

104TH CONGRESS
1ST SESSION

H. R. 3

To control crime.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. McCOLLUM, Mr. CANADY, Mr. BARR, and Mr. BREWSTER (for themselves, Mr. ALLARD, Mr. ARMEY, Mr. BACHUS, Mr. BAKER of California, Mr. BALLENGER, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BILIRAKIS, Mr. BLILEY, Mr. BLUTE, Mr. BONO, Mr. BUNNING of Kentucky, Mr. BURR, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CHRISTENSEN, Mr. CHRYSLER, Mr. CLINGER, Mr. COBURN, Mr. COOLEY, Mr. CREMEANS, Mrs. CUBIN, Mr. DAVIS, Mr. DOOLITTLE, Mr. DORNAN, Ms. DUNN, Mr. ENGLISH of Pennsylvania, Mr. EMERSON, Mr. EWING, Mr. EVERETT, Mr. FLANAGAN, Mr. FOLEY, Mr. FORBES, Mrs. FOWLER, Mr. FOX, Mr. FRISA, Mr. GANSKE, Mr. GILCHREST, Mr. GILMAN, Mr. GOODLATTE, Mr. GORDON, Mr. GOSS, Mr. GREENWOOD, Mr. HANCOCK, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEINEMAN, Mr. HERGER, Mr. HILLEARY, Mr. HOBSON, Mr. HOKE, Mr. HOSTETTLER, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mr. JONES, Mr. KIM, Mr. KINGSTON, Mr. KNOLLENBERG, Mr. LAHOOD, Mr. LARGENT, Mr. LATHAM, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Mr. LIGHTFOOT, Mr. LINDER, Mr. McHUGH, Mr. McINTOSH, Mr. MICA, Mr. MILLER of Florida, Ms. MOLINARI, Mrs. MYRICK, Mr. NUSSLE, Mr. OXLEY, Mr. PACKARD, Mr. POMBO, Mr. QUINN, Mr. RADANOVICH, Mr. RIGGS, Mr. ROHRBACHER, Mr. ROTH, Mr. ROYCE, Mr. SAXTON, Mr. SENSENBRENNER, Mr. SHADEGG, Mr. SHAW, Mr. SMITH of Michigan, Mr. SMITH of Texas, Mr. SOLOMON, Mr. STEARNS, Mr. STOCKMAN, Mr. STUMP, Mr. TATE, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Mr. TIAHRT, Mrs. WALDHOLTZ, Mr. WAMP, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. WICKER, Mr. ZIMMER, Mr. CRAPO, Mr. KOLBE, Mr. PAXON, Mr. YOUNG of Florida, Mr. WELDON of Florida, Mr. COMBEST, Mr. COBLE, Mr. EHRlich, Mrs. MEYERS of Kansas, and Mr. HUNTER) introduced the following bill; which was referred to the Committee on the Judiciary

FEBRUARY 7, 1995

Additional sponsors: Mr. NORWOOD, Mr. BURTON of Indiana, Mr. MOORHEAD, Mr. CUNNINGHAM, Mrs. VUCANOVICH, Mr. WALKER, Mr. SAM JOHNSON of Texas, Mr. CONDIT, Mr. COLLINS of Georgia, Mr. ROBERTS,

Mr. BRYANT of Tennessee, Mr. TALENT, and Mr. PETERSON of Minnesota

A BILL

To control crime.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Taking Back Our Streets Act of 1995”.

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

Sec. 1. Short title; table of contents.

TITLE I—EFFECTIVE DEATH PENALTY

Subtitle A—Habeas Corpus Reform

CHAPTER 1—POST CONVICTION PETITIONS: GENERAL HABEAS CORPUS REFORM

Sec. 101. Period of limitation for filing writ of habeas corpus following final judgment of a State court.

Sec. 102. Authority of appellate judges to issue certificates of probable cause for appeal in habeas corpus and Federal collateral relief proceedings.

Sec. 103. Conforming amendment to the rules of appellate procedure.

Sec. 104. Discretion to deny habeas corpus application despite failure to exhaust State remedies.

Sec. 105. Period of limitation for Federal prisoners filing for collateral remedy.

CHAPTER 2—SPECIAL PROCEDURES FOR COLLATERAL PROCEEDINGS IN CAPITAL CASES

Sec. 106. Death penalty litigation procedures.

CHAPTER 3—FUNDING FOR LITIGATION OF FEDERAL HABEAS CORPUS PETITIONS IN CAPITAL CASES

Sec. 107. Funding for death penalty prosecutions.

Subtitle B—Federal Death Penalty Procedures Reform

Sec. 111. Federal death penalty procedures reform.

TITLE II—DETECTING GUN CRIMES

Sec. 201. Mandatory prison terms for use, possession, or carrying of a firearm or destructive device during a State crime of violence or State drug trafficking crime.

TITLE III—MANDATORY VICTIM RESTITUTION

Sec. 301. Mandatory restitution and other provisions.

TITLE IV—LAW ENFORCEMENT BLOCK GRANTS

Sec. 401. Block grant program.

TITLE V—TRUTH IN SENTENCING GRANTS

Sec. 501. Truth in sentencing grant program.

TITLE VI—EXCLUSIONARY RULE REFORM

Sec. 601. Admissibility of certain evidence.

TITLE VII—STOPPING ABUSIVE PRISONER LAWSUITS

Sec. 701. Exhaustion requirement.

Sec. 702. Frivolous actions.

Sec. 703. Modification of required minimum standards.

Sec. 704. Proceedings in forma pauperis.

TITLE VIII—FURTHER STREAMLINING DEPORTATION OF
CRIMINAL ALIENS

Sec. 801. Additional expansion of definition of aggravated felony.

Sec. 802. Deportation procedures for certain criminal aliens who are not permanent residents.

Sec. 803. Restricting defenses to deportation for certain criminal aliens.

Sec. 804. Limitation on collateral attacks on underlying deportation order.

Sec. 805. Criminal alien tracking center.

Sec. 806. Miscellaneous provisions.

Sec. 807. Construction of expedited deportation requirements.

TITLE IX—AMENDMENTS TO VIOLENT CRIME CONTROL AND
LAW ENFORCEMENT ACT

Sec. 901. Deletion or replacement of programs.

1 **TITLE I—EFFECTIVE DEATH**
2 **PENALTY**
3 **Subtitle A—Habeas Corpus Reform**
4 **CHAPTER 1—POST CONVICTION PETI-**
5 **TIONS: GENERAL HABEAS CORPUS RE-**
6 **FORM**

7 **SEC. 101. PERIOD OF LIMITATION FOR FILING WRIT OF**
8 **HABEAS CORPUS FOLLOWING FINAL JUDG-**
9 **MENT OF A STATE COURT.**

10 Section 2244 of title 28, United States Code, is
11 amended by adding at the end the following:

12 “(d) A one-year period of limitation shall apply to an
13 application for a writ of habeas corpus by a person in cus-
14 tody pursuant to the judgment of a State court. The limi-
15 tation period shall run from the latest of the following
16 times:

17 “(1) The time at which State remedies are ex-
18 hausted.

19 “(2) The time at which the impediment to filing
20 an application created by State action in violation of
21 the Constitution or laws of the United States is re-
22 moved, where the applicant was prevented from fil-
23 ing by such State action.

24 “(3) The time at which the Federal right as-
25 serted was initially recognized by the Supreme

1 Court, where the right has been newly recognized by
2 the Court and is retroactively applicable.

3 “(4) The time at which the factual predicate of
4 the claim or claims presented could have been dis-
5 covered through the exercise of reasonable dili-
6 gence.”.

7 **SEC. 102. AUTHORITY OF APPELLATE JUDGES TO ISSUE**
8 **CERTIFICATES OF PROBABLE CAUSE FOR**
9 **APPEAL IN HABEAS CORPUS AND FEDERAL**
10 **COLLATERAL RELIEF PROCEEDINGS.**

11 Section 2253 of title 28, United States Code, is
12 amended to read as follows:

13 **“§ 2253. Appeal**

14 “(a) In a habeas corpus proceeding or a proceeding
15 under section 2255 of this title before a circuit or district
16 judge, the final order shall be subject to review, on appeal,
17 by the court of appeals for the circuit where the proceed-
18 ing is had.

19 “(b) There shall be no right of appeal from such an
20 order in a proceeding to test the validity of a warrant to
21 remove, to another district or place for commitment or
22 trial, a person charged with a criminal offense against the
23 United States, or to test the validity of his detention pend-
24 ing removal proceedings.

1 “(c) An appeal may not be taken to the court of ap-
2 peals from the final order in a habeas corpus proceeding
3 where the detention complained of arises out of process
4 issued by a State court, or from the final order in a pro-
5 ceeding under section 2255 of this title, unless a circuit
6 justice or judge issues a certificate of probable cause. A
7 certificate of probable cause may only issue if the peti-
8 tioner has made a substantial showing of the denial of a
9 Federal right. The certificate of probable cause must indi-
10 cate which specific issue or issues satisfy this standard.”.

11 **SEC. 103. CONFORMING AMENDMENT TO THE RULES OF**
12 **APPELLATE PROCEDURE.**

13 Federal Rule of Appellate Procedure 22 is amended
14 to read as follows:

15 “RULE 22

16 “HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

17 “(a) APPLICATION FOR AN ORIGINAL WRIT OF HA-
18 BEAS CORPUS.—An application for a writ of habeas cor-
19 pus shall be made to the appropriate district court. If ap-
20 plication is made to a circuit judge, the application will
21 ordinarily be transferred to the appropriate district court.
22 If an application is made to or transferred to the district
23 court and denied, renewal of the application before a cir-
24 cuit judge is not favored; the proper remedy is by appeal

1 to the court of appeals from the order of the district court
2 denying the writ.

3 “(b) NECESSITY OF CERTIFICATE OF PROBABLE
4 CAUSE FOR APPEAL.—In a habeas corpus proceeding in
5 which the detention complained of arises out of process
6 issued by a State court, and in a motion proceeding pursu-
7 ant to section 2255 of title 28, United States Code, an
8 appeal by the applicant or movant may not proceed unless
9 a circuit judge issues a certificate of probable cause. If
10 a request for a certificate of probable cause is addressed
11 to the court of appeals, it shall be deemed addressed to
12 the judges thereof and shall be considered by a circuit
13 judge or judges as the court deems appropriate. If no ex-
14 press request for a certificate is filed, the notice of appeal
15 shall be deemed to constitute a request addressed to the
16 judges of the court of appeals. If an appeal is taken by
17 a State or the Government or its representative, a certifi-
18 cate of probable cause is not required.”.

19 **SEC. 104. DISCRETION TO DENY HABEAS CORPUS APPLICA-**
20 **TION DESPITE FAILURE TO EXHAUST STATE**
21 **REMEDIES.**

22 Section 2254(b) of title 28, United State Code, is
23 amended to read as follows:

24 “(b) An application for a writ of habeas corpus in
25 behalf of a person in custody pursuant to the judgment

1 of a State court shall not be granted unless it appears
2 that the applicant has exhausted the remedies available
3 in the courts of the State, or that there is either an ab-
4 sence of available State corrective process or the existence
5 of circumstances rendering such process ineffective to pro-
6 tect the rights of the applicant. An application may be
7 denied on the merits notwithstanding the failure of the
8 applicant to exhaust the remedies available in the courts
9 of the State.”.

10 **SEC. 105. PERIOD OF LIMITATION FOR FEDERAL PRIS-**
11 **ONERS FILING FOR COLLATERAL REMEDY.**

12 Section 2255 of title 28, United States Code, is
13 amended by striking the second paragraph and the penul-
14 timate paragraph thereof, and by adding at the end the
15 following new paragraphs:

16 “A two-year period of limitation shall apply to a mo-
17 tion under this section. The limitation period shall run
18 from the latest of the following times:

19 “(1) The time at which the judgment of convic-
20 tion becomes final.

21 “(2) The time at which the impediment to mak-
22 ing a motion created by governmental action in vio-
23 lation of the Constitution or laws of the United
24 States is removed, where the movant was prevented
25 from making a motion by such governmental action.

1 “(3) The time at which the right asserted was
2 initially recognized by the Supreme Court, where the
3 right has been newly recognized by the Court and is
4 retroactively applicable.

5 “(4) The time at which the factual predicate of
6 the claim or claims presented could have been dis-
7 covered through the exercise of reasonable dili-
8 gence.”.

9 **CHAPTER 2—SPECIAL PROCEDURES FOR**
10 **COLLATERAL PROCEEDINGS IN CAP-**
11 **ITAL CASES**

12 **SEC. 106. DEATH PENALTY LITIGATION PROCEDURES.**

13 (a) IN GENERAL.—Title 28, United States Code, is
14 amended by inserting the following new chapter after
15 chapter 153:

16 **“CHAPTER 154—SPECIAL HABEAS CORPUS**
17 **PROCEDURES IN CAPITAL CASES**

“Sec.

“2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

“2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

“2258. Filing of habeas corpus petition; time requirements; tolling rules.

“2259. Certificate of probable cause inapplicable.

“2260. Application to State unitary review procedures.

“2261. Limitation periods for determining petitions.

“2262. Rule of construction.

1 **“§ 2256. Prisoners in State custody subject to capital**
2 **sentence; appointment of counsel; re-**
3 **quirement of rule of court or statute; pro-**
4 **cedures for appointment**

5 “(a) This chapter shall apply to cases arising under
6 section 2254 brought by prisoners in State custody who
7 are subject to a capital sentence. It shall apply only if the
8 provisions of subsections (b) and (c) are satisfied.

9 “(b) This chapter is applicable if a State establishes
10 by rule of its court of last resort or by statute a mecha-
11 nism for the appointment, compensation and payment of
12 reasonable litigation expenses of competent counsel in
13 State postconviction proceedings brought by indigent pris-
14 oners whose capital convictions and sentences have been
15 upheld on direct appeal to the court of last resort in the
16 State or have otherwise become final for State law pur-
17 poses. The rule of court or statute must provide standards
18 of competency for the appointment of such counsel.

19 “(c) Any mechanism for the appointment, compensa-
20 tion and reimbursement of counsel as provided in sub-
21 section (b) must offer counsel to all State prisoners under
22 capital sentence and must provide for the entry of an
23 order by a court of record: (1) appointing one or more
24 counsel to represent the prisoner upon a finding that the
25 prisoner is indigent and accepted the offer or is unable
26 competently to decide whether to accept or reject the offer;

1 (2) finding, after a hearing if necessary, that the prisoner
2 rejected the offer of counsel and made the decision with
3 an understanding of its legal consequences; or (3) denying
4 the appointment of counsel upon a finding that the pris-
5 oner is not indigent.

6 “(d) No counsel appointed pursuant to subsections
7 (b) and (c) to represent a State prisoner under capital
8 sentence shall have previously represented the prisoner at
9 trial or on direct appeal in the case for which the appoint-
10 ment is made unless the prisoner and counsel expressly
11 request continued representation.

12 “(e) The ineffectiveness or incompetence of counsel
13 during State or Federal collateral postconviction proceed-
14 ings in a capital case shall not be a ground for relief in
15 a proceeding arising under section 2254 of this chapter.
16 This limitation shall not preclude the appointment of dif-
17 ferent counsel, on the court’s own motion or at the request
18 of the prisoner, at any phase of State or Federal
19 postconviction proceedings on the basis of the ineffective-
20 ness or incompetence of counsel in such proceedings.

21 **“§ 2257. Mandatory stay of execution; duration; limits**
22 **on stays of execution; successive peti-**
23 **tions**

24 “(a) Upon the entry in the appropriate State court
25 of record of an order under section 2256(c), a warrant

1 or order setting an execution date for a State prisoner
2 shall be stayed upon application to any court that would
3 have jurisdiction over any proceedings filed under section
4 2254. The application must recite that the State has in-
5 voked the postconviction review procedures of this chapter
6 and that the scheduled execution is subject to stay.

7 “(b) A stay of execution granted pursuant to sub-
8 section (a) shall expire if—

9 “(1) a State prisoner fails to file a habeas cor-
10 pus petition under section 2254 within the time re-
11 quired in section 2258, or fails to make a timely ap-
12 plication for court of appeals review following the de-
13 nial of such a petition by a district court;

14 “(2) upon completion of district court and court
15 of appeals review under section 2254 the petition for
16 relief is denied and (A) the time for filing a petition
17 for certiorari has expired and no petition has been
18 filed; (B) a timely petition for certiorari was filed
19 and the Supreme Court denied the petition; or (C)
20 a timely petition for certiorari was filed and upon
21 consideration of the case, the Supreme Court dis-
22 posed of it in a manner that left the capital sentence
23 undisturbed; or

24 “(3) before a court of competent jurisdiction, in
25 the presence of counsel and after having been ad-

1 vised of the consequences of his decision, a State
2 prisoner under capital sentence waives the right to
3 pursue habeas corpus review under section 2254.

4 “(c) If one of the conditions in subsection (b) has
5 occurred, no Federal court thereafter shall have the au-
6 thority to enter a stay of execution or grant relief in a
7 capital case unless—

8 “(1) the basis for the stay and request for relief
9 is a claim not previously presented in the State or
10 Federal courts;

11 “(2) the failure to raise the claim is (A) the re-
12 sult of State action in violation of the Constitution
13 or laws of the United States; (B) the result of the
14 Supreme Court recognition of a new Federal right
15 that is retroactively applicable; or (C) based on a
16 factual predicate that could not have been discovered
17 through the exercise of reasonable diligence in time
18 to present the claim for State or Federal
19 postconviction review; and

20 “(3) the facts underlying the claim would be
21 sufficient to establish by clear and convincing evi-
22 dence that but for constitutional error, no reasonable
23 fact finder would have found the petitioner guilty of
24 the underlying offense or eligible for the death pen-
25 alty under State law.

1 “(d) Notwithstanding any other provision of law, no
2 Federal district court or appellate judge shall have the au-
3 thority to enter a stay of execution, issue injunctive relief,
4 or grant any equitable or other relief in a capital case on
5 any successive habeas petition (or other action which fol-
6 lows the final determination of a first habeas corpus peti-
7 tion) unless the court first determines the petition or other
8 action does not constitute an abuse of the writ. This deter-
9 mination shall be made only by the district judge or appel-
10 late panel who adjudicated the merits of the original ha-
11 beas petition (or to the district judge or appellate panel
12 to which the case may have been subsequently assigned
13 as a result of the unavailability of the original court or
14 judges). In the Federal courts of appeal, a stay may issue
15 pursuant to the terms of this provision only when a major-
16 ity of the original panel or majority of the active judges
17 determines the petition does not constitute an abuse of
18 the writ.

19 **“§2258. Filing of habeas corpus petition; time re-**
20 **quirements; tolling rules**

21 “Any petition for habeas corpus relief under section
22 2254 must be filed in the appropriate district court within
23 one hundred and eighty days from the filing in the appro-
24 priate State court of record of an order under section

1 2256(c). The time requirements established by this section
2 shall be tolled—

3 “(1) from the date that a petition for certiorari
4 is filed in the Supreme Court until the date of final
5 disposition of the petition if a State prisoner files
6 the petition to secure review by the Supreme Court
7 of the affirmance of a capital sentence on direct re-
8 view by the court of last resort of the State or other
9 final State court decision on direct review;

10 “(2) during any period in which a State pris-
11 oner under capital sentence has a properly filed re-
12 quest for postconviction review pending before a
13 State court of competent jurisdiction; if all State fil-
14 ing rules are met in a timely manner, this period
15 shall run continuously from the date that the State
16 prisoner initially files for postconviction review until
17 final disposition of the case by the highest court of
18 the State, but the time requirements established by
19 this section are not tolled during the pendency of a
20 petition for certiorari before the Supreme Court ex-
21 cept as provided in paragraph (1); and

22 “(3) during an additional period not to exceed
23 sixty days, if (A) a motion for an extension of time
24 is filed in the Federal district court that would have
25 proper jurisdiction over the case upon the filing of

1 a habeas corpus petition under section 2254; and
2 (B) a showing of good cause is made for the failure
3 to file the habeas corpus petition within the time pe-
4 riod established by this section.

5 **“§ 2259. Certificate of probable cause inapplicable**

6 “The requirement of a certificate of probable cause
7 in order to appeal from the district court to the court of
8 appeals does not apply to habeas corpus cases subject to
9 the provisions of this chapter except when a second or suc-
10 cessive petition is filed.

11 **“§ 2260. Application to State unitary review proce-
12 dure**

13 “(a) For purposes of this section, a ‘unitary review’
14 procedure means a State procedure that authorizes a per-
15 son under sentence of death to raise, in the course of di-
16 rect review of the judgment, such claims as could be raised
17 on collateral attack. The provisions of this chapter shall
18 apply, as provided in this section, in relation to a State
19 unitary review procedure if the State establishes by rule
20 of its court of last resort or by statute a mechanism for
21 the appointment, compensation and payment of reasonable
22 litigation expenses of competent counsel in the unitary re-
23 view proceedings, including expenses relating to the litiga-
24 tion of collateral claims in the proceedings. The rule of

1 court or statute must provide standards of competency for
2 the appointment of such counsel.

3 “(b) A unitary review procedure, to qualify under this
4 section, must include an offer of counsel following trial
5 for the purpose of representation on unitary review, and
6 entry of an order, as provided in section 2256(c), concern-
7 ing appointment of counsel or waiver or denial of appoint-
8 ment of counsel for that purpose. No counsel appointed
9 to represent the prisoner in the unitary review proceedings
10 shall have previously represented the prisoner at trial in
11 the case for which the appointment is made unless the
12 prisoner and counsel expressly request continued represen-
13 tation.

14 “(c) Sections 2257, 2258, 2259, and 2261 shall apply
15 in relation to cases involving a sentence of death from any
16 State having a unitary review procedure that qualifies
17 under this section. References to State ‘post-conviction re-
18 view’ and ‘direct review’ in those sections shall be under-
19 stood as referring to unitary review under the State proce-
20 dure. The references in sections 2257(a) and 2258 to ‘an
21 order under section 2256(c)’ shall be understood as refer-
22 ring to the post-trial order under subsection (b) concern-
23 ing representation in the unitary review proceedings, but
24 if a transcript of the trial proceedings is unavailable at
25 the time of the filing of such an order in the appropriate

1 State court, then the start of the one hundred and eighty
2 day limitation period under section 2258 shall be deferred
3 until a transcript is made available to the prisoner or his
4 counsel.

5 **“§ 2261. Limitation periods for determining petitions**

6 “(a)(1) A Federal district court shall determine such
7 a petition or motion within 60 days of any argument heard
8 on an evidentiary hearing, or where no evidentiary hearing
9 is held, within 60 days of any final argument heard in
10 the case.

11 “(2)(A) The court of appeals shall determine any ap-
12 peal relating to such a petition or motion within 90 days
13 after the filing of any reply brief or within 90 days after
14 such reply brief would be due. For purposes of this provi-
15 sion, any reply brief shall be due within 14 days of the
16 opposition brief.

17 “(B) The court of appeals shall decide any petition
18 for rehearing and or request by an appropriate judge for
19 rehearing en banc within 20 days of the filing of such a
20 petition or request unless a responsive pleading is required
21 in which case the court of appeals shall decide the applica-
22 tion within 20 days of the filing of the responsive pleading.
23 If en banc consideration is granted, the en banc court shall
24 determine the appeal within 90 days of the decision to
25 grant such consideration.

1 “(3) The time limitations contained in paragraphs
2 (1) and (2) may be extended only once for 20 days, upon
3 an express good cause finding by the court that the inter-
4 ests of justice warrant such a one-time extension. The spe-
5 cific grounds for the good cause finding shall be set forth
6 in writing in any extension order of the court.

7 “(b) The time limitations under subsection (a) shall
8 apply to an initial petition or motion, and to any second
9 or successive petition or motion. The same limitations
10 shall also apply to the re-determination of a petition or
11 motion or related appeal following a remand by the court
12 of appeals or the Supreme Court for further proceedings,
13 and in such a case the limitation period shall run from
14 the date of the remand.

15 “(c) The time limitations under this section shall not
16 be construed to entitle a petitioner or movant to a stay
17 of execution, to which the petitioner or movant would oth-
18 erwise not be entitled, for the purpose of litigating any
19 petition, motion, or appeal.

20 “(d) The failure of a court to meet or comply with
21 the time limitations under this section shall not be a
22 ground for granting relief from a judgment of conviction
23 or sentence. The State or Government may enforce the
24 time limitations under this section by applying to the court
25 of appeals or the Supreme Court for a writ of mandamus.

1 “(e) The Administrative Office of United States
2 Courts shall report annually to Congress on the compli-
3 ance by the courts with the time limits established in this
4 section.

5 “(f) The adjudication of any petition under section
6 2254 of this title that is subject to this chapter, and the
7 adjudication of any motion under section 2255 of this title
8 by a person under sentence of death, shall be given prior-
9 ity by the district court and by the court of appeals over
10 all noncapital matters.

11 **“§ 2262. Rule of construction**

12 “This chapter shall be construed to promote the expe-
13 ditious conduct and conclusion of State and Federal court
14 review in capital cases.”.

15 (b) CLERICAL AMENDMENT.—The table of chapters
16 at the beginning of part VI of title 28, United States Code,
17 is amended by inserting after the item relating to chapter
18 153 the following new item:

“154. **Special habeas corpus procedures in capital cases 2256**”.

19 **CHAPTER 3—FUNDING FOR LITIGATION**
20 **OF FEDERAL HABEAS CORPUS PETI-**
21 **TIONS IN CAPITAL CASES**

22 **SEC. 107. FUNDING FOR DEATH PENALTY PROSECUTIONS.**

23 Part E of title I of the Omnibus Crime Control and
24 Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is
25 amended by adding at the end the following new section:

1 “SEC. 515. Notwithstanding any other provision of
2 this subpart, the Director shall provide grants to the
3 States, from the funding allocated pursuant to section
4 511, for the purpose of supporting litigation pertaining to
5 Federal habeas corpus petitions in capital cases. The total
6 funding available for such grants within any fiscal year
7 shall be equal to the funding provided to capital resource
8 centers, pursuant to Federal appropriation, in the same
9 fiscal year.”.

10 **Subtitle B—Federal Death Penalty**
11 **Procedures Reform**

12 **SEC. 111. FEDERAL DEATH PENALTY PROCEDURES RE-**
13 **FORM.**

14 (a) IN GENERAL.—Subsection (e) of section 3593 of
15 title 18, United States Code, is amended by striking
16 “Based upon this consideration” and all that follows
17 through the end of such subsection and inserting the fol-
18 lowing: “The jury, or if there is no jury, the court, shall
19 then consider whether the aggravating factor or factors
20 found to exist outweigh any mitigating factors. The jury,
21 or if there is no jury, the court shall recommend a sen-
22 tence of death if it unanimously finds at least one aggra-
23 vating factor and no mitigating factor or if it finds one
24 or more aggravating factors which outweigh any mitigat-
25 ing factors. In any other case, it shall not recommend a

1 sentence of death. The jury shall be instructed that it
2 must avoid any influence of sympathy, sentiment, passion,
3 prejudice, or other arbitrary factors in its decision, and
4 should make such a recommendation as the information
5 warrants. The jury shall be instructed that its rec-
6 ommendation concerning a sentence of death is to be
7 based on the aggravating factor or factors and any miti-
8 gating factors which have been found, but that the final
9 decision concerning the balance of aggravating and miti-
10 gating factors is a matter for the jury’s judgment.”.

11 (b) CONFORMING AMENDMENT.—Section 3594 of
12 title 18, United States Code, is amended by striking “or
13 life imprisonment without possibility of release”.

14 **TITLE II—DETERRING GUN** 15 **CRIMES**

16 **SEC. 201. MANDATORY PRISON TERMS FOR CARRYING,**
17 **USING, OR DISCHARGING A FIREARM OR DE-**
18 **STRUCTIVE DEVICE DURING A STATE CRIME**
19 **THAT IS A SERIOUS VIOLENT FELONY OR SE-**
20 **RIOUS DRUG OFFENSE.**

21 Section 924(c) of title 18, United States Code, is
22 amended to read as follows:

23 “(c)(1)(A)(i) A person who, during and in relation
24 to a serious violent felony or serious drug offense (includ-
25 ing a serious violent felony or serious drug offense that

1 provides for an enhanced punishment if committed by the
2 use of a deadly or dangerous weapon or device) for which
3 the person may be prosecuted in a court of any State—

4 “(I) knowingly carries a firearm, shall, in addi-
5 tion to the sentence imposed for the serious violent
6 felony or serious drug offense, be sentenced to im-
7 prisonment for not less than 5 years;

8 “(II) knowingly uses a firearm, shall, in addi-
9 tion to the sentence imposed for the serious violent
10 felony or serious drug offense, be sentenced to im-
11 prisonment for not less than 10 years; or

12 “(III) discharges a firearm with the intent to
13 injure another person, shall, in addition to the sen-
14 tence imposed for the serious violent felony or seri-
15 ous drug offense, be sentenced to imprisonment for
16 not less than 30 years;

17 except that if the firearm is a machinegun or destructive
18 device or is equipped with a firearm silencer or firearm
19 muffler, the person shall, in addition to the sentence im-
20 posed for the serious violent felony or serious drug offense,
21 be sentenced to life imprisonment.

22 “(B) Subparagraph (A) shall not apply to the con-
23 duct of a person in defense of person or property during
24 the course of a crime committed by another person (in-
25 cluding the arrest or attempted arrest of such other per-

1 son during or immediately after the commission of the
2 crime), unless the person engaged in or participated in
3 criminal conduct that gave rise to the criminal conduct
4 of such other person.

5 “(C) It is the intent of the Congress that—

6 “(i) this paragraph shall be used to supplement
7 but not supplant the efforts of State and local pros-
8 ecutors in prosecuting serious violent felonies and
9 serious drug offenses that could be prosecuted under
10 State law; and

11 “(ii) the Attorney General shall give due def-
12 erence to the interest that a State or local prosecu-
13 tor has in prosecuting a person under State law.

14 “(2)(A)(i) A person who, during and in relation to
15 a crime of violence or drug trafficking crime (including
16 a crime of violence or drug trafficking crime that provides
17 for an enhanced punishment if committed by the use of
18 a deadly or dangerous weapon or device) for which the
19 person may be prosecuted in a court of the United
20 States—

21 “(I) knowingly carries a firearm, shall, in addi-
22 tion to the sentence imposed for the crime of vio-
23 lence or drug trafficking crime, be sentenced to im-
24 prisonment for not less than 5 years;

1 “(II) knowingly uses a firearm, shall, in addi-
2 tion to the sentence imposed for the crime of vio-
3 lence or drug trafficking crime, be sentenced to im-
4 prisonment for not less than 10 years; or

5 “(III) discharges a firearm with the intent to
6 injure another person, shall, in addition to the sen-
7 tence imposed for the crime of violence or drug traf-
8 ficking crime, be sentenced to imprisonment for not
9 less than 20 years.

10 “(ii) A person who, during and in relation to a crime
11 of violence or drug trafficking crime (including a crime
12 of violence or drug trafficking crime that provides for an
13 enhanced punishment if committed by the use of a deadly
14 or dangerous weapon or device) for which the person may
15 be prosecuted in a court of the United States—

16 “(I) knowingly carries a short-barreled rifle,
17 short-barreled shotgun, or semiautomatic assault
18 weapon, shall, in addition to the sentence imposed
19 for the crime of violence or drug trafficking crime,
20 be sentenced to imprisonment for not less than 10
21 years;

22 “(II) knowingly uses a short-barreled rifle,
23 short-barreled shotgun, or semiautomatic assault
24 weapon, shall, in addition to the sentence imposed
25 for the crime of violence or drug trafficking crime,

1 be sentenced to imprisonment for not less than 15
2 years; or

3 “(III) discharges a short-barreled rifle, short-
4 barreled shotgun, or semiautomatic assault weapon
5 with the intent to injure another person, shall, in ad-
6 dition to the sentence imposed for the crime of vio-
7 lence or drug trafficking crime, be sentenced to im-
8 prisonment for not less than 25 years.

9 “(iii) A person who, during and in relation to a crime
10 of violence or drug trafficking crime (including a crime
11 of violence or drug trafficking crime that provides for an
12 enhanced punishment if committed by the use of a deadly
13 or dangerous weapon or device) for which the person may
14 be prosecuted in a court of the United States, knowingly
15 carries or knowingly uses a firearm that is a machinegun
16 or destructive device or is equipped with a firearm silencer
17 or firearm muffler, or discharges such a firearm with the
18 intent to injure another person, shall, in addition to the
19 sentence imposed for the crime of violence or drug traf-
20 ficking crime, be sentenced to imprisonment for not less
21 than 30 years.

22 “(B) A person who has been convicted under this sub-
23 section and who, during and in relation to a crime of vio-
24 lence or drug trafficking crime (including a crime of vio-
25 lence or drug trafficking crime that provides for an en-

1 hanced punishment if committed by the use of a deadly
2 or dangerous weapon or device) for which the person may
3 be prosecuted in a court of the United States—

4 “(i) knowingly carries a firearm, shall, in addi-
5 tion to the sentence imposed for the serious violent
6 felony or serious drug offense, be sentenced to im-
7 prisonment for not less than 10 years;

8 “(ii) knowingly uses a firearm, shall, in addition
9 to the sentence imposed for the serious violent felony
10 or serious drug offense, be sentenced to imprison-
11 ment for not less than 20 years; or

12 “(iii) discharges a firearm with the intent to in-
13 jure another person, shall, in addition to the sen-
14 tence imposed for the serious violent felony or seri-
15 ous drug offense, be sentenced to imprisonment for
16 not less than 20 years;

17 except that, if the firearm is a machinegun or destructive
18 device or is equipped with a firearm silencer or firearm
19 muffler, the person shall, in addition to the sentence im-
20 posed for the serious violent felony or serious drug offense,
21 be sentenced to imprisonment for not less than 30 years.

22 “(ii) A person who has been convicted under this sub-
23 section and who, during and in relation to a serious violent
24 felony or serious drug offense (including a serious violent
25 felony or serious drug offense that provides for an en-

1 hanced punishment if committed by the use of a deadly
2 or dangerous weapon or device) for which the person may
3 be prosecuted in a court of any State—

4 “(I) knowingly carries a firearm, shall, in addi-
5 tion to the sentence imposed for the serious violent
6 felony or serious drug offense, be sentenced to im-
7 prisonment for not less than 10 years;

8 “(II) knowingly uses a firearm, shall, in addi-
9 tion to the sentence imposed for the serious violent
10 felony or serious drug offense, be sentenced to im-
11 prisonment for not less than 20 years; or

12 “(III) discharges a firearm with the intent to
13 injure another person, shall, in addition to the sen-
14 tence imposed for the serious violent felony or seri-
15 ous drug offense, be sentenced to imprisonment for
16 not less than 30 years;

17 except that if the firearm is a machinegun or destructive
18 device or is equipped with a firearm silencer or firearm
19 muffler, the person shall, in addition to the sentence im-
20 posed for the serious violent felony or serious drug offense,
21 be sentenced to life imprisonment.

22 “(3)(A) Notwithstanding any other provision of law,
23 the court shall not impose a probationary sentence on any
24 person convicted of a violation of this subsection, nor shall
25 a term of imprisonment imposed under this subsection run

1 concurrently with any other term of imprisonment includ-
2 ing that imposed for the serious violent felony, serious
3 drug offense, crime of violence, or drug trafficking crime
4 in which the firearm was used.

5 “(B) No person sentenced under this subsection shall
6 be released for any reason whatsoever during a term of
7 imprisonment imposed under this subsection.

8 “(4) As used in this subsection:

9 “(A) The term ‘serious violent felony’ means—

10 “(i) a crime of violence; or

11 “(ii) a serious violent felony (as defined in
12 section 3559(c)(2)(F)).

13 “(B) The term ‘serious drug offense’ means—

14 “(i) a drug trafficking crime;

15 “(ii) an offense that is punishable under
16 section 401(b)(1)(B) or section 408 of the Con-
17 trolled Substances Act (21 U.S.C.
18 841(b)(1)(B), 848), or section 1010(b)(1)(A) of
19 the Controlled Substances Import and Export
20 Act (21 U.S.C. 960(b)(1)(A)); or

21 “(III) an offense under State law that, had
22 the offense been prosecuted in a court of the
23 United States, would have been punishable
24 under section 401(b)(1)(B) or section 408 of
25 the Controlled Substances Act (21 U.S.C.

1 841(b)(1)(B), 848), or section 1010(b)(1)(A) of
2 the Controlled Substances Import and Export
3 Act (21 U.S.C. 960(b)(1)(A)).

4 “(C) The term ‘crime of violence’ means an of-
5 fense that is a felony and—

6 “(i) has as an element the use, attempted
7 use, or threatened use of physical force against
8 the person or property of another; or

9 “(ii) that by its nature, involves a substan-
10 tial risk that physical force against the person
11 or property of another may be used in the
12 course of committing the offense.

13 “(D) The term ‘drug trafficking crime’ means
14 any felony punishable under the Controlled Sub-
15 stances Act (21 U.S.C. 801 et seq.), the Controlled
16 Substances Import and Export Act (21 U.S.C. 951
17 et seq.), or the Maritime Drug Law Enforcement
18 Act (46 U.S.C. App. 1901 et seq.).”.

19 **TITLE III—MANDATORY VICTIM** 20 **RESTITUTION**

21 **SEC. 301. MANDATORY RESTITUTION AND OTHER PROVI-** 22 **SIONS.**

23 (a) ORDER OF RESTITUTION.—Section 3663 of title
24 18, United States Code, is amended—

25 (1) in subsection (a)—

1 (A) by striking “may order” and inserting
2 “shall order”; and

3 (B) by adding at the end the following new
4 paragraph:

5 “(4) In addition to ordering restitution of the victim
6 of the offense of which a defendant is convicted, a court
7 may order restitution of any person who, as shown by a
8 preponderance of evidence, was harmed physically, emo-
9 tionally, or pecuniarily, by unlawful conduct of the defend-
10 ant during—

11 “(A) the criminal episode during which the of-
12 fense occurred; or

13 “(B) the course of a scheme, conspiracy, or pat-
14 tern of unlawful activity related to the offense.”;

15 (2) in subsection (b)(1)(B) by striking “imprac-
16 tical” and inserting “impracticable”;

17 (3) in subsection (b)(2) by inserting “emotional
18 or” after “resulting in”;

19 (4) in subsection (b)—

20 (A) by striking “and” at the end of para-
21 graph (4);

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

24 (C) by inserting after paragraph (4) the
25 following new paragraph:

1 “(5) in any case, reimburse the victim for nec-
2 essary child care, transportation, and other expenses
3 related to participation in the investigation or pros-
4 ecution of the offense or attendance at proceedings
5 related to the offense; and”.

6 (5) in subsection (c) by striking “If the court
7 decides to order restitution under this section, the”
8 and inserting “The”;

9 (6) by striking subsections (d), (e), (f), (g), and
10 (h);

11 (7) by redesignating subsection (i) as subsection
12 (m); and

13 (8) by inserting after subsection (c) the follow-
14 ing:

15 “(d)(1) The court shall order restitution to a victim
16 in the full amount of the victim’s losses as determined by
17 the court and without consideration of—

18 “(A) the economic circumstances of the of-
19 fender; or

20 “(B) the fact that a victim has received or is
21 entitled to receive compensation with respect to a
22 loss from insurance or any other source.

23 “(2) Upon determination of the amount of restitution
24 owed to each victim, the court shall specify in the restitu-

1 tion order the manner in which and the schedule according
2 to which the restitution is to be paid, in consideration of—

3 “(A) the financial resources and other assets of
4 the offender;

5 “(B) projected earnings and other income of
6 the offender; and

7 “(C) any financial obligations of the offender,
8 including obligations to dependents.

9 “(3) A restitution order may direct the offender to
10 make a single, lump-sum payment, partial payment at
11 specified intervals, or such in-kind payments as may be
12 agreeable to the victim and the offender.

13 “(4) An in-kind payment described in paragraph (3)
14 may be in the form of—

15 “(A) return of property;

16 “(B) replacement of property; or

17 “(C) services rendered to the victim or to a per-
18 son or organization other than the victim.

19 “(e) When the court finds that more than 1 offender
20 has contributed to the loss of a victim, the court may make
21 each offender liable for payment of the full amount of res-
22 titution or may apportion liability among the offenders to
23 reflect the level of contribution and economic cir-
24 cumstances of each offender.

1 “(f) When the court finds that more than 1 victim
2 has sustained a loss requiring restitution by an offender,
3 the court shall order full restitution of each victim but may
4 provide for different payment schedules to reflect the eco-
5 nomic circumstances of each victim.

6 “(g)(1) If the victim has received or is entitled to re-
7 ceive compensation with respect to a loss from insurance
8 or any other source, the court shall order that restitution
9 be paid to the person who provided or is obligated to pro-
10 vide the compensation, but the restitution order shall pro-
11 vide that all restitution of victims required by the order
12 be paid to the victims before any restitution is paid to
13 such a provider of compensation.

14 “(2) The issuance of a restitution order shall not af-
15 fect the entitlement of a victim to receive compensation
16 with respect to a loss from insurance or any other source
17 until the payments actually received by the victim under
18 the restitution order fully compensate the victim for the
19 loss, at which time a person that has provided compensa-
20 tion to the victim shall be entitled to receive any payments
21 remaining to be paid under the restitution order.

22 “(3) Any amount paid to a victim under an order of
23 restitution shall be set off against any amount later recov-
24 ered as compensatory damages by the victim in—

25 “(A) any Federal civil proceeding; and

1 “(B) any State civil proceeding, to the extent
2 provided by the law of the State.

3 “(h) A restitution order shall provide that—

4 “(1) all fines, penalties, costs, restitution pay-
5 ments and other forms of transfers of money or
6 property made pursuant to the sentence of the court
7 shall be made by the offender to an entity des-
8 ignated by the Director of the Administrative Office
9 of the United States Courts for accounting and pay-
10 ment by the entity in accordance with this sub-
11 section;

12 “(2) the entity designated by the Director of
13 the Administrative Office of the United States
14 Courts shall—

15 “(A) log all transfers in a manner that
16 tracks the offender’s obligations and the cur-
17 rent status in meeting those obligations, unless,
18 after efforts have been made to enforce the res-
19 titution order and it appears that compliance
20 cannot be obtained, the court determines that
21 continued recordkeeping under this subpara-
22 graph would not be useful;

23 “(B) notify the court and the interested
24 parties when an offender is 90 days in arrears
25 in meeting those obligations; and

1 “(3) the offender shall advise the entity des-
2 ignated by the Director of the Administrative Office
3 of the United States Courts of any change in the of-
4 fender’s address during the term of the restitution
5 order.

6 “(i) A restitution order shall constitute a lien against
7 all property of the offender and may be recorded in any
8 Federal or State office for the recording of liens against
9 real or personal property.

10 “(j) Compliance with the schedule of payment and
11 other terms of a restitution order shall be a condition of
12 any probation, parole, or other form of release of an of-
13 fender. If a defendant fails to comply with a restitution
14 order, the court may revoke probation or a term of super-
15 vised release, modify the term or conditions of probation
16 or a term of supervised release, hold the defendant in con-
17 tempt of court, enter a restraining order or injunction,
18 order the sale of property of the defendant, accept a per-
19 formance bond, or take any other action necessary to ob-
20 tain compliance with the restitution order. In determining
21 what action to take, the court shall consider the defend-
22 ant’s employment status, earning ability, financial re-
23 sources, the willfulness in failing to comply with the res-
24 titution order, and any other circumstances that may have

1 a bearing on the defendant's ability to comply with the
2 restitution order.

3 “(k) An order of restitution may be enforced—

4 “(1) by the United States—

5 “(A) in the manner provided for the collec-
6 tion and payment of fines in subchapter (B) of
7 chapter 229 of this title; or

8 “(B) in the same manner as a judgment in
9 a civil action; and

10 “(2) by a victim named in the order to receive
11 the restitution, in the same manner as a judgment
12 in a civil action.

13 “(l) A victim or the offender may petition the court
14 at any time to modify a restitution order as appropriate
15 in view of a change in the economic circumstances of the
16 offender.”.

17 (b) PROCEDURE FOR ISSUING ORDER OF RESTITU-
18 TION.—Section 3664 of title 18, United States Code, is
19 amended—

20 (1) by striking subsection (a);

21 (2) by redesignating subsections (b), (c), (d),
22 and (e) as subsections (a), (b), (c), and (d);

23 (3) by amending subsection (a), as redesignated
24 by paragraph (2), to read as follows:

1 “(a) The court may order the probation service of the
2 court to obtain information pertaining to the amount of
3 loss sustained by any victim as a result of the offense,
4 the financial resources of the defendant, the financial
5 needs and earning ability of the defendant and the defend-
6 ant’s dependents, and such other factors as the court
7 deems appropriate. The probation service of the court
8 shall include the information collected in the report of
9 presentence investigation or in a separate report, as the
10 court directs.”; and

11 (4) by adding at the end thereof the following
12 new subsection:

13 “(e) The court may refer any issue arising in connec-
14 tion with a proposed order of restitution to a magistrate
15 or special master for proposed findings of fact and rec-
16 ommendations as to disposition, subject to a de novo de-
17 termination of the issue by the court.”.

18 **TITLE IV—LAW ENFORCEMENT**
19 **BLOCK GRANTS**

20 **SEC. 401. BLOCK GRANT PROGRAM.**

21 Title I of the Violent Crime Control and Law En-
22 forcement Act of 1994 is amended to read as follows:

1 **“TITLE I—LAW ENFORCEMENT**
2 **BLOCK GRANTS**

3 **“SEC. 101. PAYMENTS TO LOCAL GOVERNMENTS.**

4 “(a) PAYMENT AND USE.—

5 “(1) PAYMENT.—The Director of the Bureau of
6 Justice Assistance, shall pay to each unit of local
7 government which qualifies for a payment under this
8 title an amount equal to the sum of any amounts al-
9 located to such unit under this title for each pay-
10 ment period. The Director shall pay such amount
11 from amounts appropriated to carry out this title.

12 “(2) USE.—Amounts paid to a unit of local
13 government under this section shall be used by the
14 unit for reducing crime and improving public safety,
15 including but not limited to, one or more of the fol-
16 lowing purposes:

17 “(A)(i) hiring, training, and employing on
18 a continuing basis new, additional law enforce-
19 ment officers and necessary support personnel;

20 “(ii) paying overtime to presently employed
21 law enforcement officers and necessary support
22 personnel for the purpose of increasing the
23 number of hours worked by such personnel; and

1 “(iii) procuring equipment, technology, and
2 other material directly related to basic law en-
3 forcement functions.

4 “(B) Enhancing school security measures
5 by—

6 “(i) providing increased law enforce-
7 ment patrols in and around schools, wheth-
8 er through the hiring of additional law en-
9 forcement officers or paying overtime to
10 presently employed officers;

11 “(ii) purchasing law enforcement
12 equipment necessary to carry out normal
13 law enforcement functions in and around
14 schools;

15 “(iii) equipping schools with metal de-
16 tectors, fences, closed circuit cameras, and
17 other physical safety measures; and

18 “(iv) gun hotlines designed to facili-
19 tate the reporting of weapons possession
20 by students and other individuals in and
21 around schools.

22 “(C) Establishing crime prevention pro-
23 grams that are organized, supervised by, or in-
24 volve substantial participation of law enforce-
25 ment officials and that are intended to discour-

1 age, disrupt, or interfere with the commission
2 of criminal activity, including neighborhood
3 watches and citizen patrols.

4 “(b) TIMING OF PAYMENTS.—The Director shall pay
5 each unit of local government that has submitted an appli-
6 cation under this title not later than—

7 “(1) 90 days after the date that the amount is
8 available, or

9 “(2) the first day of the payment period if the
10 unit of local government has provided the Director
11 with the assurances required by section 103(d),
12 whichever is later.

13 “(c) ADJUSTMENTS.—

14 “(1) IN GENERAL.—Subject to paragraph (2),
15 the Director shall adjust a payment under this title
16 to a unit of local government to the extent that a
17 prior payment to the unit of local government was
18 more or less than the amount required to be paid.

19 “(2) CONSIDERATIONS.—The Director may in-
20 crease or decrease under this subsection a payment
21 to a unit of local government only if the Director de-
22 termines the need for the increase or decrease, or if
23 the unit requests the increase or decrease, not later
24 than one year after the end of the payment period
25 for which a payment was made.

1 “(d) RESERVATION FOR ADJUSTMENT.—The Direc-
2 tor may reserve a percentage of not more than two percent
3 of the amount under this section for a payment period
4 for all units of local government in a State if the Director
5 considers the reserve is necessary to ensure the availability
6 of sufficient amounts to pay adjustments after the final
7 allocation of amounts among the units of local government
8 in the State.

9 “(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

10 “(1) REPAYMENT REQUIRED.—A unit of local
11 government shall repay to the Director, by not later
12 than 27 months after receipt of funds from the Di-
13 rector, any amount that is—

14 “(A) paid to the unit from amounts appro-
15 priated under the authority of this section; and

16 “(B) not expended by the unit within two
17 years after receipt of such funds from the Di-
18 rector.

19 “(2) PENALTY FOR FAILURE TO REPAY.—If the
20 amount required to be repaid is not repaid, the Di-
21 rector shall reduce payment in future payment peri-
22 ods accordingly.

23 “(3) DEPOSIT OF AMOUNTS REPAID.—Amounts
24 received by the Director as repayments under this

1 subsection shall be deposited in a designated fund
2 for future payments to units of local government.

3 “(f) NONSUPPLANTING REQUIREMENT.—Funds
4 made available under this title to units of local government
5 shall not be used to supplant State or local funds, but
6 shall be used to increase the amount of funds that would,
7 in the absence of funds under this title, be made available
8 from State or local sources.

9 **“SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

10 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to carry out this title—

12 “(1) \$2,000,000,000 for fiscal year 1996;

13 “(2) \$2,000,000,000 for fiscal year 1997;

14 “(3) \$2,000,000,000 for fiscal year 1998;

15 “(4) \$2,000,000,000 for fiscal year 1999; and

16 “(5) \$2,000,000,000 for fiscal year 2000.

17 “(b) ADMINISTRATIVE COSTS.—Not more than 2.5
18 percent of the amount authorized to be appropriated
19 under subsection (a) for each of the fiscal years 1995
20 through 2000 shall be available to the Director for admin-
21 istrative costs to carry out the purposes of this title. Such
22 sums are to remain available until expended.

23 “(c) AVAILABILITY.—The amounts authorized to be
24 appropriated under subsection (a) shall remain available
25 until expended.

1 **“SEC. 103. QUALIFICATION FOR PAYMENT.**

2 “(a) IN GENERAL.—The Director shall issue regula-
3 tions establishing procedures under which an unit of local
4 government is required to provide notice to the Director
5 regarding the proposed use of assistance under this title.

6 “(b) GENERAL REQUIREMENTS FOR QUALIFICA-
7 TION.—An unit of local government qualifies for a pay-
8 ment under this title for a payment period only if the unit
9 submits an application to the Director and establishes, to
10 the satisfaction of the Director, that—

11 “(1) the unit of local government will establish
12 a trust fund in which the government will deposit all
13 payments received under this title;

14 “(2) the unit of local government will use
15 amounts in the trust fund (including interest) dur-
16 ing a period not to exceed two years from the date
17 the first grant payment is made to the government;

18 “(3) the unit of local government will expend
19 the payments received in accordance with the laws
20 and procedures that are applicable to the expendi-
21 ture of revenues of the unit of government;

22 “(4) the unit of local government will use ac-
23 counting, audit, and fiscal procedures that conform
24 to guidelines which shall be prescribed by the Direc-
25 tor after consultation with the Comptroller General
26 and as applicable, amounts received under this title

1 shall be audited in compliance with the Single Audit
2 Act of 1984;

3 “(5) after reasonable notice from the Director
4 or the Comptroller General to the unit of govern-
5 ment, the unit of local government will make avail-
6 able to the Director and the Comptroller General,
7 with the right to inspect, records that the Director
8 reasonably requires to review compliance with this
9 title or that the Comptroller General reasonably re-
10 quires to review compliance and operation;

11 “(6) a designated official of the unit of local
12 government shall make reports the Director reason-
13 ably requires, in addition to the annual reports re-
14 quired under this title; and

15 “(7) the unit of local government will spend the
16 funds only for the purposes set forth in section
17 101(a)(2).

18 “(c) REVIEW BY GOVERNORS.—A unit of local gov-
19 ernment shall give the chief executive officer of the State
20 in which the government is located an opportunity for re-
21 view and comment before establishing compliance with
22 subsection (d).

23 “(d) SANCTIONS FOR NONCOMPLIANCE.—

24 “(1) IN GENERAL.—If the Director determines
25 that a unit of local government has not complied

1 substantially with the requirements or regulations
2 prescribed under subsection (b), the Director shall
3 notify the unit of local government that if the unit
4 of local government does not take corrective action
5 within 60 days of such notice, the Director will with-
6 hold additional payments to the unit of local govern-
7 ment for the current and future payment periods
8 until the Director is satisfied that the unit of local
9 government—

10 “(A) has taken the appropriate corrective
11 action; and

12 “(B) will comply with the requirements
13 and regulations prescribed under subsection (b).

14 “(2) NOTICE.—Before giving notice under para-
15 graph (1), the Director shall give the chief executive
16 officer of the unit of local government reasonable no-
17 tice and an opportunity for comment.

18 **“SEC. 104. ALLOCATION AND DISTRIBUTION OF FUNDS.**

19 “(a) STATE DISTRIBUTION.—Except as provided in
20 section 103(d), of the total amounts appropriated for this
21 title for each payment period, the Director shall allocate
22 for units of local government—

23 “(1) 0.25 percent to each State; and

24 “(2) of the total amount of funds remaining
25 after allocation under paragraph (1), an amount

1 that is equal to the ratio that the number of part
2 1 violent crimes reported by such State to the Fed-
3 eral Bureau of Investigation for 1993, bears to the
4 number of part 1 violent crimes reported by all
5 States to the Federal Bureau of Investigation for
6 1993.

7 “(b) LOCAL DISTRIBUTION.—

8 “(1) From the amount reserved for each State
9 under subsection (a), the Director shall allocate to
10 each unit of local government an amount which—

11 “(A) bears the ratio that the number of
12 part 1 violent crimes reported by such unit to
13 the Federal Bureau of Investigation for 1993
14 bears to the number of part 1 violent crimes re-
15 ported by all units of local government in the
16 State in which the unit is located to the Federal
17 Bureau of Investigation for 1993 multiplied by
18 the ratio of the population living in all units in
19 the State in which the unit is located that re-
20 ported part 1 violent crimes to the Federal Bu-
21 reau of Investigation for 1993 bears to the pop-
22 ulation of the State; or

23 “(B) if such data are not available for a
24 unit, the ratio that the population of such unit
25 bears to the population of all units of local gov-

1 ernment in the State in which the unit is lo-
2 cated for which data are not available multi-
3 plied by the ratio of the population living in
4 units in the State in which the unit is located
5 for which data are not available bears to the
6 population of the State.

7 “(2) If under paragraph (1) a unit of local gov-
8 ernment is allotted less than \$5,000 for the payment
9 period, the amount allotted shall be transferred to
10 the Governor of the State who shall equitably dis-
11 tribute the allocation to all such units or consortia,
12 as the case may be.

13 “(3)(A) If a unit of local government in a State
14 that has been incorporated since the date of the col-
15 lection of the data used by the Director in making
16 allocations pursuant to this section, the Director
17 shall allocate to this newly incorporated unit of local
18 government, out of the amount allocated to the
19 State under this section, an amount bearing the
20 same ratio to the amount allocated to the State as
21 the population of the newly incorporated local gov-
22 ernment bears to the population of the State.

23 “(B) If a unit of local government in the State
24 has been annexed since the date of the collection of
25 the data used by the Director in making allocations

1 pursuant to this section, the Director shall pay the
2 amount that would have been allocated to such unit
3 of local government to the unit of local government
4 that annexed it.

5 “(c) UNAVAILABILITY OF INFORMATION.—For pur-
6 poses of this section, if data regarding part 1 violent
7 crimes in any State for 1993 is unavailable or substan-
8 tially inaccurate, the Director shall utilize the best avail-
9 able comparable data regarding the number of violent
10 crimes for 1993 for such State for the purposes of alloca-
11 tion of any funds under this title.

12 **“SEC. 105. UTILIZATION OF PRIVATE SECTOR.**

13 “Funds or a portion of funds allocated under this
14 title may be utilized to contract with private, nonprofit en-
15 tities or community-based organizations to carry out the
16 purposes specified under section 101(a)(2).

17 **“SEC. 106. PUBLIC PARTICIPATION.**

18 “(a) IN GENERAL.—A unit of local government ex-
19 pending payments under this title shall hold at least one
20 public hearing on the proposed use of the payment from
21 the Director in relation to its entire budget.

22 “(b) VIEWS.—At the hearing, persons shall be given
23 an opportunity to provide written and oral views to the
24 unit of local government authority responsible for enacting
25 the budget and to ask questions about the entire budget

1 and the relation of the payment from the Director to the
2 entire budget.

3 “(c) TIME AND PLACE.—The unit of local govern-
4 ment shall hold the hearing at a time and place that allows
5 and encourages public attendance and participation.

6 **“SEC. 107. ADMINISTRATIVE PROVISIONS.**

7 “The administrative provisions of part H of the Om-
8 nibus Crime Control and Safe Streets Act of 1968, shall
9 apply to this title.

10 **“SEC. 108. DEFINITIONS.**

11 “For the purposes of this title:

12 “(1) The term ‘unit of local government’
13 means—

14 “(A) a county, township, city, or political
15 subdivision of a county, township, or city, that
16 is a unit of local government as determined by
17 the Secretary of Commerce for general statis-
18 tical purposes; and

19 “(B) the District of Columbia and the rec-
20 ognized governing body of an Indian tribe or
21 Alaskan Native village that carries out substan-
22 tial governmental duties and powers.

23 “(2) The term ‘payment period’ means each
24 one-year period beginning on October 1 of any year
25 in which a grant under this title is awarded.

1 “(3) The term ‘State’ means any State of the
2 United States, the District of Columbia, the Com-
3 monwealth of Puerto Rico, the Virgin Islands, Amer-
4 ican Samoa, Guam, and the Northern Mariana Is-
5 lands, except that American Samoa, Guam, and the
6 Northern Mariana Islands shall be considered as one
7 State and that, for purposes of section 104(a), 33
8 percent of the amounts allocated shall be allocated
9 to American Samoa, 50 percent to Guam, and 17
10 percent to the Northern Mariana Islands.

11 “(4) The term ‘Juvenile’ means an individual
12 who is 17 years of age or younger.

13 “(5) The term ‘part 1 violent crimes’ means
14 murder and nonnegligent manslaughter, forcible
15 rape, robbery, and aggravated assault as reported to
16 the Federal Bureau of Investigation for purposes of
17 the Uniform Crime Reports.

18 “(6) The term ‘Director’ means the Director of
19 the Bureau of Justice Assistance.”.

20 **SEC. 402. CONFORMING AMENDMENT.**

21 The amendments made to the Omnibus Crime Con-
22 trol and Safe Streets Act of 1968, as added by title I of
23 the Violent Crime Control and Law Enforcement Act of
24 1994, are repealed.

1 **TITLE V—TRUTH IN**
2 **SENTENCING GRANTS**

3 **SEC. 501. TRUTH IN SENTENCING GRANT PROGRAM.**

4 Title V of the Violent Crime Control and Law En-
5 forcement Act of 1994 is amended to read as follows:

6 **“TITLE V—TRUTH IN**
7 **SENTENCING GRANTS**

8 **“SEC. 501. AUTHORIZATION OF GRANTS.**

9 “(a) **IN GENERAL.**—The Attorney General is author-
10 ized to provide grants to eligible States and to eligible
11 States organized as a regional compact to build, expand,
12 and operate space in correctional facilities in order to in-
13 crease the prison bed capacity in such facilities for the
14 confinement of persons convicted of a serious violent fel-
15 ony and to build, expand, and operate temporary or per-
16 manent correctional facilities, including facilities on mili-
17 tary bases, for the confinement of convicted nonviolent of-
18 fenders and criminal aliens for the purpose of freeing suit-
19 able existing prison space for the confinement of persons
20 convicted of a serious violent felony.

21 “(b) **LIMITATION.**—An eligible State or eligible
22 States organized as a regional compact may receive either
23 a general grant under section 502 or a truth-in-sentencing
24 incentive grant under section 503.

1 **“SEC. 502. GENERAL GRANTS.**

2 “(a) DISTRIBUTION OF GENERAL GRANTS.—50 per-
3 cent of the total amount of funds made available under
4 this title for each of the fiscal years 1995 through 2000
5 shall be made available for general eligibility grants for
6 each State or States organized as a regional compact that
7 meets the requirements of subsection (b).

8 “(b) GENERAL GRANTS.—In order to be eligible to
9 receive funds under subsection (a), a State or States orga-
10 nized as a regional compact shall submit an application
11 to the Attorney General that provides assurances that
12 such State since 1993 has—

13 “(1) increased the percentage of convicted vio-
14 lent offenders sentenced to prison;

15 “(2) increased the average prison time actually
16 to be served in prison by convicted violent offenders
17 sentenced to prison; and

18 “(3) increased the percentage of sentence to be
19 actually served in prison by violent offenders sen-
20 tenced to prison.

21 **“SEC. 503. TRUTH-IN-SENTENCING GRANTS.**

22 “(a) TRUTH-IN-SENTENCING INCENTIVE GRANTS.—
23 50 percent of the total amount of funds made available
24 under this title for each of the fiscal years 1995 through
25 2000 shall be made available for truth-in-sentencing incen-

1 tive grants to each State or States organized as a regional
2 compact that meet the requirements of subsection (c).

3 “(b) ELIGIBILITY FOR TRUTH-IN-SENTENCING IN-
4 CENTIVE GRANTS.—In order to be eligible to receive funds
5 under subsection (a), a State or States organized as a re-
6 gional compact shall submit an application to the Attorney
7 General that provides assurances that each State applying
8 has enacted laws and regulations which include—

9 “(1)(A) truth-in-sentencing laws which require
10 persons convicted of a serious violent felony serve
11 not less than 85 percent of the sentence imposed or
12 85 percent of the court-ordered maximum sentence
13 for States that practice indeterminate sentencing; or

14 “(B) truth-in-sentencing laws which have been
15 enacted, but not yet implemented, that require such
16 State, not later than three years after such State
17 submits an application to the Attorney General, to
18 provide that persons convicted of a serious violent
19 felony serve not less than 85 percent of the sentence
20 imposed or 85 percent of the court-ordered maxi-
21 mum sentence for States that practice indeterminate
22 sentencing, and

23 “(2) laws requiring that the sentencing or re-
24 leasing authorities notify and allow the victims of
25 the defendant or the family of such victims the op-

1 portunity to be heard regarding the issue of sentenc-
2 ing and any postconviction release.

3 **“SEC. 504. SPECIAL RULES.**

4 “(a) INDETERMINANT SENTENCING EXCEPTION.—
5 Notwithstanding the provisions of paragraphs (1) through
6 (3) of section 502(b), a State shall be eligible for grants
7 under this title, if the State, not later than the date of
8 the enactment of this title—

9 “(1) practices indeterminant sentencing; and

10 “(2) the average times served in such State for
11 the offenses of murder, rape, robbery, and assault
12 exceed, by 10 percent or greater, the national aver-
13 age of times served for such offenses.

14 “(b) EXCEPTION.—The requirements under section
15 502(b) shall apply, except that a State may provide that
16 the Governor of the State may allow for the release of
17 a prisoner over the age of 70 after a public hearing in
18 which representatives of the public and the prisoner’s vic-
19 tims have an opportunity to be heard regarding a proposed
20 release.

21 **“SEC. 505. FORMULA FOR GRANTS.**

22 “To determine the amount of funds that each eligible
23 State or eligible States organized as a regional compact
24 may receive to carry out programs under section 502 or

1 503, the Attorney General shall apply the following for-
2 mula:

3 “(1) \$500,000 or 0.40 percent, whichever is
4 greater shall be allocated to each participating State
5 or compact, as the case may be; and

6 “(2) of the total amount of funds remaining
7 after the allocation under paragraph (1), there shall
8 be allocated to each State or compact, as the case
9 may be, an amount which bears the same ratio to
10 the amount of remaining funds described in this
11 paragraph as the population of such State or com-
12 pact, as the case may be, bears to the population of
13 all the States.

14 **“SEC. 506. ACCOUNTABILITY.**

15 “(a) FISCAL REQUIREMENTS.—A State or States or-
16 ganized as a regional compact that receives funds under
17 this title shall use accounting, audit, and fiscal procedures
18 that conform to guidelines which shall be prescribed by
19 the Attorney General.

20 “(b) REPORTING.—Each State that receives funds
21 under this title shall submit an annual report, beginning
22 on January 1, 1996, and each January 1 thereafter, to
23 the Congress regarding compliance with the requirements
24 of this title.

1 “(c) ADMINISTRATIVE PROVISIONS.—The adminis-
2 trative provisions of sections 801 and 802 of the Omnibus
3 Crime Control and Safe Streets Act of 1968 shall apply
4 to the Attorney General in the same manner as such provi-
5 sions apply to the officials listed in such sections.

6 **“SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

7 “(a) IN GENERAL.—There are authorized to be ap-
8 propriated to carry out this title—

9 “(1) \$232,000,000 for fiscal year 1995;

10 “(2) \$997,500,000 for fiscal year 1996;

11 “(3) \$1,330,000,000 for fiscal year 1997;

12 “(4) \$2,527,000,000 for fiscal year 1998;

13 “(5) \$2,660,000,000 for fiscal year 1999; and

14 “(6) \$2,753,100,000 for fiscal year 2000.

15 “(b) RESTRICTION.—No funds may be used for other
16 purposes authorized by this Act in fiscal years 1995
17 through 1999 unless the programs under this title are
18 fully funded in such years.

19 “(c) LIMITATIONS ON FUNDS.—

20 “(1) USES OF FUNDS.—Funds made available
21 under this title may be used to carry out the pur-
22 poses described in section 501(a).

23 “(2) NONSUPPLANTING REQUIREMENT.—Funds
24 made available under this section shall not be used
25 to supplant State funds, but shall be used to in-

1 crease the amount of funds that would, in the ab-
2 sence of Federal funds, be made available from
3 State sources.

4 “(3) ADMINISTRATIVE COSTS.—Not more than
5 three percent of the funds available under this sec-
6 tion may be used for administrative costs.

7 “(4) MATCHING FUNDS.—The Federal share of
8 a grant received under this title may not exceed 75
9 percent of the costs of a proposal as described in an
10 application approved under this title.

11 “(5) CARRY OVER OF APPROPRIATIONS.—Any
12 funds appropriated but not expended as provided by
13 this section during any fiscal year shall remain avail-
14 able until expended.

15 **“SEC. 508. DEFINITIONS.**

16 “As used in this title—

17 “(1) the term ‘indeterminate sentencing’ means
18 a system by which—

19 “(A) the court has discretion on imposing
20 the actual length of the sentence imposed, up to
21 the statutory maximum; and

22 “(B) an administrative agency, generally
23 the parole board, controls release between
24 court-ordered minimum and maximum sen-
25 tence;

1 “(2) the term ‘serious violent felony’ means—

2 “(A) an offense that is a felony and has as
3 an element the use, attempted use, or threat-
4 ened use of physical force against the person or
5 property of another and has a maximum term
6 of imprisonment of 10 years or more,

7 “(B) any other offense that is a felony and
8 that, by its nature, involves a substantial risk
9 that physical force against the person or prop-
10 erty of another may be used in the course of
11 committing the offense and has a maximum
12 term of imprisonment of 10 years or more, or

13 “(C) such crimes include murder, assault
14 with intent to commit murder, arson, armed
15 burglary, rape, assault with intent to commit
16 rape, kidnapping, and armed robbery; and

17 “(3) the term ‘State’ means a State of the
18 United States, the District of Columbia, or any com-
19 monwealth, territory, or possession of the United
20 States.”.

1 **TITLE VI—EXCLUSIONARY RULE**
2 **REFORM**

3 **SEC. 601. ADMISSIBILITY OF CERTAIN EVIDENCE.**

4 (a) IN GENERAL.—Chapter 223 of title 18, United
5 States Code, is amended by adding at the end the follow-
6 ing:

7 **“§ 3510. Admissibility of evidence obtained by search**
8 **or seizure**

9 “(a) EVIDENCE OBTAINED BY OBJECTIVELY REA-
10 SONABLE SEARCH OR SEIZURE.—Evidence which is ob-
11 tained as a result of a search or seizure shall not be ex-
12 cluded in a proceeding in a court of the United States
13 on the ground that the search or seizure was in violation
14 of the fourth amendment to the Constitution of the United
15 States, if the search or seizure was carried out in cir-
16 cumstances justifying an objectively reasonable belief that
17 it was in conformity with the fourth amendment. The fact
18 that evidence was obtained pursuant to and within the
19 scope of a warrant constitutes prima facie evidence of the
20 existence of such circumstances.

21 “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR
22 RULE.—Evidence shall not be excluded in a proceeding
23 in a court of the United States on the ground that it was
24 obtained in violation of a statute, an administrative rule
25 or regulation, or a rule of procedure unless exclusion is

1 expressly authorized by statute or by a rule prescribed by
2 the Supreme Court pursuant to statutory authority.

3 “(c) RULE OF CONSTRUCTION.—This section shall
4 not be construed to require or authorize the exclusion of
5 evidence in any proceeding.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of chapter 223 of title 18, United States
8 Code, is amended by adding at the end the following:

“3510. Admissibility of evidence obtained by search or seizure.”.

9 **TITLE VII—STOPPING ABUSIVE** 10 **PRISONER LAWSUITS**

11 **SEC. 701. EXHAUSTION REQUIREMENT.**

12 Section 7(a)(1) of the Civil Rights of Institutionalized
13 Persons Act (42 U.S.C. 1997d) is amended—

14 (1) by striking “in any action brought” and in-
15 serting “no action shall be brought”;

16 (2) by striking “the court shall” and all that
17 follows through “require exhaustion of” and insert
18 “until”; and

19 (3) by inserting “are exhausted” after “avail-
20 able”.

21 **SEC. 702. FRIVOLOUS ACTIONS.**

22 Section 7(a) of the Civil Rights of Institutionalized
23 Persons Act (42 U.S.C. 1997d(a)) is amended by adding
24 at the end the following:

1 “(3) The court shall on its own motion or on
2 motion of a party dismiss any action brought pursu-
3 ant to section 1979 of the Revised Statutes of the
4 United States by an adult convicted of a crime and
5 confined in any jail, prison, or other correctional fa-
6 cility if the court is satisfied that the action fails to
7 state a claim upon which relief can be granted or is
8 frivolous or malicious.

9 **SEC. 703. MODIFICATION OF REQUIRED MINIMUM STAND-**
10 **ARDS.**

11 Section 7(b)(2) of the Civil Rights of Institutionalized
12 Persons Act (42 U.S.C. 1997d(b)(2)) is amended by strik-
13 ing subparagraph (A) and redesignating subparagraphs
14 (B) through (E) as subparagraphs (A) through (D), re-
15 spectively.

16 **SEC. 704. PROCEEDINGS IN FORMA PAUPERIS.**

17 (a) DISMISSAL.—Section 1915(d) of title 28, United
18 States Code, is amended—

19 (1) by inserting “at any time” after “counsel
20 and may”; and

21 (2) by striking “and may” and inserting “and
22 shall”;

23 (3) by inserting “fails to state a claim upon
24 which relief may be granted or” after “that the ac-
25 tion”; and

1 (4) by inserting “even if partial filing fees have
2 been imposed by the court” before the period.

3 (b) PRISONER’S STATEMENT OF ASSETS.—Section
4 1915 of title 28, United States Code, is amended by add-
5 ing at the end the following:

6 “(f) If a prisoner in a correctional institution files
7 an affidavit in accordance with subsection (a) of this sec-
8 tion, such prisoner shall include in that affidavit a state-
9 ment of all assets such prisoner possesses. The court shall
10 make inquiry of the correctional institution in which the
11 prisoner is incarcerated for information available to that
12 institution relating to the extent of the prisoner’s assets.
13 The court shall require full or partial payment of filing
14 fees according to the prisoner’s ability to pay.”.

15 **TITLE VIII—FURTHER STREAM-**
16 **LINING DEPORTATION OF**
17 **CRIMINAL ALIENS**

18 **SEC. 801. ADDITIONAL EXPANSION OF DEFINITION OF AG-**
19 **GRAVATED FELONY.**

20 (a) IN GENERAL.—Section 101(a)(43) of the Immi-
21 gration and Nationality Act (8 U.S.C. 1101(a)(43)), as
22 amended by section 222 of the Immigration Technical
23 Amendments Act of 1994 (Public Law 103–416), is
24 amended—

1 (1) in subparagraph (J), by inserting “, or an
2 offense described in section 1084 (if it is a second
3 or subsequent offense) or 1955 of that title (relating
4 to gambling offenses),” after “corrupt organiza-
5 tions)”;

6 (2) in subparagraph (K)—

7 (A) by striking “or” at the end of clause

8 (i),

9 (B) by redesignating clause (ii) as clause

10 (iii), and

11 (C) by inserting after clause (i) the follow-
12 ing new clause:

13 “(ii) is described in section 2421,
14 2422, or 2423 of title 18, United States
15 Code (relating to transportation for the
16 purpose of prostitution) for commercial ad-
17 vantage; or”;

18 (3) in subparagraph (N), by striking “of title
19 18, United States Code”;

20 (4) in subparagraph (O), by striking “which
21 constitutes” and all that follows up to the semicolon
22 at the end and inserting “, for the purpose of com-
23 mercial advantage”;

24 (5) by striking “and” at the end of subpara-
25 graph (P);

1 (6) by striking the period at the end of sub-
2 paragraph (Q) and inserting a semicolon; and

3 (7) by inserting after subparagraph (Q) the fol-
4 lowing new subparagraphs:

5 “(R) an offense relating to commercial
6 bribery, counterfeiting, forgery, or trafficking in
7 vehicles the identification numbers of which
8 have been altered for which a sentence of 5
9 years’ imprisonment or more may be imposed;

10 “(S) an offense relating to perjury or sub-
11 ornation of perjury for which a sentence of 5
12 years’ imprisonment or more may be imposed;
13 and

14 “(T) an offense relating to a failure to ap-
15 pear before a court pursuant to a court order
16 to answer to or dispose of a charge of a felony
17 for which a sentence of 2 years’ imprisonment
18 or more may be imposed.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply to convictions entered on or
21 after the date of the enactment of this Act, except that
22 the amendment made by subsection (a)(3) shall take effect
23 as if included in the enactment of section 222 of the Immi-
24 gration Technical Amendments Act of 1994.

1 **SEC. 802. DEPORTATION PROCEDURES FOR CERTAIN**
2 **CRIMINAL ALIENS WHO ARE NOT PERMA-**
3 **NENT RESIDENTS.**

4 (a) ADMINISTRATIVE HEARINGS.—Section 242A(b)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1252a(b)), as added by section 130004(a) of the Violent
7 Crime Control and Law Enforcement Act of 1994 (Public
8 Law 103–322), is amended—

9 (1) in paragraph (2)—

10 (A) by striking “and” at the end of sub-
11 paragraph (A) and inserting “or”, and

12 (B) by amending subparagraph (B) to read
13 as follows:

14 “(B) had permanent resident status on a
15 conditional basis (as described in section 216)
16 at the time that proceedings under this section
17 commenced.”;

18 (2) in paragraph (3), by striking “30 calendar
19 days” and inserting “14 calendar days”;

20 (3) in paragraph (4)(B), by striking
21 “proccedings” and inserting “proceedings”; and

22 (4) by adding at the end the following new
23 paragraph:

24 “(5) No alien described in this section shall be
25 eligible for any relief from deportation that the At-

1 torney General may grant in the Attorney General's
2 discretion.”.

3 (b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of
4 section 106 of the Immigration and Nationality Act (8
5 U.S.C. 1105a), as added by section 130004(b) of the Vio-
6 lent Crime Control and Law Enforcement Act of 1994
7 (Public Law 103–322), is amended to read as follows:

8 “(d) Notwithstanding subsection (c), a petition for
9 review or for habeas corpus on behalf of an alien described
10 in section 242A(c) may only challenge whether the alien
11 is in fact an alien described in such section, and no court
12 shall have jurisdiction to review any other issue.”.

13 (c) PRESUMPTION OF DEPORTABILITY.—Section
14 242A of the Immigration and Nationality Act (8 U.S.C.
15 1252a) is amended by inserting after subsection (b) the
16 following new subsection:

17 “(c) PRESUMPTION OF DEPORTABILITY.—An alien
18 convicted of an aggravated felony shall be conclusively pre-
19 sumed to be deportable from the United States.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to all aliens against whom deporta-
22 tion proceedings are initiated after the date of the enact-
23 ment of this Act.

1 **SEC. 803. RESTRICTING DEFENSES TO DEPORTATION FOR**
2 **CERTAIN CRIMINAL ALIENS.**

3 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-
4 NENT RESIDENCE.—The last sentence of section 212(c)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1182(c)) is amended by striking “has served for such fel-
7 ony or felonies” and all that follows through the period
8 and inserting “has been sentenced for such felony or felo-
9 nies to a term of imprisonment of at least 5 years, if the
10 time for appealing such conviction or sentence has expired
11 and the sentence has become final.”.

12 (b) DEFENSES BASED ON WITHHOLDING OF DEPOR-
13 TATION.—Section 243(h)(2) of such Act (8 U.S.C.
14 1253(h)(2)) is amended—

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

16 (C),

17 (2) by inserting “or” at the end of subpara-
18 graph (D), and

19 (3) by striking the final sentence and inserting
20 the following new subparagraph:

21 “(E) the alien has been convicted of an ag-
22 gravated felony.”.

1 **SEC. 804. LIMITATION ON COLLATERAL ATTACKS ON UN-**
2 **DERLYING DEPORTATION ORDER.**

3 (a) IN GENERAL.—Section 276 of the Immigration
4 and Nationality Act (8 U.S.C. 1326) is amended by add-
5 ing at the end the following new subsection:

6 “(c) In a criminal proceeding under this section, an
7 alien may not challenge the validity of the deportation
8 order described in subsection (a)(1) or subsection (b) un-
9 less the alien demonstrates that—

10 “(1) the alien exhausted any administrative
11 remedies that may have been available to seek relief
12 against the order;

13 “(2) the deportation proceedings at which the
14 order was issued improperly deprived the alien of the
15 opportunity for judicial review; and

16 “(3) the entry of the order was fundamentally
17 unfair.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to criminal proceedings initiated
20 after the date of the enactment of this Act.

21 **SEC. 805. CRIMINAL ALIEN TRACKING CENTER.**

22 Section 130002(a) of the Violent Crime Control and
23 Law Enforcement Act of 1994 (Public Law 103–312) is
24 amended to read as follows:

25 “(a) OPERATION AND PURPOSE.—The Commissioner
26 of Immigration and Naturalization, with the cooperation

1 of the Director of the Federal Bureau of Investigation and
2 the heads of other agencies, shall, under the authority of
3 section 242(a)(3)(A) of the Immigration and Nationality
4 Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien
5 tracking center. The criminal alien tracking center shall
6 be used to assist Federal, State, and local law enforcement
7 agencies in identifying and locating aliens who may be
8 subject to deportation by reason of their conviction of ag-
9 gravated felonies.”.

10 **SEC. 806. MISCELLANEOUS PROVISIONS.**

11 (a) USE OF ELECTRONIC AND TELEPHONIC MEDIA
12 IN DEPORTATION HEARINGS.—The second sentence of
13 section 242(b) of the Immigration and Nationality Act (8
14 U.S.C. 1252(b)) is amended by inserting before the period
15 the following: “; except that nothing in this subsection
16 shall preclude the Attorney General from authorizing pro-
17 ceedings by electronic or telephonic media (with the con-
18 sent of the alien) or, where waived or agreed to by the
19 parties, in the absence of the alien”.

20 (b) CODIFICATION.—

21 (1) Section 242(i) of such Act (8 U.S.C.
22 1252(i)) is amended by adding at the end the follow-
23 ing: “Nothing in this subsection shall be construed
24 to create any substantive or procedural right or ben-
25 efit that is legally enforceable by any party against

1 the United States or its agencies or officers or any
2 other person.”.

3 (2) Section 225 of the Immigration Technical
4 Amendments Act of 1994 (Public Law 103–416) is
5 amended by striking “and nothing in” and all that
6 follows through “1252(i)”.

7 (3) The amendments made by this subsection
8 shall take effect as if included in the enactment of
9 the Immigration Technical Amendments Act of 1994
10 (Public Law 103–416).

11 **SEC. 807. CONSTRUCTION OF EXPEDITED DEPORTATION**
12 **REQUIREMENTS.**

13 No amendment made by this title shall be construed
14 to create any substantive or procedural right or benefit
15 that is legally enforceable by any party against the United
16 States or its agencies or officers or any other person.

17 **TITLE IX—AMENDMENTS TO VIO-**
18 **LENT CRIME CONTROL AND**
19 **LAW ENFORCEMENT ACT**

20 **SEC. 901. PRISONS.**

21 Subtitle A of title II of the Violent Crime Control
22 and Law Enforcement Act of 1994 is repealed.

23 **SEC. 902. CRIME PREVENTION.**

24 Subtitles A through S and subtitle X of title III of
25 the Violent Crime Control and Law Enforcement Act of

1 1994 are repealed and the provisions of law amended by
2 such subtitles shall read as if the amendments made by
3 such subtitles had not been enacted.

○

HR 3 SC—2

HR 3 SC—3

HR 3 SC—4

HR 3 SC—5

HR 3 SC—6