the following:

''(b) INCREASED GRANTS FOR CODIS.—There is authorized to be appropriated to the Federal Bureau of Investigation to carry out upgrades to the Combined DNA Index System (CODIS) $9,700,000 for fiscal years 2003 and 2004.''.

SEC. 4412. INCREASED GRANTS FOR FEDERAL CONVICTED OFFENDER PROGRAM (FCOP).

Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a) is amended by adding at the end the following:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Federal Bureau of Investigation to carry out this section $500,000 for fiscal years 2003 and 2004.''.

SEC. 4413. PRIVACY REQUIREMENTS FOR HANDLING DNA EVIDENCE AND DNA ANALYSES.

(a) PRIVACY PROTECTION STANDARD.—Section 10(a) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(a)) is amended by inserting before the period at the end the following: ''or in section 3282(b) of title 18, United States Code''.

(b) LIMITATION ON ACCESS TO DNA INFORMATION.—Section 10 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e) is amended by adding at the end the following:

''(d) LIMITATION ON ACCESS TO DNA INFORMATION.—

''(1) IN GENERAL.—The Attorney General shall establish, by regulation, procedures to limit access to, or use of, stored DNA samples or DNA analyses.

''(2) REGULATIONS.—The regulations established under paragraph (1) shall establish conditions for using DNA information to—

''(A) limit the use and dissemination of such information, as provided under subparagraphs (A), (B), and (C) of section 210304(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)(3));

"(B) limit the redissemination of such information;

"(C) ensure the accuracy, security, and confidentiality of such information;

"(D) protect any privacy rights of individuals who are the subject of such information; and

"(E) provide for the timely removal and destruction of obsolete or inaccurate information, or information required to be expunged.".

(c) CRIMINAL PENALTY.—Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e) is amended—

(1) in paragraph (1), by striking "discloses a sample or result" and inserting "discloses or uses a DNA sample or DNA analysis"; and

(2) in paragraph (2), by inserting "per offense" after "$100,000".

Subtitle E—Additional Improvements to the Justice System

SEC. 4501. PROVIDING REMEDIES FOR RETALIATION AGAINST WHISTLEBLOWERS MAKING CONGRESSIONAL DISCLOSURES.

Section 7211 of title 5, United States Code, is amended—

(1) by inserting ''(a)'' before ''The right''; and

(2) by adding at the end the following:

''(b) Any employee aggrieved by the discrimination of an employer in violation of subsection (a) may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over an action under this subsection, without regard to the amount in controversy.

''(c) Any employee prevailing in an action under this section shall be entitled to all relief necessary to make the employee whole, including—

''(1) reinstatement with the same seniority status that the employee would have had but for the discrimination;

''(2) the amount of back pay lost as a result of the discrimination, with interest;

''(3) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees; and

''(4) punitive damages, in appropriate cases.

''(d) Upon the request of the complainant, any action under this section shall be tried by the court with a jury.

''(e) The same legal burdens of proof in proceedings under this section shall apply as apply under sections

1214(b)(4)(B) and 1221(c) in the case of any alleged prohibited personal practice described in section 2302(b)(8).

"(f) For purposes of this section, the term 'employee' means an individual (as defined by section 2105) and any individual or organization performing services under a contract with the Government (including as an employee of an organization).".

SEC. 4502. ESTABLISHMENT OF PROTECTIVE FUNCTION PRIVILEGE.

(a) FINDINGS.—Congress finds the following:

(1) The physical safety of the Nation's top elected officials is a public good of transcendent importance.

(2) By virtue of the critical importance of the Office of the President, the President and those in direct line of the Presidency are subject to unique and mortal jeopardy—jeopardy that in turn threatens profound disruption to our system of representative government and to the security and future of the Nation.

(3) The physical safety of visiting heads of foreign states and foreign governments is also a matter of paramount importance. The assassination of such a person while on American soil could have calami-

tous consequences for our foreign relations and national security.

(4) Given these grave concerns, Congress has provided for the Secret Service to protect the President and those in direct line of the Presidency, and has directed that these officials may not waive such protection. Congress has also provided for the Secret Service to protect visiting heads of foreign states and foreign governments.

(5) The protective strategy of the Secret Service depends critically on the ability of its personnel to maintain close and unremitting physical proximity to the protectee.

(6) Secret Service personnel must remain at the side of the protectee on occasions of confidential conversations and, as a result, may overhear top secret discussions, diplomatic exchanges, sensitive conversations, and matters of personal privacy.

(7) The necessary level of proximity can be maintained only in an atmosphere of complete trust and confidence between the protectee and his or her protectors.

(8) If a protectee has reason to doubt the confidentiality of actions or conversations taken in sight or hearing of Secret Service personnel, the protectee

may seek to push the protective envelope away or undermine it to the point at which it could no longer be fully effective.

(9) The possibility that Secret Service personnel might be compelled to testify against their protectees could induce foreign nations to refuse Secret Service protection in future state visits, making it impossible for the Secret Service to fulfill its important statutory mission of protecting the life and safety of foreign dignitaries.

(10) A privilege protecting information acquired by Secret Service personnel while performing their protective function in physical proximity to a protectee will preserve the security of the protectee by lessening the incentive of the protectee to distance Secret Service personnel in situations in which there is some risk to the safety of the protectee.

(11) Recognition of a protective function privilege for the President and those in direct line of the Presidency, and for visiting heads of foreign states and foreign governments, will promote sufficiently important interests to outweigh the need for probative evidence.

(12) Because Secret Service personnel retain law enforcement responsibility even while engaged in

their protective function, the privilege must be subject to a crime or treason exception.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the relationship of trust and confidence between Secret Service personnel and certain protected officials that is essential to the ability of the Secret Service to protect these officials, and the Nation, from the risk of assassination; and

(2) to ensure that Secret Service personnel are not precluded from testifying in a criminal investigation or prosecution about unlawful activity committed within their view or hearing.

(c) ADMISSIBILITY OF INFORMATION ACQUIRED BY SECRET SERVICE PERSONNEL WHILE PERFORMING THEIR PROTECTIVE FUNCTION.—

(1) PROTECTIVE FUNCTION PRIVILEGE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3056 the following:

"§ 3056A. Testimony by Secret Service personnel; protective function privilege

''(a) DEFINITIONS.—In this section:

''(1) PROTECTEE.—The term 'protectee' means—

''(A) the President;

"(B) the Vice President (or other officer next in the order of succession to the Office of President);

"(C) the President-elect;

"(D) the Vice President-elect; and

"(E) visiting heads of foreign states or foreign governments who, at the time and place concerned, are being provided protection by the United States Secret Service.

"(2) SECRET SERVICE PERSONNEL.—The term 'Secret Service personnel' means any officer or agent of the United States Secret Service.

"(b) GENERAL RULE OF PRIVILEGE.—Subject to subsection (c), testimony by Secret Service personnel or former Secret Service personnel regarding information affecting a protectee that was acquired during the performance of a protective function in physical proximity to the protectee shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof.

"(c) EXCEPTIONS.—There is no privilege under this section—

"(1) with respect to information that, at the time the information was acquired by Secret Service personnel, was sufficient to provide reasonable grounds to believe that a crime had been, was being, or would be committed; or

"(2) if the privilege is waived by the protectee or the legal representative of a protectee or deceased protectee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3056 the following:

"3056A. Testimony by Secret Service personnel; protective function privilege.".

(3) APPLICATION.—This section and the amendments made by this section shall apply to any proceeding commenced on or after the date of enactment of this section.

SEC. 4503. PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS.

(a) Section 530B of title 28, United States Code, is amended to read as follows:

"SEC. 530B. PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS.

"(a) DEFINITIONS.—In this section:

"(1) GOVERNMENT ATTORNEY.—The term 'Government attorney'—

"(A) means the Attorney General; the Deputy Attorney General; the Solicitor General; the Associate Attorney General; the head of, and any attorney employed in, any division, office, board, bureau, component, or agency of the Department of Justice; any United States Attorney; any Assistant United States Attorney; any Special Assistant to the Attorney General or Special Attorney appointed under section 515; any Special Assistant United States Attorney appointed under section 543 who is authorized to conduct criminal or civil law enforcement investigations or proceedings on behalf of the United States; any other attorney employed by the Department of Justice who is authorized to conduct criminal or civil law enforcement proceedings on behalf of the United States; any independent counsel, or employee of such counsel, appointed under chapter 40; and any outside special counsel, or employee of such counsel, as may be duly appointed by the Attorney General; and

"(B) does not include any attorney employed as an investigator or other law enforcement agent by the Department of Justice who

is not authorized to represent the United States in criminal or civil law enforcement litigation or to supervise such proceedings.

"(2) STATE.—The term 'State' includes a Territory and the District of Columbia.

"(b) CHOICE OF LAW.—Subject to any uniform national rule prescribed by the Supreme Court under chapter 131, the standards of professional responsibility that apply to a Government attorney with respect to the attorney's work for the Government shall be—

"(1) for conduct in connection with a proceeding in or before a court, the standards of professional responsibility established by the rules and decisions of that court;

"(2) for conduct reasonably intended to lead to a proceeding in or before a court, the standards of professional responsibility established by the rules and decisions of the court in or before which the proceeding is intended to be brought; and

"(3) for all other conduct, the standards of professional responsibility established by the rules and decisions of the Federal district court for the judicial district in which the attorney principally performs his or her official duties.

"(c) LICENSURE.—A Government attorney (except foreign counsel employed in special cases)—

"(1) shall be duly licensed and authorized to practice as an attorney under the laws of a State; and

"(2) shall not be required to be a member of the bar of any particular State.

"(d) ADMISSIBILITY OF EVIDENCE.—No violation of any disciplinary, ethical, or professional conduct rule shall be construed to permit the exclusion of otherwise admissible evidence in any Federal criminal proceeding.

"(e) RULEMAKING AUTHORITY.—The Attorney General shall make and amend rules of the Department of Justice to ensure compliance with this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 31 of title 28, United States Code, is amended, in the item relating to section 530B, by striking "Ethical standards for attorneys for the Government" and inserting "Professional standards for Government attorneys".

(c) REPORTS.—

(1) UNIFORM RULE.—In order to encourage the Supreme Court to prescribe, under chapter 131 of title 28, United States Code, a uniform national rule for Government attorneys with respect to commu-

nications with represented persons and parties, not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chief Justice of the United States a report, which shall include recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for such a uniform national rule.

(2) ACTUAL OR POTENTIAL CONFLICTS.—Not later than 2 years after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate a report, which shall include—

(A) a review of any areas of actual or potential conflict between specific Federal duties related to the investigation and prosecution of violations of Federal law and the regulation of Government attorneys (as that term is defined in section 530B of title 28, United States Code, as amended by this Act) by existing standards of professional responsibility; and

(B) recommendations with respect to amending the Federal Rules of Practice and

Procedure to provide for additional rules governing attorney conduct to address any areas of actual or potential conflict identified pursuant to the review under subparagraph (A).

(3) REPORT CONSIDERATIONS.—In carrying out paragraphs (1) and (2), the Judicial Conference of the United States shall take into consideration—

(A) the needs and circumstances of multiforum and multijurisdictional litigation;

(B) the special needs and interests of the United States in investigating and prosecuting violations of Federal criminal and civil law; and

(C) practices that are approved under Federal statutory or case law or that are otherwise consistent with traditional Federal law enforcement techniques.

TITLE V—COMBATING DRUG AND GUN VIOLENCE

Subtitle A—Drug Treatment, Prevention, and Testing

PART 1—DRUG TREATMENT

SEC. 5101. FUNDING FOR RURAL STATE AND ECONOMICALLY DEPRESSED COMMUNITIES.

(a) IN GENERAL.—The Director of the Center for 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

award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

(1) describing the utilization and costs of services provided under the award;

(2) specifying the number of individuals served and the type and costs of services provided; and

(3) providing such other information as the Director determines to be appropriate.

(e) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

(f) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, subject to the availability of qualified applicants for the awards.

(g) DURATION OF AWARD.—The period during which payments are made to an entity from an award under subsection (a) may not exceed 5 years. The provision of such

payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed to establish a limitation on the number of awards under such subsection that may be made to an entity.

(h) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

(i) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

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

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of the fiscal years 2003, 2004, 2005, and 2006.

SEC. 5102. FUNDING FOR RESIDENTIAL TREATMENT CENTERS FOR WOMEN AND CHILDREN.

(a) IN GENERAL.—The Director of the Center for Substance Abuse Treatment shall provide awards of grants, cooperative agreement, or contracts to public and nonprofit private entities for the purpose of providing treatment facilities that—

(1) provide residential treatment for methamphetamine, heroin, and other drug addicted women with minor children; and

(2) offer specialized treatment for methamphetamine-, heroin-, and other drug-addicted mothers and allow the minor children of those mothers to reside with them in the facility or nearby while treatment is ongoing.

(b) MINIMUM QUALIFICATIONS FOR RECEIPT OF AWARD.—With respect to the principal agency of the State involved that administers programs relating to substance abuse, the Director may make an award under subsection (a) to an applicant only if the agency has certified to the Director that—

(1) the applicant has the capacity to carry out a program described in subsection (a);

(2) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

(3) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

(c) REQUIREMENT OF MATCHING FUNDS.—

(1) IN GENERAL.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

(1) describing the utilization and costs of services provided under the award;

(2) specifying the number of individuals served and the type and costs of services provided; and

(3) providing such other information as the Director determines to be appropriate.

(e) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

(f) PRIORITY.—In making grants under this subsection, the Director shall give priority to areas experiencing a high rate or rapid increase in drug abuse and addiction.

(g) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, subject to the availability of qualified applicants for the awards.

(h) DURATION OF AWARD.—The period during which payments are made to an entity from an award under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed to establish

a limitation on the number of awards under such subsection that may be made to an entity.

(i) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

(j) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 2003, 2004, 2005, and 2006.

SEC. 5103. DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS ADMINISTERED BY STATE OR LOCAL PROSECUTORS.

(a) PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS.—Title I of the Omnibus Crime

Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new part:

"PART CC—PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS

"SEC. 2901. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Attorney General may make grants to State or local prosecutors for the purpose of developing, implementing, or expanding drug treatment alternative to prison programs that comply with the requirements of this part.

''(b) USE OF FUNDS.—A State or local prosecutor who receives a grant under this part shall use amounts provided under the grant to develop, implement, or expand the drug treatment alternative to prison program for which the grant was made, which may include payment of the following expenses:

''(1) Salaries, personnel costs, equipment costs, and other costs directly related to the operation of the program, including the enforcement unit.

''(2) Payments to licensed substance abuse treatment providers for providing treatment to offenders participating in the program for which the grant was made, including aftercare supervision, vocational training, education, and job placement.

"(3) Payments to public and nonprofit private entities for providing treatment to offenders participating in the program for which the grant was made.

"(c) FEDERAL SHARE.—The Federal share of a grant under this part shall not exceed 75 percent of the cost of the program.

"(d) SUPPLEMENT AND NOT SUPPLANT.—Grant amounts received under this part shall be used to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"SEC. 2902. PROGRAM REQUIREMENTS.

"A drug treatment alternative to prison program with respect to which a grant is made under this part shall comply with the following requirements:

"(1) A State or local prosecutor shall administer the program.

"(2) An eligible offender may participate in the program only with the consent of the State or local prosecutor.

"(3) Each eligible offender who participates in the program shall, as an alternative to incarceration, be sentenced to or placed with a long term, drug free residential substance abuse treatment provider that is licensed under State or local law.

"(4) Each eligible offender who participates in the program shall serve a sentence of imprisonment with respect to the underlying crime if that offender does not successfully complete treatment with the residential substance abuse provider.

"(5) Each residential substance abuse provider treating an offender under the program shall—

"(A) make periodic reports of the progress of treatment of that offender to the State or local prosecutor carrying out the program and to the appropriate court in which the defendant was convicted; and

"(B) notify that prosecutor and that court if that offender absconds from the facility of the treatment provider or otherwise violates the terms and conditions of the program.

"(6) The program shall have an enforcement unit comprised of law enforcement officers under the supervision of the State or local prosecutor carrying out the program, the duties of which shall include verifying an offender's addresses and other contacts, and, if necessary, locating, apprehending, and arresting an offender who has absconded from the facility of a residential substance abuse treatment provider or otherwise violated the terms and conditions

of the program, and returning such offender to court for sentence on the underlying crime.

"SEC. 2903. APPLICATIONS.

"(a) IN GENERAL.—To request a grant under this part, a State or local prosecutor shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(b) CERTIFICATIONS.—Each such application shall contain the certification of the State or local prosecutor that the program for which the grant is requested shall meet each of the requirements of this part.

"SEC. 2904. GEOGRAPHIC DISTRIBUTION.

"The Attorney General shall ensure that, to the extent practicable, the distribution of grant awards is equitable and includes State or local prosecutors—

"(1) in each State; and

"(2) in rural, suburban, and urban jurisdictions.

"SEC. 2905. REPORTS AND EVALUATIONS.

"For each fiscal year, each recipient of a grant under this part during that fiscal year shall submit to the Attorney General a report regarding the effectiveness of activities carried out using that grant. Each report shall include an evaluation in such form and containing such informa-

tion as the Attorney General may reasonably require. The Attorney General shall specify the dates on which such reports shall be submitted.

"SEC. 2906. DEFINITIONS.

"In this part:

"(1) ELIGIBLE OFFENDER.—The term 'eligible offender' means an individual who—

"(A) has been convicted of, or pled guilty to, or admitted guilt with respect to a crime for which a sentence of imprisonment is required and has not completed such sentence;

"(B) has never been convicted of, or pled guilty to, or admitted guilt with respect to, and is not presently charged with, a felony crime of violence or a major drug offense or a crime that is considered a violent felony under State or local law; and

"(C) has been found by a professional substance abuse screener to be in need of substance abuse treatment because that offender has a history of substance abuse that is a significant contributing factor to that offender's criminal conduct.

"(2) FELONY CRIME OF VIOLENCE.—The term 'felony crime of violence' has the meaning given such

term in section 924(c)(3) of title 18, United States Code.

"(3) MAJOR DRUG OFFENSE.—The term 'major drug offense' has the meaning given such term in section 36(a) of title 18, United States Code.

"(4) STATE OR LOCAL PROSECUTOR.—The term 'State or local prosecutor' means any district attorney, State attorney general, county attorney, or corporation counsel who has authority to prosecute criminal offenses under State or local law.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following new paragraph:

"(24) There are authorized to be appropriated to carry out part CC—

"(A) $75,000,000 for fiscal years 2003 and 2004;

"(B) $85,000,000 for fiscal year 2005;

"(C) $95,000,000 for fiscal year 2006;

"(D) $105,000,000 for fiscal year 2007; and

"(E) $125,000,000 for fiscal year 2008.".

SEC. 5104. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS REAUTHORIZATION.

Section 3621(e)(4) of title 18, United States Code, is amended by striking subparagraph (E) and inserting the following:

"(E) $31,000,000 for fiscal year 2003; and

"(F) $38,000,000 for fiscal year 2004.".

SEC. 5105. DRUG TREATMENT FOR JUVENILES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

"PART G—RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES

"SEC. 575. RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES.

"(a) IN GENERAL.—The Director of the Center for Substance Abuse Treatment shall award grants to, or enter into cooperative agreements or contracts, with public and nonprofit private entities for the purpose of providing treatment to juveniles for substance abuse through programs in which, during the course of receiving such treatment the juveniles reside in facilities made available by the programs.

"(b) AVAILABILITY OF SERVICES FOR EACH PARTICIPANT.—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

contract with, an applicant only if the agency or Indian tribe has certified to the Director that—

"(A) the applicant has the capacity to carry out a program described in subsection (a);

"(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

"(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

"(2) STATUS AS MEDICAID PROVIDER.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Director may make a grant, or enter into a cooperative agreement or contract, under subsection (a) only if, in the case of any authorized service that is available pursuant to the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State involved—

"(i) the applicant for the grant, cooperative agreement, or contract will provide 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) IN GENERAL.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

"(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

"(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

"(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent 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) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the economic condition of the juvenile involved; and

"(3) will not be imposed on any such juvenile whose family has an income of less than 185 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(k) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

"(1) describing the utilization and costs of services provided under the award;

"(2) specifying the number of juveniles served, and the type and costs of services provided; and

"(3) providing such other information as the Director determines to be appropriate.

"(l) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other

agreements and such assurances and information as the Director determines to be necessary to carry out this section.

"(m) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, as well as among Indian tribes, subject to the availability of qualified applicants for the awards.

"(n) DURATION OF AWARD.—

"(1) IN GENERAL.—The period during which payments are made to an entity from an award under this section may not exceed 5 years.

"(2) APPROVAL OF DIRECTOR.—The provision of payments described in paragraph (1) shall be subject to—

"(A) annual approval by the Director of the payments; and

"(B) the availability of appropriations for the fiscal year at issue to make the payments.

"(3) NO LIMITATION.—This subsection may not be construed to establish a limitation on the number of awards that may be made to an entity under this 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

the period with respect to which the report is prepared.

"(q) DEFINITIONS.—In this section:

"(1) AUTHORIZED SERVICES.—The term 'authorized services' means treatment services and supplemental services.

"(2) JUVENILE.—The term 'juvenile' means anyone 18 years of age or younger at the time that of admission to a program operated pursuant to subsection (a).

"(3) ELIGIBLE JUVENILE.—The term 'eligible juvenile' means a juvenile who has been admitted to a program operated pursuant to subsection (a).

"(4) FUNDING AGREEMENT UNDER SUBSECTION (A).—The term 'funding agreement under subsection (a)', with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.

"(5) TREATMENT SERVICES.—The term 'treatment services' means treatment for substance abuse, including the counseling and services described in 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).

"SEC. 576. OUTPATIENT TREATMENT PROGRAMS FOR JUVENILES.

''(a) GRANTS.—The Secretary of Health and Human Services, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to establish projects for the outpatient treatment of substance abuse among juveniles.

''(b) PREVENTION.—Entities receiving grants under this section shall engage in activities to prevent substance abuse among juveniles.

''(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate projects carried out under subsection (a) and shall disseminate to appropriate public and private entities information on effective projects.''.

PART 2—FUNDING FOR DRUG-FREE COMMUNITY PROGRAMS

SEC. 5111. EXTENSION OF SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES PROGRAM.

Title IV of the Elementary and Secondary Education Act (20 U.S.C. 7104) is amended to read as follows:

"TITLE IV—AUTHORIZATIONS

"SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated for State grants under subpart 1 and national programs under subpart 2, $655,000,000 for fiscal years 2003, 2004, and 2005, and $955,000,000 for fiscal years 2006 and 2007,

of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

"(1) $300,000,000 for fiscal year 2006; and

"(2) $300,000,000 for fiscal year 2007.".

SEC. 5112. SAY NO TO DRUGS COMMUNITY CENTERS.

(a) SHORT TITLE.—This section may be cited as the "Say No to Drugs Community Centers Act of 2003".

(b) DEFINITIONS.—In this section—

(1) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private, locally initiated organization that—

(A) is a nonprofit organization, as that term is defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) involves the participation, as appropriate, of members of the community and community institutions, including—

(i) business and civic leaders actively involved in providing employment and business development opportunities in the community;

(ii) educators;

(iii) religious organizations (which shall not provide any sectarian instruction

or sectarian worship in connection with program activities funded under this section);

(iv) law enforcement agencies; and

(v) other interested parties.

(2) ELIGIBLE COMMUNITY.—The term ''eligible community'' means a community—

(A) identified by an eligible recipient for assistance under this section; and

(B) an area that meets such criteria as the Attorney General may, by regulation, establish, including criteria relating to poverty, juvenile delinquency, and crime.

(3) ELIGIBLE RECIPIENT.—The term ''eligible recipient'' means a community-based organization or public school that has—

(A) been approved for eligibility by the Attorney General, upon application submitted to the Attorney General in accordance with subsection (e); and

(B) demonstrated that the projects and activities it seeks to support in an eligible community involve the participation, when feasible and appropriate, of—

(i) parents, family members, and other members of the eligible community;

(ii) civic and religious organizations serving the eligible community;

(iii) school officials and teachers employed at schools located in the eligible community;

(iv) public housing resident organizations in the eligible community; and

(v) public and private nonprofit organizations and organizations serving youth that provide education, child protective services, or other human services to low income, at-risk youth and their families.

(4) POVERTY LINE.—The term ''poverty line'' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(5) PUBLIC SCHOOL.—The term ''public school'' means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 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—

(i) in a location easily accessible to youth in the community; and

(ii) in compliance with all applicable State and local ordinances;

(2) shall use the grant amounts to provide to youth in the eligible community services and activities that include extracurricular and academic programs that are offered—

(A) after school and on weekends and holidays, during the school year; and

(B) as daily full day programs (to the extent available resources permit) or as part day programs, during the summer months;

(3) shall use not more than 5 percent of the amounts to pay for the administrative costs of the program;

(4) shall not use such amounts to provide sectarian worship or sectarian instruction; and

(5) may not use the amounts for the general operating costs of public schools.

(e) APPLICATIONS.—

(1) IN GENERAL.—Each application to become an eligible recipient shall be submitted to the Attorney General at such time, in such manner, and ac-

1 companied 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;

(E) contain an assurance that the applicant will use grant amounts received under this section to provide youth in the eligible community with activities and services consistent with subsection (c);

(F) demonstrate the manner in which the applicant will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(G) include an estimate of the number of youth in the eligible community expected to be served under the program;

(H) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(I) contain an assurance that the applicant will comply with any research effort authorized under Federal law, and any investigation by the Attorney General;

(J) contain an assurance that the applicant will prepare and submit to the Attorney General an annual report regarding any program conducted under this section;

(K) contain an assurance that the program for which the grant is sought will, to the maximum extent practicable, incorporate services that are provided solely through non-Federal private or nonprofit sources; and

(L) contain an assurance that the applicant will maintain separate accounting records for the program for which the grant is sought.

(3) PRIORITY.—In determining eligibility under this section, the Attorney General shall give priority to applicants that submit applications that demonstrate the greatest local support for the programs they seek to support.

(f) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Attorney General shall, subject to the availability of appropriations, provide to each eligible recipient the Federal share of the costs of developing and carrying out programs described in this section.

(2) FEDERAL SHARE.—The Federal share of the cost of a program under this section shall be not more than—

(A) 75 percent of the total cost of the program for each of the first 2 years of the duration of a grant;

(B) 70 percent of the total cost of the program for the third year of the duration of a grant; and

(C) 60 percent of the total cost of the program for each year thereafter.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of the cost of a program under this section may be in cash or in kind, fairly evaluated, including plant, equipment, and services. Federal funds made available for the activity of any agency of an Indian tribal government or the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs or projects funded under this section.

(B) SPECIAL RULE.—Not less than 15 percent of the non-Federal share of the costs of a program under this section shall be provided from private or nonprofit sources.

(g) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES AND INDIAN TRIBES.—

(i) IN GENERAL.—In any fiscal year in which the total amount made available to carry out this section is equal to or greater than $20,000,000, from the amount made available to carry out this section, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(ii) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this section for grants to Indian tribes.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS AND PUBLIC SCHOOLS FROM ALLOCATIONS.—For each fiscal year described in subparagraph (A), the Attorney General may award grants from the appropriate State or Indian tribe allocation determined under subparagraph (A) on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(C) REALLOCATION.—If, at the end of a fiscal year described in subparagraph (A), the Attorney General determines that amounts allocated for a particular State or Indian tribe under subparagraph (B) remain unobligated, the Attorney General shall use such amounts to award grants to eligible recipients in another State or Indian tribe to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section. In awarding such grants, the Attorney General shall consider the need to maintain geographic diversity among eligible recipients.

(D) AVAILABILITY OF AMOUNTS.—Amounts made available under this paragraph shall remain available until expended.

(2) OTHER FISCAL YEARS.—In any fiscal year in which the amount made available to carry out this section is equal to or less than $20,000,000, the Attorney General may award grants on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(3) ADMINISTRATIVE COSTS.—The Attorney General may use not more than 3 percent of the amounts made available to carry out this section in any fiscal year for administrative costs, including training and technical assistance.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section from the Violent Crime Reduction Trust Fund—

(1) $125,000,000 for fiscal year 2003;

(2) $125,000,000 for fiscal year 2004; and

(3) $125,000,000 for fiscal year 2005.

SEC. 5113. DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS.

Section 3505 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11805) is amended to read as follows:

"SEC. 3505. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this chapter such sums as may be necessary for each of fiscal years 2003, 2004, 2005, 2006, and 2007.''.

SEC. 5114. DRUG EDUCATION AND PREVENTION PROGRAM FOR RUNAWAY AND HOMELESS YOUTH.

Section 3513 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11823) is amended to read as follows:

"SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this chapter such sums as may be necessary for each of fiscal years 2003, 2004, 2005, 2006, and 2007.''.

PART 3—ZERO TOLERANCE DRUG TESTING

SEC. 5121. GRANT AUTHORITY.

The Attorney General may make grants to States and units of local government, State courts, local courts, and Indian tribal governments, acting directly or through agreements with other public or private entities, for programs that support—

(1) developing or implementing comprehensive drug testing policies and practices with regard to criminal justice populations; and

(2) establishing appropriate interventions to illegal drug use for offender populations.

Applicants may choose to submit joint proposals with other eligible criminal justice or criminal court agencies for systemic drug testing and intervention programs, in which case, 1 organization must be designated as the primary applicant.

SEC. 5122. ADMINISTRATION.

(a) CONSULTATION; COORDINATION.—In carrying out section 5121, the Attorney General shall coordinate with the other Justice Department initiatives that address

drug testing and interventions in the criminal justice system.

(b) GUIDELINES.—The Attorney General may issue guidelines necessary to carry out section 5121.

(c) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under section 5121 shall—

(1) reflect a comprehensive approach that recognizes the importance of collaboration and a continuum of testing, treatment, and other interventions;

(2) include a long-term strategy and detailed implementation plan;

(3) address the applicant's capability to continue the proposed program following the conclusion of Federal support;

(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate consultation with affected agencies and key stakeholders throughout the criminal justice system and that there will be continued coordination throughout the implementation of the program; and

(6) describe the methodology that will be used in evaluating the program.

SEC. 5123. APPLICATIONS.

To request funds under section 5121, interested applicants shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require. Federal funding shall be awarded on a competitive basis based on criteria established by the Attorney General and specified in program guidelines.

SEC. 5124. FEDERAL SHARE.

The Federal share of a grant made under section 5121 may not exceed 75 percent of the total cost of the program described in the application submitted for the fiscal year for which the program receives assistance under section 5121, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. In-kind contributions may constitute a portion of the non-federal share of a grant.

SEC. 5125. GEOGRAPHIC DISTRIBUTION.

The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards under section 5121 is made, with rural and tribal jurisdiction representation.

SEC. 5126. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General shall provide technical assistance and training in furtherance of the purposes of section 5121.

(b) EVALUATION.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for a rigorous evaluation of the programs that receive support under section 5121.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General or through grants, contracts, or cooperative agreements with other entities.

SEC. 5127. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part—

(1) $75,000,000 for fiscal year 2003; and

(2) such sums as may be necessary for each of fiscal years 2004 through 2007.

SEC. 5128. PERMANENT SET-ASIDE FOR RESEARCH AND EVALUATION.

The Attorney General shall reserve not less than 1 percent and no more than 3 percent of the sums appro-

priated under section 5127 in each fiscal year for research and evaluation of this program.

PART 4—CRACK HOUSE STATUTE AMENDMENTS

SEC. 5131. OFFENSES.

(a) IN GENERAL.—Section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)) is amended—

(1) in paragraph (1), by striking ''open or maintain any place'' and inserting ''open, lease, rent, use, or maintain any place, whether permanently or temporarily,''; and

(2) by striking paragraph (2) and inserting the following:

''(2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.''.

(b) TECHNICAL AMENDMENT.—The heading to section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended to read as follows:

"SEC. 416. MAINTAINING DRUG-INVOLVED PREMISES.".

(c) CONFORMING AMENDMENT.—The table of contents to title II of the Comprehensive Drug Abuse and Prevention Act of 1970 is amended by striking the item relating to section 416 and inserting the following:

"Sec. 416. Maintaining drug-involved premises.".

SEC. 5132. CIVIL PENALTY AND EQUITABLE RELIEF FOR MAINTAINING DRUG-INVOLVED PREMISES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(d)(1) Any person who violates subsection (a) shall be subject to a civil penalty of not more than the greater of—

"(A) $250,000; or

"(B) 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person.

"(2) If a civil penalty is calculated under paragraph (1)(B), and there is more than 1 defendant, the court may apportion the penalty between multiple violators, but each violator shall be jointly and severally liable for the civil penalty under this subsection.

"(e) Any person who violates subsection (a) shall be subject to declaratory and injunctive remedies as set forth in section 403(f).".

SEC. 5133. DECLARATORY AND INJUNCTIVE REMEDIES.

Section 403(f)(1) of the Controlled Substances Act (21 U.S.C. 843(f)(1)) is amended by striking "this section or section 402" and inserting "this section, section 402, or 416".

SEC. 5134. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines with respect to offenses involving gamma hydroxybutyric acid (GHB);

(2) consider amending the Federal sentencing guidelines to provide for increased penalties such that those penalties reflect the seriousness of offenses involving GHB and the need to deter them; and

(3) take any other action the Commission considers necessary to carry out this section.

SEC. 5135. AUTHORIZATION OF APPROPRIATIONS FOR A DEMAND REDUCTION COORDINATOR.

There is authorized to be appropriated $5,900,000 to the Drug Enforcement Administration of the Department

of Justice for the hiring of a special agent in each State to serve as a Demand Reduction Coordinator.

SEC. 5136. AUTHORIZATION OF APPROPRIATIONS FOR DRUG EDUCATION.

There is authorized to be appropriated such sums as necessary to the Drug Enforcement Administration of the Department of Justice to educate youth, parents, and other interested adults about the drugs associated with raves.

PART 5—CRACKING DOWN ON METHAMPHETAMINE IN RURAL AREAS

SEC. 5141. METHAMPHETAMINE TREATMENT PROGRAMS IN RURAL AREAS.

Subpart I of part B of title V of the Public Health Service Act (42 U.S.C. 290bb et seq.) is amended by inserting after section 509 the following:

"SEC. 510A. METHAMPHETAMINE TREATMENT PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to community-based public and nonprofit private entities for the establishment of substance abuse (particularly methamphetamine) prevention and treatment pilot programs in units of local government and tribal governments located outside a Standard Metropolitan 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

(C) by adding at the end the following:

"(H) to fund programs that educate rural communities, particularly parents, teachers, and others who work with youth, concerning the early signs and effects of methamphetamine use, however, as a prerequisite to receiving funding, these programs shall—

"(i) prioritize methamphetamine prevention and education;

"(ii) have past experience in community coalition building and be part of an existing coalition that includes medical and public health officials, educators, youth-serving community organizations, and members of law enforcement;

"(iii) utilize professional prevention staff to develop research and science based prevention strategies for the community to be served;

"(iv) demonstrate the ability to operate a community-based methamphetamine prevention and education program;

"(v) establish prevalence of use through a community needs assessment;

"(vi) establish goals and objectives based on a needs assessment; and

"(vii) demonstrate measurable outcomes on a yearly basis.";

(2) in subsection (e)—

(A) by striking "subsection (a), $10,000,000" and inserting "subsection (a)—

"(1) $10,000,000";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(2) $5,000,000 for each of fiscal years 2003 through 2008 to carry out the programs referred to in subsection (c)(1)(H)."; and

(3) by adding at the end the following:

"(f) SET-ASIDE.—Of the amount made available for grants under this section, 10 percent shall be used to assist tribal governments.

"(g) AMOUNT OF GRANTS.—The amount of a grant under this section, with respect to each rural community involved, shall be at least $19,000 but not greater than $100,000.".

SEC. 5143. METHAMPHETAMINE CLEANUP.

(a) IN GENERAL.—The Attorney General shall, through the Department of Justice or through grants to

States or units of local government and tribal governments located outside a Standard Metropolitan Statistical Area, in accordance with such regulations as the Attorney General may prescribe, provide for—

(1) the cleanup of methamphetamine laboratories and related hazardous waste in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area; and

(2) the improvement of contract-related response time for cleanup of methamphetamine laboratories and related hazardous waste in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area by providing additional contract personnel, equipment, and facilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $20,000,000 for fiscal years 2003 and 2004 to carry out this section.

(2) FUNDING ADDITIONAL.—Amounts authorized by this section are in addition to amounts otherwise authorized by law.

(3) SET-ASIDE.—Of the amount made available for grants under this section, 10 percent shall be awarded to tribal governments.

Subtitle B—Disarming Felons

PART 1—OUR LADY OF PEACE ACT

SEC. 5201. SHORT TITLE.

This part may be cited as the ''Our Lady of Peace Act of 2003''.

SEC. 5202. FINDINGS.

Congress finds the following:

(1) Since 1994, more than 689,000 individuals have been denied a gun for failing a background check.

(2) States that fail to computerize their criminal and mental illness records are the primary cause of delays for background checks. Helping States automate their records will reduce delays for law-abiding gun owners.

(3) 25 States have automated less than 60 percent of their felony criminal conviction records.

(4) 33 States do not automate or share disqualifying mental health records.

(5) In 13 States, domestic violence restraining orders are not automated or accessible by the national instant criminal background check system.

(6) In 15 States, no domestic violence misdemeanor records are automated or accessible by the national instant criminal background check system.

SEC. 5203. ENHANCEMENT OF REQUIREMENT THAT FEDERAL DEPARTMENTS AND AGENCIES PROVIDE RELEVANT INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) IN GENERAL.—Section 103(e)(1) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended—

(1) by inserting ''electronically'' before ''furnish''; and

(2) by adding at the end the following: ''The head of each department or agency shall ascertain whether the department or agency has any records relating to any person described in subsection (g) or (n) of section 922 of title 18, United States Code and on being made aware that the department or agency has such a record, shall make the record available to the Attorney General for inclusion in the system to the extent the Attorney General deems appropriate. The head of each department or agency, on being made aware that the basis under which a record was made available under this section does not apply or no longer applies, shall transmit a certification identifying the record (and any name or other relevant identifying information) to the Attorney General for removal from the system. The Attor-

ney General shall notify the Congress on an annual basis as to whether the Attorney General has obtained from each such department or agency the information requested by the Attorney General under this subsection.''.

(b) IMMIGRATION RECORDS.—The Commissioner of the Immigration and Naturalization Service shall cooperate in providing information regarding all relevant records of persons disqualified from acquiring a firearm under Federal law, including but not limited to, illegal aliens, visitors to the United States on student visas, and visitors to the United States on tourist visas, to the Attorney General for inclusion in the national instant criminal background check system.

SEC. 5204. REQUIREMENTS TO OBTAIN WAIVER.

(a) IN GENERAL.—Beginning 5 years after the date of enactment of this Act, a State shall be eligible to receive a waiver of the 10 percent matching requirement for National Criminal History Improvement Grants under the Crime Identification Technology Act of 1988 if the State provides at least 95 percent of the information described under subsections (b) and (c). The length of such a waiver shall not exceed 5 years.

(b) ELIGIBILITY OF STATE RECORDS FOR SUBMISSION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—

(1) REQUIREMENTS FOR ELIGIBILITY.—The State shall make available the following information established either through its own database or provide information to the Attorney General:

(A) The name of and other relevant identifying information relating to each person disqualified from acquiring a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, and each person disqualified from acquiring a firearm under applicable State law.

(B) The State, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply or no longer applies, shall transmit a certification identifying the record (and any name or other relevant identifying information) to the Attorney General for removal from the system.

(C) Any information provided to the Attorney General under subparagraph (A) may be accessed only for background check purposes

under section 922(t) of title 18, United States Code.

(D) The State shall certify to the Attorney General that at least 95 percent of all information described in subparagraph (A) has been provided to the Attorney General in accordance with subparagraph (A).

(2) APPLICATION TO PERSONS CONVICTED OF MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—

(A) IN GENERAL.—For purposes of paragraph (1), a person disqualified from acquiring a firearm as referred to in that paragraph includes a person who has been convicted in any court, of any Federal, State, or local offense that—

(i) is a misdemeanor under Federal or State law or, in a State that does not classify offenses as misdemeanors, is an offense punishable by imprisonment for a term of 1 year or less (or punishable by only a fine);

(ii) has, as an element of the offense, the use or attempted use of physical force (for example, assault and battery), or the threatened use of a deadly weapon; and

(iii) was committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, (for example, the equivalent of ''common-law marriage'' even if such relationship is not recognized under the law), or a person similarly situated to a spouse, parent, or guardian of the victim (for example, 2 persons who are residing at the same location in an intimate relationship with the intent to make that place their home would be similarly situated to a spouse).

(B) CONVICTED PERSON.—A person shall not be considered to have been convicted of such an offense for purposes of subparagraph (A) unless—

(i) the person is considered to have been convicted by the jurisdiction in which the proceeding was held;

(ii) the person was represented by counsel in the case, or knowingly and intel-

ligently waived the right to counsel in the case; and

(iii) in the case of a prosecution for which a person was entitled to a jury trial in the jurisdiction in which the case was tried—

(I) the case was tried by a jury; or

(II) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea, or otherwise.

(C) PARDON OR SET-ASIDE OF JUDGMENT.—A person shall not be considered to have been convicted of such an offense for purposes of subparagraph (A) if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the jurisdiction in which the proceedings were held provides for the loss of civil rights upon conviction of such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, and the

person is not otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

(c) APPLICATION TO PERSONS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION.—

(1) REQUIREMENT.—The requirement of this subsection is that the State shall provide the name of and other relevant identifying information relating to persons adjudicated as mental defective or those committed to mental institutions to the Attorney General for inclusion in the national instant criminal background check system.

(2) ADJUDICATION AS A MENTAL DEFECTIVE.—For purposes of paragraph (1), an adjudication as a mental defective occurs when a court, board, commission, or other government entity determines that an individual is mentally retarded or of marked subnormal intelligence, mentally ill, or mentally incompetent, including—

(A) defendants in criminal cases adjudicated as not guilty by reason of insanity, or found incompetent to stand trial;

(B) individuals who are a danger to others as a result of a mental disorder or illness;

(C) individuals involuntarily committed to a mental institution by a court, board, commission, or other authority;

(D) individuals committed because they lack the mental capacity to contract or manage their own affairs; and

(E) individuals found to be a danger to themselves as a result of a mental disorder or illness.

(3) EXCEPTION.—This subsection does not apply to—

(A) a person—

(i) in a mental institution for observation; or

(ii) voluntarily committed to a mental institution; or

(B) information protected by doctor-patient privilege.

(4) PRIVACY PROTECTIONS.—For any information provided under the national instant criminal background check system, the Attorney General shall work with States and local law enforcement and the mental health community to establish regulations and protocols for protecting the privacy of information provided to the system.

(5) STATE AUTHORITY.—Notwithstanding any other provision of this subsection, a State may designate that records transmitted under this subsection shall be used only to determine eligibility to purchase or possess a firearm.

(d) ATTORNEY GENERAL REPORT.—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of States in automating the databases containing the information described in subsections (b) and (c) and in providing that information pursuant to the requirements of such subsections.

SEC. 5205. IMPLEMENTATION GRANTS TO STATES.

(a) IN GENERAL.—From amounts made available to carry out this section, the Attorney General shall make grants to each State, in a manner consistent with the national criminal history improvement program, which shall be used by the State, in conjunction with units of local government and State and local courts, to establish or upgrade information and identification technologies for firearms eligibility determinations.

(b) USE OF GRANT AMOUNTS.—Grants under this section may only be awarded for the following purposes:

(1) Building databases that are directly related to checks under the national instant criminal background check system (NICS), including court disposition and corrections records.

(2) Assisting States in establishing or enhancing their own capacities to perform NICS background checks.

(3) Improving final dispositions of criminal records.

(4) Supplying mental health records to NICS.

(5) Supplying court-ordered domestic restraining orders and records of domestic violence misdemeanors (as defined in section 5204) for inclusion in NICS.

(c) CONDITION.—As a condition of receiving a grant under this section, a State shall specify the projects for which grant amounts will be used, and shall use such amounts only as specified. A State that violates this section shall be liable to the Attorney General for the full amount granted.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 2003, 2004, 2005, and 2006.

(e) USER FEE.—The Federal Bureau of Investigation shall not charge a user fee for background checks pursuant to section 922(t) of title 18, United States Code.

SEC. 5206. CONTINUING EVALUATIONS.

(a) EVALUATION REQUIRED.—The Director of the Bureau of Justice Statistics shall study and evaluate the operations of the national instant criminal background check system. Such study and evaluation shall include compilations and analyses of the operations and record systems of the agencies and organizations participating in such system.

(b) REPORT ON GRANTS.—Not later than January 31 of each year, the Director shall submit to Congress a report on the implementation of subsections (b) and (c) of section 5204.

(c) REPORT ON BEST PRACTICES.—Not later than January 31 of each year, the Director shall submit to Congress, and to each State participating in the National Criminal History Improvement Program, a report of the practices of the States regarding the collection, maintenance, automation, and transmittal of identifying information relating to individuals described in subsection (g) or (n) of section 922 of title 18, United States Code, by the State or any other agency, or any other records relevant

to the national instant criminal background check system, that the Director considers to be best practices.

SEC. 5207. GRANTS TO STATE COURTS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

(a) IN GENERAL.—From amounts made available to carry out this section, the Attorney General shall make grants to each State for use by the chief judicial officer of the State to improve the handling of proceedings related to criminal history dispositions and restraining orders.

(b) USE OF FUNDS.—Amounts granted under this section shall be used by the chief judicial officer only as follows:

(1) For fiscal years 2003 and 2004, such amounts shall be used to carry out assessments of the capabilities of the courts of the State for the automation and transmission to State and Federal record repositories the arrest and conviction records of such courts.

(2) For fiscal years after 2004, such amounts shall be used to implement policies, systems, and procedures for the automation and transmission to State and Federal record repositories the arrest and conviction records of such courts.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section $125,000,000 for each of fiscal years 2003, 2004, 2005, and 2006.

PART 2—BALLISTICS, LAW ASSISTANCE, AND SAFETY TECHNOLOGY

SEC. 5211. SHORT TITLE.

This part may be cited as the ''Ballistics, Law Assistance, and Safety Technology Act of 2003'' or ''BLAST Act''.

SEC. 5212. PURPOSES.

The purposes of this part are to—

(1) increase public safety by assisting law enforcement in solving more gun-related crimes and offering prosecutors evidence to link felons to gun crimes through ballistics technology;

(2) provide for ballistics testing of all new firearms for sale to assist in the identification of firearms used in crimes;

(3) require ballistics testing of all firearms in custody of Federal agencies to assist in the identification of firearms used in crimes; and

(4) add ballistics testing to existing firearms enforcement programs.

SEC. 5213. DEFINITION OF BALLISTICS.

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

"(35) BALLISTICS.—The term 'ballistics' means a comparative analysis of fired bullets and cartridge casings to identify the firearm from which bullets were discharged, through identification of the unique characteristics that each firearm imprints on bullets and cartridge casings.".

SEC. 5214. TEST FIRING AND AUTOMATED STORAGE OF BALLISTICS RECORDS.

(a) AMENDMENT.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

"(m)(1) In addition to the other licensing requirements under this section, a licensed manufacturer or licensed importer shall—

"(A) test fire firearms manufactured or imported by such licensees as specified by the Secretary by regulation;

"(B) prepare ballistics images of the fired bullet and cartridge casings from the test fire;

"(C) make the records available to the Secretary for entry in a computerized database; and

"(D) store the fired bullet and cartridge casings in such a manner and for such a period as specified by the Secretary by regulation.

"(2) Nothing in this subsection creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

"(3)(A) The Attorney General and the Secretary shall assist firearm manufacturers and importers in complying with paragraph (1) through—

"(i) the acquisition, disposition, and upgrades of ballistics equipment and bullet recovery equipment to be placed at or near the sites of licensed manufacturers and importers;

"(ii) the hiring or designation of personnel necessary to develop and maintain a database of ballistics images of fired bullets and cartridge casings, research and evaluation;

"(iii) providing education about the role of ballistics as part of a comprehensive firearm crime reduction strategy;

"(iv) providing for the coordination among Federal, State, and local law enforcement and regulatory agencies and the firearm industry to curb firearm-related crime and illegal firearm trafficking; and

"(v) any other steps necessary to make ballistics testing effective.

"(B) The Attorney General and the Secretary shall—

"(i) establish a computer system through which State and local law enforcement agencies can promptly access ballistics records stored under this subsection, as soon as such a capability is available; and

"(ii) encourage training for all ballistics examiners.

"(4) Not later than 1 year after the date of enactment of this subsection and annually thereafter, the Attorney General and the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report regarding the impact of this section, including—

"(A) the number of Federal and State criminal investigations, arrests, indictments, and prosecutions of all cases in which access to ballistics records provided under this section served as a valuable investigative tool;

"(B) the extent to which ballistics records are accessible across jurisdictions; and

"(C) a statistical evaluation of the test programs 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

interoperable to make mandatory ballistics testing of new firearms possible.

(2) EFFECTIVE ON DATE OF ENACTMENT.—Section 923(m)(6) of title 18, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 5215. PRIVACY RIGHTS OF LAW ABIDING CITIZENS.

Ballistics information of individual guns in any form or database established by this part may not be used for—

(1) prosecutorial purposes unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime; or

(2) the creation of a national firearms registry of gun owners.

SEC. 5216. DEMONSTRATION FIREARM CRIME REDUCTION STRATEGY.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury and the Attorney General shall establish in the jurisdictions selected under subsection (c), a comprehensive firearm crime reduction strategy that meets the requirements of subsection (b).

(b) PROGRAM ELEMENTS.—Each program established under subsection (a) shall, for the jurisdiction concerned—

(1) provide for ballistics testing, in accordance with criteria set forth by the National Integrated Ballistics Information Network, of all firearms recovered during criminal investigations, in order to—

(A) identify the types and origins of the firearms;

(B) identify suspects; and

(C) link multiple crimes involving the same firearm;

(2) require that all identifying information relating to firearms recovered during criminal investigations be promptly submitted to the Secretary of the Treasury, in order to identify the types and origins of the firearms and to identify illegal firearms traffickers;

(3) provide for coordination among Federal, State, and local law enforcement officials, firearm examiners, technicians, laboratory personnel, investigators, and prosecutors in the tracing and ballistics testing of firearms and the investigation and prosecution of firearms-related crimes including illegal firearms trafficking; and

(4) require analysis of firearm tracing and ballistics data in order to establish trends in firearm-related crime and firearm trafficking.

(c) PARTICIPATING JURISDICTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury and the Attorney General shall select not fewer than 10 jurisdictions for participation in the program under this section.

(2) CONSIDERATIONS.—In selecting jurisdictions under this subsection, the Secretary of the Treasury and the Attorney General shall give priority to jurisdictions that—

(A) participate in comprehensive firearm law enforcement strategies, including programs such as the Youth Crime Gun Interdiction Initiative, Project Achilles, Project Disarm, Project Triggerlock, Project Exile, Project Surefire, and Operation Ceasefire;

(B) draft a plan to share ballistics records with nearby jurisdictions that require ballistics testing of firearms recovered during criminal investigations; and

(C) pledge to match Federal funds for the expansion of ballistics testing on a one-on-one basis.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2003 through 2006, $20,000,000 to carry out this section, including—

(1) installation of ballistics equipment; and

(2) salaries and expenses for personnel (including personnel from the Department of Justice and the Bureau of Alcohol, Tobacco, and Firearms).

PART 3—EXTENSION OF PROJECT EXILE

SEC. 5221. AUTHORIZATION OF FUNDING FOR ADDITIONAL STATE AND LOCAL GUN PROSECUTORS.

(a) GRANTS FOR STATE AND LOCAL GUN PROSECUTORS.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 is amended by adding at the end the following:

"Subtitle Y—Grants for State and Local Gun Prosecutors

"SEC. 32501. GRANT AUTHORIZATION.

''The Attorney General may award grants to State, Indian tribal, or local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs for the prosecution of firearm-related crimes.

"SEC. 32502. USE OF FUNDS.

"Grants awarded by the Attorney General under this subtitle shall be used to fund programs for the hiring of prosecutors and related personnel under which those prosecutors and personnel shall utilize an interdisciplinary team approach to prevent, reduce, and respond to firearm-related crimes in partnership with communities.

"SEC. 32503. APPLICATIONS.

"(a) ELIGIBILITY.—To be eligible to receive a grant award under this subtitle for a fiscal year, a State, Indian tribal, or local prosecutor, in conjunction with the chief executive officer of the jurisdiction in which the program will be placed, shall submit to the Attorney General an application, in such form and containing such information as the Attorney General may reasonably require.

"(b) REQUIREMENTS.—Each application submitted under this section shall include—

"(1) a request for funds for the purposes described in section 32502;

"(2) a description of the communities to be served by the grant, including the nature of the firearm-related crime in such communities; and

"(3) assurances that Federal funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section.

"SEC. 32504. MATCHING REQUIREMENT.

"The Federal share of a grant awarded under this subtitle may not exceed 50 percent of the total cost of the program described in the application submitted under section 32503 for the fiscal year for which the program receives assistance under this subtitle.

"SEC. 32505. AWARD OF GRANTS.

"(a) IN GENERAL.—Except as provided in subsection (b), in awarding grants under this subtitle, the Attorney General shall consider—

"(1) the demonstrated need for, and the evidence of the ability of the applicant to provide, the services described in section 32503(b)(2), as described in the application submitted under section 32503;

"(2) the extent to which, as reflected in the 1998 Uniform Crime Report of the Federal Bureau of Investigation, there is a high rate of firearm-related crime in the jurisdiction of the applicant, measured either in total or per capita;

"(3) the extent to which the jurisdiction of the applicant has experienced an increase in the total or per capita rate of firearm-related crime, as reported in the 3 most recent annual Uniform Crime Reports 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-

cal year, the Attorney General shall use not less than 1 percent and not more than 3 percent for research and evaluation of the activities carried out with grants awarded under this subtitle.

"SEC. 32506. REPORTS.

"(a) REPORT TO ATTORNEY GENERAL.—Not later than March 1 of each fiscal year, each law enforcement agency that receives funds from a grant awarded under this subtitle for that fiscal year shall submit to the Attorney General a report describing the progress achieved in carrying out the grant program for which those funds were received.

"(b) REPORT TO CONGRESS.—Beginning not later than October 1 of the first fiscal year following the initial fiscal year during which grants are awarded under this subtitle, and not later than October 1 of each fiscal year thereafter, the Attorney General shall submit to Congress a report, which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established with amounts from grants awarded under this subtitle during the preceding fiscal year.

"SEC. 32507. DEFINITIONS.

"In this subtitle—

"(1) the term 'firearm' has the meaning given the term in section 921(a) of title 18, United States Code;

"(2) the term 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(3) the term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

"SEC. 32508. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subtitle $150,000,000 for fiscal years 2003 and 2004.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 2 of the Violent Crime Control and Law Enforcement Act of 1994 is amended by inserting after the item relating to subtitle X the following:

"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.".

PART 4—EXPANSION OF THE YOUTH CRIME GUN INTERDICTION INITIATIVE

SEC. 5231. YOUTH CRIME GUN INTERDICTION INITIATIVE.

(a) IN GENERAL.—

(1) EXPANSION OF NUMBER OF CITIES.—The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative (in this section referred to as the "YCGII") to—

(A) 75 cities or counties by October 1, 2004;

(B) 150 cities or counties by October 1, 2006; and

(C) 250 cities or counties by October 1, 2007.

(2) SELECTION.—Cities and counties selected for participation in the YCGII shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials.

(b) IDENTIFICATION OF INDIVIDUALS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, utilizing the information provided by the YCGII, facilitate the identification and prosecution of individuals illegally trafficking firearms to prohibited individuals.

(2) SHARING OF INFORMATION.—The Secretary of the Treasury shall share information derived from the YCGII with State and local law enforcement agencies through on-line computer access, as soon as such capability is available.

(c) GRANT AWARDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII.

(2) USE OF GRANT FUNDS.—Grants made under this part shall be used to—

(A) hire or assign additional personnel for the gathering, submission and analysis of tracing data submitted to the Bureau of Alcohol, Tobacco and Firearms under the YCGII;

(B) hire additional law enforcement personnel for the purpose of identifying and arresting individuals illegally trafficking firearms; and

(C) purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.

PART 5—GUN OFFENSES

SEC. 5241. GUN BAN FOR DANGEROUS JUVENILE OFFENDERS.

(a) DEFINITION.—Section 921(a)(20) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' after ''(20)'';

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting after subparagraph (A) the following:

''(B) For purposes of subsections (d), (g), and (s) of section 922, the term 'act of juvenile delinquency' means an adjudication of delinquency based on a finding of the commission of an act by a person prior to his or her eighteenth birthday that, if committed by an adult, would be a serious drug offense or violent felony (as defined in section 3559(c)(2) of this

title), on or after the date of enactment of this paragraph.''; and

(4) by striking ''What constitutes'' through the end and inserting the following: ''What constitutes a conviction of such a crime or an adjudication of juvenile delinquency shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any State conviction or adjudication of delinquency which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored by the jurisdiction in which the conviction or adjudication of delinquency occurred shall not be considered a conviction or adjudication of delinquency.''.

(b) PROHIBITION.—Section 922 of title 18, United States Code is amended—

(1) in subsection (d)—

(A) by striking ''or'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ''; or''; and

(C) by inserting after paragraph (9) the following:

''(10) who has committed an act of juvenile delinquency.'';

(2) in subsection (g)—

(A) by striking ''or'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ''; or''; and

(C) by inserting after paragraph (9) the following:

''(10) who has committed an act of juvenile delinquency.''; and

(3) in subsection (s)(3)(B)—

(A) by striking ''and'' at the end of clause (vi);

(B) by inserting ''and'' after the semicolon at the end of clause (vii); and

(C) by inserting after clause (vii) the following:

''(viii) has not committed an act of juvenile delinquency.''.

SEC. 5242. IMPROVING FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) SECURE GUN STORAGE OR SAFETY DEVICE.—The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are

sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).''.

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: ''or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)''.

(d) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(1) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(2) as establishing any standard of care.

SEC. 5243. JUVENILE HANDGUN SAFETY.

(a) JUVENILE HANDGUN SAFETY.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A); and

(3) in subparagraph (A), as redesignated—

(A) by striking ''A person other than a juvenile who knowingly'' and inserting ''A person who knowingly''; and

(B) in clause (i), by striking ''not more than 1 year'' and inserting ''not more than 5 years''.

SEC. 5244. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL PREDICATES.

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

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by adding ''or'' at the end; and

(3) by adding at the end the following:

''(iii) any act of juvenile delinquency that, if committed by an adult, would be an offense described in this paragraph;''.

SEC. 5245. INCREASED PENALTY FOR TRANSFERRING A FIREARM TO A MINOR FOR USE IN CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Section 924(h) of title 18, United States Code, is amended by striking ''10 years, fined in accordance with this title, or both'' and inserting ''10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not more than 15 years, fined in accordance with this title, or both''.

SEC. 5246. INCREASED PENALTY FOR FIREARMS CONSPIRACY.

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

''(p) Except as otherwise provided in this section, a person who conspires to commit an offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which is the object of the conspiracy.''.

PART 6—CLOSING THE GUN SHOW LOOPHOLE

SEC. 5251. FINDINGS.

Congress finds that—

(1) more than 4,400 traditional gun shows are held annually across the United States, attracting thousands of attendees per show and hundreds of Federal firearms licensees and nonlicensed firearms sellers;

(2) traditional gun shows, as well as flea markets and other organized events, at which a large number of firearms are offered for sale by Federal firearms licensees and nonlicensed firearms sellers, form a significant part of the national firearms market;

(3) firearms and ammunition that are exhibited or offered for sale or exchange at gun shows, flea markets, and other organized events move easily in and substantially affect interstate commerce;

(4) in fact, even before a firearm is exhibited or offered for sale or exchange at a gun show, flea market, or other organized event, the gun, its component parts, ammunition, and the raw materials from which it is manufactured have moved in interstate commerce;

(5) gun shows, flea markets, and other organized events at which firearms are exhibited or of-

fered for sale or exchange, provide a convenient and centralized commercial location at which firearms may be bought and sold anonymously, often without background checks and without records that enable gun tracing;

(6) at gun shows, flea markets, and other organized events at which guns are exhibited or offered for sale or exchange, criminals and other prohibited persons obtain guns without background checks and frequently use guns that cannot be traced to later commit crimes;

(7) many persons who buy and sell firearms at gun shows, flea markets, and other organized events cross State lines to attend these events and engage in the interstate transportation of firearms obtained at these events;

(8) gun violence is a pervasive, national problem that is exacerbated by the availability of guns at gun shows, flea markets, and other organized events;

(9) firearms associated with gun shows have been transferred illegally to residents of another State by Federal firearms licensees and nonlicensed firearms sellers, and have been involved in subsequent crimes including drug offenses, crimes of vio-

lence, property crimes, and illegal possession of firearms by felons and other prohibited persons; and

(10) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to ensure, by enactment of this part, that criminals and other prohibited persons do not obtain firearms at gun shows, flea markets, and other organized events.

SEC. 5252. EXTENSION OF BRADY BACKGROUND CHECKS TO GUN SHOWS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) GUN SHOW.—The term 'gun show' means any event—

''(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce; and

''(B) at which—

''(i) not less than 20 percent of the exhibitors are firearm exhibitors;

''(ii) there are not less than 10 firearm exhibitors; or

"(iii) 50 or more firearms are offered for sale, transfer, or exchange.

"(36) GUN SHOW PROMOTER.—The term 'gun show promoter' means any person who organizes, plans, promotes, or operates a gun show.

"(37) GUN SHOW VENDOR.—The term 'gun show vendor' means any person who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a gun show, regardless of whether or not the person arranges with the gun show promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms."

(b) REGULATION OF FIREARMS TRANSFERS AT GUN SHOWS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§ 931. Regulation of firearms transfers at gun shows

"(a) REGISTRATION OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

"(1) registers with the Secretary in accordance with regulations promulgated by the Secretary; and

"(2) pays a registration fee, in an amount determined 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.

"(c) RESPONSIBILITIES OF TRANSFERORS OTHER THAN LICENSEES.—

"(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

"(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

"(A) shall not transfer the firearm to the transferee until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

"(B) notwithstanding subparagraph (A), shall not transfer the firearm to the transferee if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

"(3) ABSENCE OF RECORDKEEPING REQUIREMENTS.—Nothing in this section shall permit or authorize the Secretary to impose recordkeeping requirements on any nonlicensed vendor.

"(d) RESPONSIBILITIES OF TRANSFEREES OTHER THAN LICENSEES.—

"(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to receive a firearm from another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

"(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

"(A) shall not receive the firearm from the transferor until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

"(B) notwithstanding subparagraph (A), shall not receive the firearm from the transferor

if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

"(e) RESPONSIBILITIES OF LICENSEES.—A licensed importer, licensed manufacturer, or licensed dealer who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) or (d) with respect to the transfer of a firearm shall—

"(1) enter such information about the firearm as the Secretary may require by regulation into a separate bound record;

"(2) record the transfer on a form specified by the Secretary;

"(3) comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferor), and notify the nonlicensed transferor and the nonlicensed transferee—

"(A) of such compliance; and

"(B) if the transfer is subject to the requirements of section 922(t)(1), of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or would violate State law;

"(4) not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

"(A) shall be on a form specified by the Secretary by regulation; and

"(B) shall not include the name of or other identifying information relating to any person involved in the transfer who is not licensed under this chapter;

"(5) if the licensed importer, licensed manufacturer, or licensed dealer assists a person other than a licensee in transferring, at 1 time or during any 5 consecutive business days, 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the reports required under paragraph

(4), prepare a report of the multiple transfers, which report shall be—

"(A) prepared on a form specified by the Secretary; and

"(B) not later than the close of business on the date on which the transfer occurs, forwarded to—

"(i) the office specified on the form described in subparagraph (A); and

"(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

"(6) retain a record of the transfer as part of the permanent business records of the licensed importer, licensed manufacturer, or licensed dealer.

"(f) RECORDS OF LICENSEE TRANSFERS.—If any part of a firearm transaction takes place at a gun show, each licensed importer, licensed manufacturer, and licensed dealer who transfers 1 or more firearms to a person who is not licensed under this chapter shall, not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

"(1) shall be in a form specified by the Secretary by regulation;

"(2) shall not include the name of or other identifying information relating to the transferee; and

"(3) shall not duplicate information provided in any report required under subsection (e)(4).

"(g) FIREARM TRANSACTION DEFINED.—In this section, the term 'firearm transaction'—

"(1) includes the offer for sale, sale, transfer, or exchange of a firearm; and

"(2) does not include the mere exhibition of a firearm.".

(2) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

"(7)(A) Whoever knowingly violates section 931(a) shall be fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever knowingly violates subsection (b) or (c) of section 931, shall be—

"(i) fined under this title, imprisoned not more than 2 years, or both; and

"(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

"(C) Whoever willfully violates section 931(d), shall be—

"(i) fined under this title, imprisoned not more than 2 years, or both; and

"(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

"(D) Whoever knowingly violates subsection (e) or (f) of section 931 shall be fined under this title, imprisoned not more than 5 years, or both.

"(E) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates any provision of section 931—

"(i) if the person is registered pursuant to section 931(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a); and

"(ii) impose a civil fine in an amount equal to not more than $10,000.".

(3) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 44 of title 18, United States Code, is amended—

(A) in the chapter analysis, by adding at the end the following:

"931. Regulation of firearms transfers at gun shows.";

and

(B) in the first sentence of section 923(j), by striking "a gun show or event" and inserting "an event"; and

(c) INSPECTION AUTHORITY.—Section 923(g)(1) is amended by adding at the end the following:

"(E) Notwithstanding subparagraph (B), the Secretary may enter during business hours the place of business of any gun show promoter and any place where a gun show is held for the purposes of examining the records required by sections 923 and 931 and the inventory of licensees conducting business at the gun show. Such entry and examination shall be conducted for the purposes of determining compliance with this chapter by gun show promoters and licensees conducting business at the gun show and shall not require a showing of reasonable cause or a warrant.".

(d) INCREASED PENALTIES FOR SERIOUS RECORDKEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer,

or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

"(B) If the violation described in subparagraph (A) is in relation to an offense—

"(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

"(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.".

(e) INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

(1) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in paragraph (5), by striking "subsection (s) or (t) of section 922" and inserting "section 922(s)"; and

(B) by adding at the end the following:

"(8) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.".

(2) ELIMINATION OF CERTAIN ELEMENTS OF OFFENSE.—Section 922(t)(5) of title 18, United States Code, is amended by striking ''and, at the time'' and all that follows through ''State law''.

(f) GUN OWNER PRIVACY AND PREVENTION OF FRAUD AND ABUSE OF SYSTEM INFORMATION.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting before the period at the end the following: '', as soon as possible, consistent with the responsibility of the Attorney General under section 103(h) of the Brady Handgun Violence Prevention Act to ensure the privacy and security of the system and to prevent system fraud and abuse, but in no event later than 90 days after the date on which the licensee first contacts the system with respect to the transfer''.

(g) EFFECTIVE DATE.—This part and the amendments made by this part shall take effect 180 days after the date of enactment of this Act.

TITLE VI—THE INNOCENCE PROTECTION ACT

SEC. 6001. SHORT TITLE.

This title may be cited as the ''Innocence Protection Act of 2003''.

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 6101. DNA TESTING IN FEDERAL CRIMINAL JUSTICE SYSTEM.

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by inserting after chapter 155 the following:

"CHAPTER 156—DNA TESTING

"Sec.
"2291. DNA testing.
"2292. Preservation of evidence.

"§ 2291. DNA testing

"(a) APPLICATION.—Notwithstanding any other provision of law, a person convicted of a Federal crime may apply to the appropriate Federal court for DNA testing by asserting under oath that the person did not commit—

"(1) the Federal crime of which the person was convicted; or

"(2) any other offense that a sentencing authority may have relied upon when it sentenced the person with respect to the Federal crime either to death or to an enhanced term of imprisonment as a career offender or armed career criminal.

"(b) NOTICE TO GOVERNMENT.—The court shall notify 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

the applicant that the applicant did not commit, and which raises a reasonable probability that the applicant would not have been convicted of—

"(i) the Federal crime of which the applicant was convicted; or

"(ii) any other offense that a sentencing authority may have relied upon when it sentenced the applicant with respect to the Federal crime either to death or to an enhanced term of imprisonment as a career offender or armed career criminal; and

"(E) the identity of the perpetrator was or should have been a significant issue in the case.

"(2) LIMITATION.—

"(A) IN GENERAL.—The court shall not order DNA testing under paragraph (1) if the Government proves by a preponderance of the evidence that the application for testing was made to interfere with the administration of justice rather than to support a claim described in paragraph (1)(D).

"(B) GOVERNMENT'S CLAIM.—The Government's claim under subparagraph (A)—

"(i) may be supported by evidence of the defendant's unexplained delay in seeking testing;

"(ii) may be supported by evidence that the defendant's attorney presented at trial an affirmative defense that is factually inconsistent with the current application; and

"(iii) shall succeed if the defendant testified at trial in support of an affirmative defense that is factually inconsistent with the current application.

"(3) TESTING PROCEDURES.—If the court orders DNA testing under paragraph (1), the court shall impose reasonable conditions on such testing designed to protect the integrity of the evidence and the testing process and the reliability of the test results, including a condition that the test results are simultaneously disclosed to defense counsel, prosecuting counsel, and the court of jurisdiction.

"(e) COST.—The cost of DNA testing ordered under subsection (d) shall be borne by the Government or the applicant, as the court may order in the interests of justice, except that an applicant shall not be denied testing 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 inculpate 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,

notwithstanding any provision of law that would bar such hearing or orders as untimely.

"(h) RULES OF CONSTRUCTION.—

"(1) OTHER POST-CONVICTION RELIEF UNAFFECTED.—Nothing in this section shall be construed to limit the circumstances under which a person may obtain DNA testing or other post-conviction relief under any other provision of law.

"(2) FINALITY RULE UNAFFECTED.—An application under this section shall not be considered a motion under section 2255 for purposes of determining whether it or any other motion is a second or successive motion under section 2255.

"(i) DEFINITIONS.—In this section:

"(1) APPROPRIATE FEDERAL COURT.—The term 'appropriate Federal court' means—

"(A) the United States District Court which imposed the sentence from which the applicant seeks relief; or

"(B) in relation to a crime under the Uniform Code of Military Justice, the United States District Court having jurisdiction over the place where the court martial was convened that imposed the sentence from which the applicant seeks relief, or the United States District

Court for the District of Columbia, if no United States District Court has jurisdiction over the place where the court martial was convened.

"(2) FEDERAL CRIME.—The term 'Federal crime' includes a crime under the Uniform Code of Military Justice.

"§ 2292. Preservation of evidence

"(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), the Government shall preserve all evidence that was secured in relation to the investigation or prosecution of a Federal crime (as that term is defined in section 2291(i)), and that could be subjected to DNA testing, for not less than the period of time that any person remains subject to incarceration in connection with the investigation or prosecution.

"(b) EXCEPTIONS.—The Government may dispose of evidence before the expiration of the period of time described in subsection (a) if—

"(1) other than subsection (a), no statute, regulation, court order, or other provision of law requires that the evidence be preserved; and

"(2)(A)(i) the Government notifies any person who remains incarcerated in connection with the investigation or prosecution and any counsel of record for such person (or, if there is no counsel of record,

the public defender for the judicial district in which the conviction for such person was imposed), of the intention of the Government to dispose of the evidence and the provisions of this chapter; and

"(ii) the Government affords such person not less than 180 days after such notification to make an application under section 2291(a) for DNA testing of the evidence; or

"(B)(i) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

"(ii) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing.

"(c) REMEDIES FOR NONCOMPLIANCE.—

"(1) GENERAL LIMITATION.—Nothing in this section shall be construed to give rise to a claim for damages against the United States, or any employee of the United States, any court official or officer of the court, or any entity contracting with the United States.

"(2) CIVIL PENALTY.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), an individual who knowingly violates a provision of this section or a regulation pre-

scribed under this section shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for the first violation and $5,000 for each subsequent violation, except that the total amount imposed on the individual for all such violations during a calendar year may not exceed $25,000.

"(B) PROCEDURES.—The provisions of section 405 of the Controlled Substances Act (21 U.S.C. 844a), other than subsections (a) through (d) and subsection (j), shall apply to the imposition of a civil penalty under subparagraph (A) in the same manner as such provisions apply to the imposition of a penalty under such section 405.

"(C) PRIOR CONVICTION.—A civil penalty may not be assessed under subparagraph (A) with respect to an act if that act previously resulted in a conviction under chapter 73 of title 18.

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Attorney General shall promulgate regulations to implement and enforce this section.

"(B) CONTENTS.—The regulations shall include the following:

"(i) Disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who knowingly or repeatedly violate a provision of this section.

"(ii) An administrative procedure through which parties can file formal complaints with the Department of Justice alleging violations of this section.".

(b) CRIMINAL PENALTY.—Chapter 73 of title 18, United States Code, is amended by inserting at the end the following:

"§ 1521. Destruction or altering of DNA evidence

"Whoever willfully or maliciously destroys, alters, conceals, or tampers with evidence that is required to be preserved under section 2292 of title 28, United States Code, with intent to—

"(1) impair the integrity of that evidence;

"(2) prevent that evidence from being subjected to DNA testing; or

"(3) prevent the production or use of that evidence in an official proceeding,

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

(c) TESTING OF FEDERAL INMATES.—The Attorney General is authorized to conduct a systematic review of Federal cases in which a defendant was sentenced to death to identify cases in which DNA evidence is readily accessible and DNA testing is appropriate and to conduct DNA testing in such cases within 12 months of enactment of this Act.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The analysis for part VI of title 28, United States Code, is amended by inserting after the item relating to chapter 155 the following:

''156. DNA testing ..... 2291''.

(2) The table of contents for Chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1520 the following:

''1521. Destruction or altering of DNA evidence.''.

SEC. 6102. DNA TESTING IN STATE CRIMINAL JUSTICE SYSTEMS.

(a) CERTIFICATION REGARDING POST-CONVICTION TESTING AND PRESERVATION OF DNA EVIDENCE.—If any part of funds received from a grant made by any Executive agency is to be used to develop or improve a DNA analysis capability in a forensic laboratory, or to collect, 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

readily accessible and DNA testing is appropriate and to conduct DNA testing in such cases not later than 18 months after the date of enactment of this Act.

(b) EFFECTIVE DATE.—This section shall apply with respect to any grant made on or after the date that is 1 year after the date of enactment of this Act.

SEC. 6103. PROHIBITION PURSUANT TO SECTION 5 OF THE 14TH AMENDMENT.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress makes the following findings:

(A) Over the past decade, DNA testing has emerged as the most reliable forensic technique for identifying criminals when biological material is left at a crime scene.

(B) Because of its scientific precision, DNA testing can, in some cases, conclusively establish the guilt or innocence of a criminal defendant. In other cases, DNA testing may not conclusively establish guilt or innocence, but may have significant probative value to a finder of fact.

(C) While DNA testing is increasingly commonplace in pretrial investigations today, it

was not widely available in cases tried prior to 1994. Moreover, new forensic DNA testing procedures have made it possible to get results from minute samples that could not previously be tested, and to obtain more informative and accurate results than earlier forms of forensic DNA testing could produce. Consequently, in some cases convicted inmates have been exonerated by new DNA tests after earlier tests had failed to produce definitive results.

(D) Since DNA testing is often feasible on relevant biological material that is decades old, it can, in some circumstances, prove that a conviction that predated the development of DNA testing was based upon incorrect factual findings. Uniquely, DNA evidence showing innocence, produced decades after a conviction, provides a more reliable basis for establishing a correct verdict than any evidence proffered at the original trial. DNA testing, therefore, can and has resulted in the post-conviction exoneration of innocent men and women.

(E) In more than 100 cases in the United States, DNA evidence has led to the exoneration of innocent men and women who were

wrongfully convicted. This number includes at least 12 individuals sentenced to death, some of whom came within days of being executed.

(F) In more than a dozen cases, post-conviction DNA testing that has exonerated an innocent person has also enhanced public safety by providing evidence that led to the identification of the actual perpetrator.

(G) Experience has shown that it is not unduly burdensome to make DNA testing available to inmates. The cost of that testing is relatively modest and has decreased in recent years. Moreover, the number of cases in which post-conviction DNA testing is appropriate is small, and will decrease as pretrial testing becomes more common.

(H) Under current law in many States, it is difficult to obtain post-conviction DNA testing because of time limits on introducing newly discovered evidence. Motions for a new trial based on newly discovered evidence must be made not later than 2 years after conviction, and sometimes much sooner. The result is that laws intended to prevent the use of evidence that has become less reliable over time have

been used to preclude the use of DNA evidence that remains highly reliable even decades after trial.

(I) Since New York passed the Nation's first post-conviction DNA statute in 1994, a number of States have adopted post-conviction DNA testing procedures, but some of these procedures are unduly restrictive, and many States have not adopted such procedures.

(J) In Herrera v. Collins, 506 U.S. 390 (1993), a majority of the members of the Supreme Court suggested that a persuasive showing of innocence made after trial would render the execution of an inmate unconstitutional. The principle is no different for one who has been sentenced not to death, but to a term of extended incarceration.

(K) It shocks the conscience and offends social standards of fairness to deny inmates a right of access to evidence for tests that could produce persuasive evidence of their innocence.

(L) If biological material is not subjected to DNA testing in appropriate cases, there is a significant risk that persuasive evidence of innocence 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 prophy-
8 lactic 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) the crime of which the prisoner was convicted; or

(2) if the prisoner was sentenced to death, any other offense that a sentencing authority may have relied upon when it sentenced the prisoner to death.

(c) REMEDY.—A prisoner in State custody may enforce subsection (b) in a civil action for declaratory or injunctive relief, filed either in a State court of general jurisdiction or in a district court of the United States, naming an executive or judicial officer of the State as defendant.

(d) FINALITY RULE UNAFFECTED.—An application under this section shall not be considered an application for a writ of habeas corpus under section 2254 of title 28, United States Code, for purposes of determining whether it or any other application is a second or successive application under such section 2254.

SEC. 6104. GRANTS TO PROSECUTORS FOR DNA TESTING PROGRAMS.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (27), as added by Public Law 106–177, by striking ''and'' after the semicolon;

(2) in paragraph (28), by striking the period and inserting a semicolon;

(3) by redesignating paragraph (27), as added by Public Law 106–561, as paragraph (29);

(4) in paragraph (29), as redesignated by paragraph (3), by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following:

"(30) prosecutor-initiated programs to conduct a systematic review of convictions to identify cases in which DNA testing is appropriate and to offer DNA testing to inmates in such cases.".

Subtitle B—Improving State Systems for Providing Competent Legal Services in Capital Cases

SEC. 6201. CAPITAL REPRESENTATION SYSTEM IMPROVEMENT GRANTS.

(a) GRANT AUTHORIZATION.—The Attorney General shall make available grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) DEFINITION.—In this subtitle, the term "legal representation" means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) PURPOSES.—Grants awarded under subsection (a) shall—

(1) be used to establish, implement, or improve an effective system described in subsection (d) for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States;

(2) supplement, not supplant, existing State and local funding; and

(3) not be used to fund representation in particular cases.

(d) EFFECTIVE SYSTEM.—An effective system for providing competent legal representation is a system that—

(1) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in an entity that—

(A) is established by statute or by the highest State court with jurisdiction in criminal cases;

(B) carries out its core functions independently of the executive, legislative, and judicial branches of State government, provided that the participation of appellate judges is not precluded; and

(C) may be structured to take account of the size and demography of the State;

(2) requires the entity described in paragraph (1) to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) appoint 2 attorneys from the roster to represent an indigent in a capital case upon receiving notice of the need;

(D) provide for periodic training programs for attorneys representing indigents in capital cases; and

(E) monitor the performance of attorneys who are appointed and their attendance at training programs, and remove from the roster attorneys who fail to deliver effective representation 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—

(A) has been sanctioned by a bar association or court for ethical misconduct relating to the attorney's conduct as defense counsel in a felony case in Federal or State court;

(B) has been found, after a final determination by a Federal or State court, to have rendered constitutionally ineffective assistance of counsel in a felony case in Federal or State court; or

(C) has asserted under oath or in writing in relation to 3 or more felony cases in Federal or State court that he or she has rendered constitutionally ineffective assistance of counsel, regardless of whether a court found the attorney to have rendered such ineffective assistance; and

(2) if a consideration in paragraph (1) pertains, consider the nature of the act or omission that led to that sanction, finding, or assertion.

(f) APPLICATIONS.—

(1) IN GENERAL.—The Attorney General shall establish a process by which States may apply for a grant under this section.

(2) REQUIREMENTS.—Each application shall include, in addition to such other information as the Attorney General may reasonably require—

(A) a description of the communities to be served by the grant, including the nature of existing capital defender services within such communities;

(B) assurances that Federal funds received under this section shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this section;

(C) a long-term statewide strategy and detailed implementation plan that reflects consultation with the judiciary, the organized bar, and the attorney general of the State;

(D) a plan for obtaining necessary resources to maintain the system following termination of Federal support; and

(E) the State's agreement to submit to enforcement suits under section 6202.

(g) FEDERAL SHARE.—The Attorney General shall establish a schedule to ensure that the Federal share of total expenditures to carry out the purposes of a grant under this section shall decrease and the State's share

shall increase over the years in which a State receives assistance under this section, except that a State shall have no obligation to match any portion of the Federal expenditure in the first fiscal year in which it receives such assistance.

(h) REPORT.—Each State receiving funds under this section shall submit an annual report to the Attorney General—

(1) explaining the activities carried out with the funds received;

(2) evaluating the effectiveness of such activities in establishing or maintaining an effective system; and

(3) containing such additional information as the Attorney General may require.

(i) MONITORING.—

(1) IN GENERAL.—The Attorney General shall monitor whether a State receiving funds under this section maintains an effective system within the meaning of this section.

(2) COMPLIANCE.—If the Attorney General finds that a State does not maintain an effective system, he shall direct the State to take such measures as he deems necessary to achieve compliance 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—

(A) a detailed description of any system for providing representation, including counsel and investigative, expert, and other services necessary for effective representation, to indigent persons in capital cases;

(B) an evaluation of the effectiveness of such system in providing such representation, including an assessment as to whether such system includes the elements set forth in subsection (d); and

(C) a summary of the amounts actually paid by governmental entities for such representation during the fiscal years covered by the report.

(k) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section there are authorized to be appropriated—

(1) for fiscal year 2003, $50,000,000;

(2) for fiscal year 2004, $75,000,000;

(3) for fiscal year 2005, $100,000,000;

(4) for fiscal year 2006, $100,000,000;

(5) for fiscal year 2007, $75,000,000; and

(6) for fiscal year 2008, $50,000,000.

(l) SPECIAL AUTHORIZATION RULE.—In any fiscal year in which the amount appropriated under this section falls below the amount authorized, the Attorney General

shall expend such portion of the sum appropriated to carry out the programs under parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (referred to in this subsection as the ''Byrne programs''), or any successor programs, as is necessary to ensure that the program authorized in this section is funded at the authorized amount, provided that in no event shall the portion of the funding for the Byrne programs used for this purpose exceed 10 percent of the sums appropriated for the Byrne programs.

(m) CONFORMING CHANGE.—Section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended by adding at the end the following:

''(g) RULE.—Funding under this section is subject to the special authorization rule set forth at section 6201(l) of the Innocence Protection Act of 2003.''.

SEC. 6202. ENFORCEMENT SUITS.

(a) RIGHT OF ACTION.—A person, acting on his own behalf and on behalf of the United States, may commence a civil action in a United States district court against an executive officer of a State that receives a grant under section 6201, alleging that the officer fails to maintain an effective system for providing competent legal representation in capital cases within the meaning of section 6201.

(b) LIMITATIONS.—

(1) IN GENERAL.—A suit may not be brought under this section prior to the date that is 1 year after the date on which the State receives a grant under section 6201.

(2) REFILING SUIT.—A suit dismissed with prejudice may not be refiled within 1 year of the date on which the first suit was dismissed.

(c) CONSOLIDATION.—All suits pending at the same time in 1 or more Federal districts against the executive officers of a single State shall be consolidated.

(d) PROCEDURE.—

(1) SERVICE.—A person who files a civil action authorized by subsection (a) shall serve a copy of the complaint to the Attorney General of the United States.

(2) INTERVENTION.—Not later than 90 days after a filing under paragraph (1), the Attorney General shall either intervene in the action or notify both the person who filed the action and the Court that the United States declines to intervene.

(3) UNITED STATES DECLINES.—If the United States declines to intervene, the person who filed the action shall be entitled to conduct the action.

(4) LATER INTERVENTION.—The United States may intervene at a later time only with leave of Court on a showing of good cause.

(5) EFFECT OF UNITED STATES INTERVENTION.—If the United States intervenes—

(A) the Attorney General shall assume responsibility for conducting the action; and

(B) the person who filed the action shall be entitled to continue as a party and to participate in all formal and informal pretrial, trial, and appellate proceedings, including settlement negotiations.

(e) RELIEF.—

(1) IN GENERAL.—If the court concludes that the State system, for which the officer named as defendant is responsible, is not effective within the meaning of section 6201(d), or fails to meet any other condition established by the Attorney General under that section, the court shall order appropriate declaratory or injunctive relief.

(2) COSTS; FEES.—The court shall also award costs and fees, including attorney and expert witness fees, to the person who commenced the action.

(f) STATUS OF GRANT.—

(1) IN GENERAL.—The pendency of a suit under this section shall not result in suspension of the grant under section 6201, except as a court may order.

(2) ALTERNATIVE GRANT DISBURSEMENT.—If the court finds that the State system, for which the officer named as defendant is responsible, will not become effective in a reasonable period of time, it may order that the grant be disbursed pursuant to section 6203.

SEC. 6203. GRANTS TO QUALIFIED CAPITAL DEFENDER ORGANIZATIONS.

(a) ALTERNATIVE GRANTS.—

(1) IN GENERAL.—If a State that authorizes capital punishment does not seek or does not qualify for a grant under section 6201, the Attorney General shall award a grant to 1 or more qualified capital defender organizations in that State in an amount determined under subsection (d).

(2) LIMITATION.—A grant under this section may not be made to an organization to provide services in a State in the same fiscal year that State receives a grant under section 6201 except pursuant to section 6202(f).

(b) QUALIFIED CAPITAL DEFENDER ORGANIZATIONS.—A qualified capital defender organization eligible to receive a grant under this section is a nonprofit organization or public defender organization comprised of attorneys who specialize or have substantial experience in providing legal services in the State to defendants in capital cases.

(c) USES OF FUNDS.—Grants made under this section may be used to—

(1) strengthen systems for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States;

(2) recruit and train attorneys to provide competent legal representation in capital cases; and

(3) augment the organization's resources for providing competent legal representation in capital cases.

(d) FORMULA.—A grant under subsection (a) shall not be more than the amount that results from calculating X percent of the sum appropriated to carry out section 6201 pursuant to subsections (k) and (l) of that section, and shall not be less than one-half that amount, where X equals the general population of the State in which the grantee will provide services divided by the aggregate general population of all States that authorize the death penalty.

(e) PROHIBITION.—Grants made under this section may not be used to sponsor any political activities, except that—

(1) a grantee may use grant funds to respond to requests from a legislative entity regarding activities under the grant; and

(2) nothing in this section shall interfere with an attorney's duty to represent a client consistent with applicable ethical rules.

(f) CONSIDERATIONS.—

(1) IN GENERAL.—In selecting which qualified capital defender organization or organizations providing services in a State shall be awarded a grant under this section, the Attorney General shall consider whether an organization—

(A) has been found to have filed large numbers of frivolous claims in State capital cases, with the effect of unreasonably delaying or otherwise interfering with the State's administration of its capital sentencing scheme; or

(B) employs 1 or more attorneys who, during the past 5 years—

(i) has been sanctioned by a bar association or court for ethical misconduct relating to the attorney's conduct as defense counsel in a felony case in Federal or State court;

(ii) has been found, after a final determination by a Federal or State court, to have rendered constitutionally ineffective assistance of counsel in a felony case in Federal or State court; or

(iii) has asserted under oath or in writing in relation to 3 or more felony cases in Federal or State court that he or she has rendered constitutionally ineffective assistance of counsel, regardless of whether a court has found the attorney to have rendered such ineffective assistance.

(2) NATURE OF THE ACT.—If a consideration in paragraph (1)(B) pertains, the Attorney General shall further consider the nature of the act or omission that led to the sanction, finding, or assertion.

(3) NOTICE.—If the Attorney General intends to deny a grant to an organization based in whole or in part on a consideration described in paragraph (1), the Attorney General shall notify, in writing, both the organization and the House and Senate Committees on the Judiciary, describing with specificity the basis for such finding. No grant under this section shall be denied until 30 days after such notification is provided.

(4) CONSULTATION.—In carrying out this section, the Attorney General shall consult with the Attorney General and appropriate judicial officials and officials of the organized bar of the State in which an organization provides services.

SEC. 6204. GRANTS TO TRAIN PROSECUTORS, DEFENSE COUNSEL, AND STATE AND LOCAL JUDGES HANDLING STATE CAPITAL CASES.

(a) COMPETENT COUNSEL GRANT PROGRAM.—The State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) is amended by inserting after section 207 the following:

"SEC. 207A. GRANTS TO TRAIN DEFENSE COUNSEL.

"(a) GRANTS AUTHORIZED.—The Institute may make grants to States and units of local government to conduct training programs to improve the performance and competency of defense counsel representing defendants charged with capital offenses in State and local courts.

"(b) ELIGIBILITY.—Grants authorized by this section may only be made for the training of defense counsel in a State that has capital punishment.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal years 2003 through 2007 to carry out this section.

"SEC. 207B. GRANTS TO TRAIN STATE AND LOCAL JUDGES.

"(a) GRANTS AUTHORIZED.—The Institute may make grants to State and local courts to conduct programs to train trial judges in handling capital cases.

"(b) ELIGIBILITY.—Grants authorized by this section may only be made to a State or local court in a State that has capital punishment.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal years 2003 through 2007 to carry out this section.".

(b) GRANTS TO TRAIN PROSECUTORS.—

(1) GRANTS AUTHORIZED.—The Attorney General may make grants to States and units of local

government to conduct programs to train prosecutors in handling capital cases.

(2) ELIGIBILITY.—Grants authorized by this subsection may only be made to a State or unit of local government in a State that has capital punishment.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal years 2003 through 2007 to carry out this subsection.

Subtitle C—Right to Review of the Death Penalty upon the Grant of Certiorari

SEC. 6301. PROTECTING THE RIGHTS OF DEATH ROW INMATES TO REVIEW OF CASES GRANTED CERTIORARI.

Section 2101 of title 28, United States Code, is amended by adding at the end the following:

"(h) Upon notice that the requisite number of justices of the Supreme Court have voted to grant certiorari, the Director of the Bureau of Prisons, the Secretary of a military branch, or any other Federal official with authority to carry out a death sentence, shall suspend the execution of the sentence of death until the Supreme

Court enters a stay of execution or until certiorari is acted upon and the case is disposed of by the Supreme Court.

''(i) For purposes of this section, the Supreme Court shall treat a motion for a stay of execution as a petition for certiorari.

''(j) In an appeal from, or petition for certiorari in, a case in which the sentence is death, a stay of execution shall immediately issue if the requisite number of justices vote to grant certiorari. The stay shall remain in effect until the Supreme Court disposes of the case.''.

Subtitle D—Compensation for the Wrongfully Convicted

SEC. 6401. INCREASED COMPENSATION IN FEDERAL CASES.

Section 2513(e) of title 28, United States Code, is amended by striking ''$5,000'' and inserting ''$10,000 for each 12-month period of incarceration''.

SEC. 6402. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

Subtitle E—Student Loan Repayment for Public Attorneys

SEC. 6501. STUDENT LOAN REPAYMENT FOR PUBLIC ATTORNEYS.

(a) IN GENERAL.—The Higher Education Act of 1965 is amended by inserting after section 428K (20 U.S.C. 1078–11) the following:

"SEC. 428L. LOAN FORGIVENESS FOR PUBLIC ATTORNEYS.

''(a) PURPOSE.—The purpose of this section is to encourage qualified individuals to enter and continue employment as prosecutors and public defenders.

''(b) DEFINITIONS.—In this section:

''(1) PROSECUTOR.—The term 'prosecutor' means a full-time employee of a State or local agency who—

''(A) is continually licensed to practice law; and

''(B) prosecutes criminal cases at the State or local level.

''(2) PUBLIC DEFENDER.—The term 'public defender' means an attorney who—

''(A) is continually licensed to practice law; and

''(B) is a full-time employee of a State or local agency, or of a nonprofit organization op-

erating under a contract with a State or unit of local government, which provides legal representation services to indigent persons charged with criminal offenses.

"(3) STUDENT LOAN.—The term 'student loan' means—

"(A) a loan made, insured, or guaranteed under this part;

"(B) a loan made under part D or E; and

"(C) a health education assistance loan made or ensured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).

"(c) PROGRAM AUTHORIZED.—For the purpose of encouraging qualified individuals to enter and continue employment as prosecutors and public defenders, the Secretary shall carry out a program, through the holder of a loan, of assuming the obligation to repay (by direct payments on behalf of a borrower) a qualified loan amount for a loan made under section 428 or 428H, in accordance with subsection (d), for any borrower who—

"(1) is employed as a prosecutor or public defender; 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

law for the recovery of amounts owing to the Government;

"(D) the Secretary may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest; and

"(E) the Secretary shall make student loan payments under this section for the period of the agreement, subject to the availability of appropriations.

"(2) REPAYMENTS.—Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the appropriation account from which the amount involved was originally paid. Any amount so credited shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which the amount was merged.

"(3) LIMITATIONS.—

"(A) STUDENT LOAN PAYMENT AMOUNT.—Student loan payments made by the Secretary under this section shall be made subject to such terms, limitations, or conditions as

may be mutually agreed to by the borrower concerned and the Secretary in the agreement described in this subsection, except that the amount paid by the Secretary under this section may not exceed—

"(i) $6,000 for any borrower in any calendar year; or

"(ii) a total of $40,000 in the case of any borrower.

"(B) BEGINNING OF PAYMENTS.—Nothing in this section shall be construed to authorize the Secretary to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the Secretary entered into an agreement with the employee under this subsection.

"(e) ADDITIONAL AGREEMENTS.—On completion of the required period of service under such an agreement, the borrower concerned and the Secretary may enter into an additional agreement described in subsection (d) for a successive period of service specified in the agreement (which may be less than 3 years).

"(f) AWARD BASIS; PRIORITY.—

"(1) AWARD BASIS.—The Secretary shall provide 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—

(A) eligible loans made before, on, or after the date of enactment of this Act; and

(B) service as a public defender that is provided on or after the date of enactment of this Act.

(3) CONSTRUCTION.—Nothing in this subsection or the amendment made by this subsection shall be construed to authorize the Secretary to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the borrower became eligible for cancellation under section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)).

TITLE VII—STRENGTHENING THE FEDERAL CRIMINAL LAWS

Subtitle A—Anti-Atrocity Alien Deportation Act

SEC. 7101. SHORT TITLE.

This subtitle may be cited as the ''Anti-Atrocity Alien Deportation Act of 2003''.

SEC. 7102. INADMISSIBILITY AND DEPORTABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(1) in clause (ii), by striking ''has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is inadmissible'' and inserting ''ordered, incited, assisted, or otherwise participated in conduct outside the United States that would, if committed in the United States or by a United States national, be genocide, as defined in section 1091(a) of title 18, United States Code, is inadmissible'';

(2) by adding at the end the following:

''(iii) COMMISSION OF ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS.—Any alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of—

"(I) any act of torture, as defined in section 2340 of title 18, United States Code; or

"(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991;

is inadmissible."; and

(3) in the subparagraph heading, by striking "PARTICIPANTS IN NAZI PERSECUTION OR GENOCIDE" and inserting "PARTICIPANTS IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING".

(b) DEPORTABILITY.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) by striking "clause (i) or (ii)" and inserting "clause (i), (ii), or (iii)"; and

(2) in the subparagraph heading, by striking "ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE" and inserting "ASSISTED IN NAZI PERSECUTION, PARTICIPATED IN GENOCIDE, OR COMMITTED ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed before, on, or after the date of the enactment of this Act.

SEC. 7103. INADMISSIBILITY AND DEPORTABILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) GROUND OF INADMISSIBILITY.—Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

"(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998, are inadmissible.".

(b) GROUND OF DEPORTABILITY.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

"(E) PARTICIPATED IN THE COMMISSION OF SEVERE VIOLATIONS OF RELIGIOUS FREE-

DOM.—Any alien described in section 212(a)(2)(G) is deportable.''.

SEC. 7104. BAR TO GOOD MORAL CHARACTER FOR ALIENS WHO HAVE COMMITTED ACTS OF TORTURE, EXTRAJUDICIAL KILLINGS, OR SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(2) by adding at the end the following:

''(9) one who at any time has engaged in conduct described in section 212(a)(3)(E) (relating to assistance in Nazi persecution, participation in genocide, or commission of acts of torture or extrajudicial killings) or 212(a)(2)(G) (relating to severe violations of religious freedom).''.

SEC. 7105. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

''(h) OFFICE OF SPECIAL INVESTIGATORS.—

"(1) ESTABLISHMENT.—The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority to detect and investigate, and, where appropriate, to take legal action to denaturalize any alien described in section 212(a)(3)(E).

"(2) DELEGATION OF AUTHORITY.—The Attorney General may delegate to any office or other component within the Department of Justice, all or part of the responsibility for determinations of inadmissibility of aliens described in section 212(a)(3)(E), determinations of deportability under section 237(a)(4)(D), or the removal, prosecution, or extradition of such aliens.

"(3) FACTORS TO DETERMINE APPROPRIATE LEGAL ACTION.—In determining the appropriate legal action to take against an alien described in section 212(a)(3)(E), consideration shall be given to—

"(A) the availability of prosecution under the laws of the United States for any conduct that may form the basis for removal and denaturalization; or

"(B) the removal of the alien to a foreign jurisdiction that is prepared to undertake a prosecution for such conduct.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the additional duties established under section 103(h) of the Immigration and Nationality Act (as added by this Act) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 7106. REPORT ON IMPLEMENTATION.

Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Immigration and Naturalization, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on implementation of this subtitle that includes a description of—

(1) the procedures used to refer matters to the Office of Special Investigations and other components within the Department of Justice in a manner

consistent with the amendments made by this subtitle;

(2) the revisions, if any, made to immigration forms to reflect changes in the Immigration and Nationality Act made by the amendments contained in this subtitle; and

(3) the procedures developed, with adequate due process protection, to obtain sufficient evidence to determine whether an alien may be inadmissible under the terms of the amendments made by this subtitle.

Subtitle B—Deterring Cargo Theft

SEC. 7201. PUNISHMENT OF CARGO THEFT.

(a) IN GENERAL.—Section 659 of title 18, United States Code, is amended—

(1) by striking ''with intent to convert to his own use'' each place that term appears;

(2) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station,

warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(3) in the fifth undesignated paragraph, by striking ''one year'' and inserting ''3 years'';

(4) in the penultimate undesignated paragraph, by inserting after the first sentence the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.''; and

(5) by adding at the end the following:

''It shall be an affirmative defense (on which the defendant bears the burden of persuasion by a preponderance of the evidence) to an offense under this section that the defendant bought, received, or possessed the goods, chattels, money, or baggage at issue with the sole intent to report the matter to an appropriate law enforcement officer or to the owner of the goods, chattels, money, or baggage.''.

(b) FEDERAL SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal

sentencing guidelines under section 659 of title 18, United States Code, as amended by this section and, upon completion of the review, promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement of the applicable guidelines.

SEC. 7202. REPORTS TO CONGRESS ON CARGO THEFT.

The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this subtitle.

SEC. 7203. ESTABLISHMENT OF ADVISORY COMMITTEE ON CARGO THEFT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a Committee to be known as the Advisory Committee on Cargo Theft (in this section referred to as the ''Committee'').

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of 6 members, who shall be appointed by the President, of whom—

(i) 1 shall be an officer or employee of the Department of Justice;

(ii) 1 shall be an officer or employee of the Department of Transportation;

(iii) 1 shall be an officer or employee of the Department of the Treasury; and

(iv) 3 shall be individuals from the private sector who are experts in cargo security.

(B) DATE.—The appointments of the initial members of the Committee shall be made not later than 30 days after the date of enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Each member of the Committee shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 15 days after the date on which all initial members of the Committee have been appointed, the Committee shall hold its first meeting.

(5) MEETINGS.—The Committee shall meet, not less frequently than quarterly, at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The President shall select 1 member of the Committee to serve as the Chairperson of the Committee.

(b) DUTIES.—

(1) STUDY.—The Committee shall conduct a thorough study of, and develop recommendations with respect to, all matters relating to—

(A) the establishment of a national computer database for the collection and dissemination of information relating to violations of section 659 of title 18, United States Code (as amended by section 7201(a)); and

(B) the establishment of an office within the Federal Government to promote cargo security and to increase coordination between the Federal Government and the private sector with respect to cargo security.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to the President and to Congress a report, which shall contain a detailed statement of results of

the study and the recommendations of the Committee under paragraph (1).

(c) POWERS.—

(1) HEARINGS.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

(3) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(d) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

(B) FEDERAL MEMBERS.—Each member of the Committee who is an officer or employee of the United States shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(2) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(B) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION.—The Committee shall terminate 90 days after the date on which the Committee submits the report under subsection (b)(2).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to the Committee to carry out the purposes of this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

SEC. 7204. ADDITION OF ATTEMPTED THEFT AND COUNTERFEITING OFFENSES TO ELIMINATE GAPS AND INCONSISTENCIES IN COVERAGE.

(a) IN GENERAL.—

(1) EMBEZZLEMENT AGAINST ESTATE.—Section 153(a) of title 18, United States Code, is

amended by inserting ", or attempts so to appropriate, embezzle, spend, or transfer," before "any property".

(2) PUBLIC MONEY.—Section 641 of title 18, United States Code, is amended by striking "or" at the end of the first paragraph and by inserting after such paragraph the following:

"Whoever attempts to commit an offense described in the preceding paragraph; or".

(3) THEFT BY BANK EXAMINER.—Section 655 of title 18, United States Code, is amended by inserting "or attempts to steal or so take," after "unlawfully takes,".

(4) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Sections 656 and 657 of title 18, United States Code, are each amended—

(A) by inserting ", or attempts to embezzle, abstract, purloin, or willfully misapply," after "willfully misapplies"; and

(B) by inserting "or attempted to be embezzled, abstracted, purloined, or misapplied" after "misapplied".

(5) PROPERTY MORTGAGED OR PLEDGED TO FARM CREDIT AGENCIES.—Section 658 of title 18,

United States Code, is amended by inserting ''or attempts so to remove, dispose of, or convert,'' before ''any property''.

(6) INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(A) in the first and third paragraphs, by inserting ''or attempts to embezzle, steal, or so take or carry away,'' after ''carries away,''; and

(B) in the fourth paragraph by inserting ''or attempts to embezzle, steal, or so take,'' before ''from any railroad car''.

(7) WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—Section 661 of title 18, United States Code, is amended—

(A) by inserting ''or attempts so to take and carry away,'' before ''any personal property''; and

(B) by inserting ''or attempted to be taken'' after ''taken'' each place it appears.

(8) THEFT OR EMBEZZLEMENT FROM EMPLOYEE BENEFIT PLANS.—Section 664 of title 18, United States Code, is amended by inserting ''or attempts to embezzle, steal, or so abstract or convert,'' before ''any of the moneys''.

(9) THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS.—Section 665(a) of title 18, United States Code, is amended—

(A) by inserting ", or attempts to embezzle, so misapply, steal, or obtain by fraud," before "any of the moneys"; and

(B) by inserting "or attempted to be embezzled, misapplied, stolen, or obtained by fraud" after "obtained by fraud".

(10) THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FUNDS.—Section 666(a)(1)(A) of title 18, United States Code, is amended by inserting "or attempts to embezzle, steal, obtain by fraud, or so convert or misapply," before "property".

(11) FALSE PRETENSES ON HIGH SEAS.—Section 1025 of title 18, United States Code, is amended—

(A) by inserting "or attempts to obtain" after "obtains"; and

(B) by inserting "or attempted to be obtained" after "obtained".

(12) EMBEZZLEMENT AND THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section 1163 of title 18, United States Code, is amended by inserting

"attempts so to embezzle, steal, convert, or misapply," after "willfully misapplies,".

(13) THEFT FROM GROUP ESTABLISHMENTS ON INDIAN LANDS.—Section 1167 (a) and (b) of title 18, United States Code, are each amended by inserting "or attempts so to abstract, purloin, misapply, or take and carry away," before "any money".

(14) THEFT BY OFFICERS AND EMPLOYEES OF GAMING ESTABLISHMENTS ON INDIAN LANDS.—Section 1168 (a) and (b) of title 18, United States Code, are each amended by inserting "or attempts so to embezzle, abstract, purloin, misapply, or take and carry away," before "any moneys,".

(15) THEFT OF PROPERTY USED BY THE POSTAL SERVICE.—Section 1707 of title 18, United States Code, is amended by inserting ", or attempts to steal, purloin, or embezzle," before "any property" and by inserting "or attempts to appropriate" after "appropriates".

(16) THEFT IN RECEIPT OF STOLEN MAIL MATTER.—Section 1708 of title 18, United States Code, is amended in the second paragraph by inserting "or attempts to steal, take, or abstract," after "abstracts," and by inserting ", or attempts so to obtain," after "obtains".

(17) THEFT OF MAIL MATTER BY OFFICER OR EMPLOYEE.—Section 1709 of title 18, United States Code, is amended—

(A) by inserting ''or attempts to embezzle'' after ''embezzles''; and

(B) by inserting '', or attempts to steal, abstract, or remove,'' after ''removes''.

(18) MISAPPROPRIATION OF POSTAL FUNDS.—Section 1711 of title 18, United States Code, is amended by inserting ''or attempts to loan, use, pledge, hypothecate, or convert to his own use,'' after ''use''.

(19) BANK ROBBERY AND INCIDENTAL CRIMES.—Section 2113(b) of title 18, United States Code, is amended by inserting ''or attempts so to take and carry away,'' before ''any property'' each place it appears.

(b) SECURITIES CRIMES.—

(1) POSSESSION OF TOOLS.—Section 477 of title 18, United States Code, is amended by inserting '', or attempts so to sell, give, or deliver,'' before ''any such imprint''.

(2) UTTERING COUNTERFEIT FOREIGN OBLIGATIONS OR SECURITIES.—Section 479 of title 18,

United States Code, is amended by inserting ''or attempts to utter or pass,'' after ''passes,''.

(3) MINOR COINS.—Section 490 of title 18, United States Code, is amended by inserting ''attempts to pass, utter, or sell,'' before ''or possesses''.

(4) SECURITIES OF STATES AND PRIVATE ENTITIES.—Section 513(a) of title 18, United States Code, is amended by inserting ''or attempts to utter,'' after ''utters''.

SEC. 7205. CLARIFICATION OF SCIENTER REQUIREMENT FOR RECEIVING PROPERTY STOLEN FROM AN INDIAN TRIBAL ORGANIZATION.

Section 1163 of title 18, United States Code, is amended in the second paragraph by striking ''so''.

SEC. 7206. LARCENY INVOLVING POST OFFICE BOXES AND POSTAL STAMP VENDING MACHINES.

Section 2115 of title 18, United States Code, is amended—

(1) by striking ''or'' before ''any building'';

(2) by inserting ''or any post office box or postal stamp vending machine for the sale of stamps owned by the Postal Service,'' after ''used in whole or in part as a post office,''; and

(3) by inserting ''or in such box or machine,'' after ''so used''.

SEC. 7207. EXPANSION OF FEDERAL THEFT OFFENSES TO COVER THEFT OF VESSELS.

(a) VESSEL DEFINED.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

" 'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.".

(b) TRANSPORTATION OF STOLEN VEHICLES; SALE OR RECEIPT OF STOLEN VEHICLES.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft".

Subtitle C—Additional Improvements and Corrections to the Federal Criminal Laws

SEC. 7301. ENHANCED PENALTIES FOR CULTURAL HERITAGE CRIMES.

(a) ENHANCED PENALTY FOR ARCHAEOLOGICAL RESOURCES.—Section 6(d) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ee(d)) is amended by striking "not more than 10,000" and all that follows through the end of the subsection and inserting "in accordance with title 18, United States Code, or imprisoned not more than ten years or both; but if the sum of the commercial and archaeological value of the archaeological

resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.''.

(b) ENHANCED PENALTY FOR EMBEZZLEMENT AND THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section 1163 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

(c) ENHANCED PENALTY FOR ILLEGAL TRAFFICKING IN NATIVE AMERICAN HUMAN REMAINS AND CULTURAL ITEMS.—Section 1170 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''or imprisoned not more than 12 months, or both, and in the case of second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years'' and inserting ''imprisoned not more than 10 years''; and

(2) in subsection (b), by striking ''imprisoned not more than one year'' and all that follows through the end of the subsection and inserting ''imprisoned not more than 10 years, or both; but if the sum of the commercial and archaeological value of the cultural items involved and the cost of restoration and repair of such items does not exceed $500,

such person shall be fined in accordance with this title, imprisoned not more than 1 year, or both.''.

SEC. 7302. ENHANCED ENFORCEMENT OF LAWS AFFECTING RACKETEER-INFLUENCED AND CORRUPT ORGANIZATIONS.

Section 1964 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting after ''The Attorney General'' the following: '', the Attorney General of any State, or the Securities and Exchange Commission''; and

(2) in subsection (d), by inserting before the period the following: ''or any State''.

SEC. 7303. INCREASED MAXIMUM CORPORATE PENALTY FOR ANTITRUST VIOLATIONS.

(a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by striking ''$10,000,000'' and inserting ''$100,000,000''.

(b) MONOPOLIZING TRADE.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by striking ''$10,000,000'' and inserting ''$100,000,000''.

(c) OTHER RESTRAINTS.—Section 3(a) of the Sherman Act (15 U.S.C. 3(a)) is amended by striking ''$10,000,000'' and inserting ''$100,000,000''.

SEC. 7304. TECHNICAL CORRECTION TO ENSURE COMPLIANCE OF SENTENCING GUIDELINES WITH PROVISIONS OF ALL FEDERAL STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking ''consistent with all pertinent provisions of this title and title 18, United States Code,'' and inserting ''consistent with all pertinent provisions of any Federal statute''.

SEC. 7305. INCLUSION OF ASSAULT CRIMES AND UNLICENSED MONEY TRANSMITTING BUSINESSES AS RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting ''assault with a dangerous weapon, assault resulting in serious bodily injury,'' after ''extortion,''; and

(2) in subparagraph (B), by inserting ''section 1960 (relating to unlicensed money transmitting businesses),'' after ''murder-for-hire),''.

SEC. 7306. INCLUSION OF UNLICENSED MONEY TRANSMITTING BUSINESSES AND STRUCTURING CURRENCY TRANSACTIONS TO EVADE REPORTING REQUIREMENT AS WIRETAP PREDICATES.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by inserting ''section 1960 (relating to unlicensed money transmitting businesses),'' after ''specified unlawful activity),''; and

(2) in paragraph (g), by inserting ''or 5324'' after ''section 5322''.

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