



98TH CONGRESS
2D SESSION

S. 1762

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 1984

Referred to the Committee on the Judiciary

AN ACT

Entitled the "Comprehensive Crime Control Act of 1984".

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Comprehensive Crime
4 Control Act of 1984".

TITLE I—BAIL

6 SEC. 101. This title may be cited as the "Bail Reform
7 Act of 1984".

8 SEC. 102. (a) Sections 3141 through 3151 of title 18,
9 United States Code, are repealed and the following new sec-
0 tions are inserted in lieu thereof:

★

U.S. Department of Justice
National Institute of Justice

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1 **“§ 3141. Release and detention authority generally**

2 “(a) PENDING TRIAL.—A judicial officer who is author-
3 ized to order the arrest of a person pursuant to section 3041
4 of this title shall order that an arrested person who is brought
5 before him be released or detained, pending judicial proceed-
6 ings, pursuant to the provisions of this chapter.

7 “(b) PENDING SENTENCE OR APPEAL.—A judicial offi-
8 cer of a court of original jurisdiction over an offense, or a
9 judicial officer of a Federal appellate court, shall order that,
10 pending imposition or execution of sentence, or pending
11 appeal of conviction or sentence, a person be released or de-
12 tained pursuant to the provisions of this chapter.

13 **“§ 3142. Release or detention of a defendant pending trial**

14 “(a) IN GENERAL.—Upon the appearance before a judi-
15 cial officer of a person charged with an offense, the judicial
16 officer shall issue an order that, pending trial, the person
17 be—

18 “(1) released on his personal recognizance or upon
19 execution of an unsecured appearance bond, pursuant
20 to the provisions of subsection (b);

21 “(2) released on a condition or combination of
22 conditions pursuant to the provisions of subsection (c);

23 “(3) temporarily detained to permit revocation of
24 conditional release, deportation, or exclusion pursuant
25 to the provisions of subsection (d); or

1 “(4) detained pursuant to the provisions of subsec-
2 tion (e).

3 “(b) RELEASE ON PERSONAL RECOGNIZANCE OR UN-
4 SECURED APPEARANCE BOND.—The judicial officer shall
5 order the pretrial release of the person on his personal recog-
6 nizance, or upon execution of an unsecured appearance bond
7 in an amount specified by the court, subject to the condition
8 that the person not commit a Federal, State, or local crime
9 during the period of his release, unless the judicial officer
10 determines that such release will not reasonably assure the
11 appearance of the person as required or will endanger the
12 safety of any other person or the community.

13 “(c) RELEASE ON CONDITIONS.—If the judicial officer
14 determines that the release described in subsection (b) will
15 not reasonably assure the appearance of the person as re-
16 quired or will endanger the safety of any other person or the
17 community, he shall order the pretrial release of the
18 person—

19 “(1) subject to the condition that the person not
20 commit a Federal, State, or local crime during the
21 period of release; and

22 “(2) subject to the least restrictive further condi-
23 tion, or combination of conditions, that he determines
24 will reasonably assure the appearance of the person as
25 required and the safety of any other person and the

1 community, which may include the condition that the
2 person—

3 “(A) remain in the custody of a designated
4 person, who agrees to supervise him and to report
5 any violation of a release condition to the court, if
6 the designated person is able reasonably to assure
7 the judicial officer that the person will appear as
8 required and will not pose a danger to the safety
9 of any other person or the community;

10 “(B) maintain employment, or, if unem-
11 ployed, actively seek employment;

12 “(C) maintain or commence an educational
13 program;

14 “(D) abide by specified restrictions on his
15 personal associations, place of abode, or travel;

16 “(E) avoid all contact with an alleged victim
17 of the crime and with a potential witness who
18 may testify concerning the offense;

19 “(F) report on a regular basis to a designat-
20 ed law enforcement agency, pretrial services
21 agency, or other agency;

22 “(G) comply with a specified curfew;

23 “(H) refrain from possessing a firearm, de-
24 structive device, or other dangerous weapon;

1 “(I) refrain from excessive use of alcohol, or
2 any use of a narcotic drug or other controlled sub-
3 stance, as defined in section 102 of the Controlled
4 Substances Act (21 U.S.C. 802), without a pre-
5 scription by a licensed medical practitioner;

6 “(J) undergo available medical or psychiatric
7 treatment, including treatment for drug or alcohol
8 dependency, and remain in a specified institution
9 if required for that purpose;

10 “(K) execute an agreement to forfeit upon
11 failing to appear as required, such designated
12 property, including money, as is reasonably neces-
13 sary to assure the appearance of the person as re-
14 quired, and post with the court such indicia of
15 ownership of the property or such percentage of
16 the money as the judicial officer may specify;

17 “(L) execute a bail bond with solvent sure-
18 ties in such amount as is reasonably necessary to
19 assure the appearance of the person as required;

20 “(M) return to custody for specified hours fol-
21 lowing release for employment, schooling, or
22 other limited purposes; and

23 “(N) satisfy any other condition that is rea-
24 sonably necessary to assure the appearance of the

1 person as required and to assure the safety of any
2 other person and the community.

3 The judicial officer may not impose a financial condition that
4 results in the pretrial detention of the person. The judicial
5 officer may at any time amend his order to impose additional
6 or different conditions of release.

7 “(d) TEMPORARY DETENTION TO PERMIT REVOCA-
8 TION OF CONDITIONAL RELEASE, DEPORTATION, OR EX-
9 CLUSION.—If the judicial officer determines that—

10 “(1) the person—

11 “(A) is, and was at the time the offense was
12 committed, on—

13 “(i) release pending trial for a felony
14 under Federal, State, or local law;

15 “(ii) release pending imposition or ex-
16 ecution of sentence, appeal of sentence or
17 conviction, or completion of sentence, for any
18 offense under Federal, State, or local law; or

19 “(iii) probation or parole for any offense
20 under Federal, State, or local law; or

21 “(B) is not a citizen of the United States or
22 lawfully admitted for permanent residence, as de-
23 fined in section 101(a)(20) of the Immigration and
24 Nationality Act (8 U.S.C. 1101(a)(20)); and

1 “(2) the person may flee or pose a danger to any
2 other person or the community;
3 he shall order the detention of the person, for a period of not
4 more than ten days, excluding Saturdays, Sundays, and holi-
5 days, and direct the attorney for the Government to notify
6 the appropriate court, probation or parole official, or State or
7 local law enforcement official, or the appropriate official of
8 the Immigration and Naturalization Service. If the official
9 fails or declines to take the person into custody during that
10 period, the person shall be treated in accordance with the
11 other provisions of this section, notwithstanding the applica-
12 bility of other provisions of law governing release pending
13 trial or deportation or exclusion proceedings. If temporary
14 detention is sought under paragraph (1)(B), the person has
15 the burden of proving to the court that he is a citizen of the
16 United States or is lawfully admitted for permanent resi-
17 dence.

18 “(e) DETENTION.—If, after a hearing pursuant to the
19 provisions of subsection (f), the judicial officer finds that no
20 condition or combination of conditions will reasonably assure
21 the appearance of the person as required and the safety of
22 any other person and the community, he shall order the de-
23 tention of the person prior to trial. In a case described in
24 (f)(1), a rebuttable presumption arises that no condition or

1 combination of conditions will reasonably assure the safety of
2 any other person and the community if the judge finds that—

3 “(1) the person has been convicted of a Federal
4 offense that is described in subsection (f)(1), or of a
5 State or local offense that would have been an offense
6 described in subsection (f)(1) if a circumstance giving
7 rise to Federal jurisdiction had existed;

8 “(2) the offense described in paragraph (1) was
9 committed while the person was on release pending
10 trial for a Federal, State, or local offense; and

11 “(3) a period of not more than five years has
12 elapsed since the date of conviction, or the release of
13 the person from imprisonment, for the offense described
14 in paragraph (1), whichever is later.

15 Subject to rebuttal by the person, it shall be presumed that
16 no condition or combination of conditions will reasonably
17 assure the appearance of the person as required and the
18 safety of the community if the judicial officer finds that there
19 is probable cause to believe that the person committed an
20 offense for which a maximum term of imprisonment of ten
21 years or more is prescribed in the Controlled Substances Act
22 (21 U.S.C. 801 et seq.), the Controlled Substances Import
23 and Export Act (21 U.S.C. 951 et seq.), section 1 of the Act
24 of September 15, 1980 (21 U.S.C. 955a), or an offense under
25 section 924(c) of title 18 of the United States Code.

1 “(f) DETENTION HEARING.—The judicial officer shall
2 hold a hearing to determine whether any condition or combi-
3 nation of conditions set forth in subsection (c) will reasonably
4 assure the appearance of the person as required and the
5 safety of any other person and the community in a case—

6 “(1) upon motion of the attorney for the Govern-
7 ment, that involves—

8 “(A) a crime of violence;

9 “(B) an offense for which the maximum sen-
10 tence is life imprisonment or death;

11 “(C) an offense for which a maximum term
12 of imprisonment of ten years or more is prescribed
13 in the Controlled Substances Act (21 U.S.C. 801
14 et seq.), the Controlled Substances Import and
15 Export Act (21 U.S.C. 951 et seq.), or section 1
16 of the Act of September 15, 1980 (21 U.S.C.
17 955a); or

18 “(D) any felony committed after the person
19 had been convicted of two or more prior offenses
20 described in subparagraphs (A) through (C), or
21 two or more State or local offenses that would
22 have been offenses described in subparagraphs (A)
23 through (C) if a circumstance giving rise to Feder-
24 al jurisdiction had existed; or

1 “(2) Upon motion of the attorney for the Govern-
2 ment or upon the judicial officer’s own motion, that in-
3 volves—

4 “(A) a serious risk that the person will flee;

5 “(B) a serious risk that the person will ob-
6 struct or attempt to obstruct justice, or threaten,
7 injure, or intimidate, or attempt to threaten,
8 injure, or intimidate, a prospective witness or
9 juror.

10 The hearing shall be held immediately upon the person’s first
11 appearance before the judicial officer unless that person, or
12 the attorney for the Government, seeks a continuance.
13 Except for good cause, a continuance on motion of the person
14 may not exceed five days, and a continuance on motion of the
15 attorney for the Government may not exceed three days.
16 During a continuance, the person shall be detained, and the
17 judicial officer, on motion of the attorney for the Government
18 or on his own motion, may order that, while in custody, a
19 person who appears to be a narcotics addict receive a medical
20 examination to determine whether he is an addict. At the
21 hearing, the person has the right to be represented by coun-
22 sel, and, if he is financially unable to obtain adequate repre-
23 sentation, to have counsel appointed for him. The person
24 shall be afforded an opportunity to testify, to present wit-
25 nesses on his own behalf, to cross-examine witnesses who

1 appear at the hearing, and to present information by proffer
2 or otherwise. The rules concerning admissibility of evidence
3 in criminal trials do not apply to the presentation and consid-
4 eration of information at the hearing. The facts the judicial
5 officer uses to support a finding pursuant to subsection (e)
6 that no condition or combination of conditions will reasonably
7 assure the safety of any other person and the community
8 shall be supported by clear and convincing evidence. The
9 person may be detained pending completion of the hearing.

10 “(g) FACTORS TO BE CONSIDERED.—The judicial offi-
11 cer shall, in determining whether there are conditions of re-
12 lease that will reasonably assure the appearance of the
13 person as required and the safety of any other person and the
14 community, take into account the available information con-
15 cerning—

16 “(1) the nature and circumstances of the offense
17 charged, including whether the offense is a crime of
18 violence or involves a narcotic drug;

19 “(2) the weight of the evidence against the
20 person;

21 “(3) the history and characteristics of the person,
22 including—

23 “(A) his character, physical and mental con-
24 dition, family ties, employment, financial re-
25 sources, length of residence in the community,

1 community ties, past conduct, history relating to
2 drug or alcohol abuse, criminal history, and record
3 concerning appearance at court proceedings; and

4 “(B) whether, at the time of the current of-
5 fense or arrest, he was on probation, on parole, or
6 on other release pending trial, sentencing, appeal,
7 or completion of sentence for an offense under
8 Federal, State, or local law; and

9 “(4) the nature and seriousness of the danger to
10 any person or the community that would be posed by
11 the person’s release. In considering the conditions of
12 release described in subsection (c)(2)(K) or (c)(2)(L), the
13 judicial officer may upon his own motion, or shall upon
14 the motion of the Government, conduct an inquiry into
15 the source of the property to be designated for poten-
16 tial forfeiture or offered as collateral to secure a bond,
17 and shall decline to accept the designation, or the use
18 as collateral, of property that, because of its source,
19 will not reasonably assure the appearance of the person
20 as required.

21 “(h) CONTENTS OF RELEASE ORDER.—In a release
22 order issued pursuant to the provisions of subsection (b) or
23 (c), the judicial officer shall—

24 “(1) include a written statement that sets forth all
25 the conditions to which the release is subject, in a

1 manner sufficiently clear and specific to serve as a
2 guide for the person's conduct; and

3 "(2) advise the person of—

4 "(A) the penalties for violating a condition of
5 release, including the penalties for committing an
6 offense while on pretrial release;

7 "(B) the consequences of violating a condi-
8 tion of release, including the immediate issuance
9 of a warrant for the person's arrest; and

10 "(C) the provisions of sections 1503 of this
11 title (relating to intimidation of witnesses, jurors,
12 and officers of the court), 1510 (relating to ob-
13 struction of criminal investigations), 1512 (tam-
14 pering with a witness, victim, or an informant),
15 and 1513 (retaliating against a witness, victim, or
16 an informant).

17 "(i) CONTENTS OF DETENTION ORDER.—In a deten-
18 tion order issued pursuant to the provisions of subsection (e),
19 the judicial officer shall—

20 "(1) include written findings of fact and a written
21 statement of the reasons for the detention;

22 "(2) direct that the person be committed to the
23 custody of the Attorney General for confinement in a
24 corrections facility separate, to the extent practicable,

1 from persons awaiting or serving sentences or being
2 held in custody pending appeal;

3 “(3) direct that the person be afforded reasonable
4 opportunity for private consultation with his counsel;
5 and

6 “(4) direct that, on order of a court of the United
7 States or on request of an attorney for the Govern-
8 ment, the person in charge of the corrections facility in
9 which the person is confined deliver the person to a
10 United States marshal for the purpose of an appear-
11 ance in connection with a court proceeding.

12 The judicial officer may, by subsequent order, permit the
13 temporary release of the person, in the custody of a United
14 States marshal or another appropriate person, to the extent
15 that the judicial officer determines such release to be neces-
16 sary for preparation of the person’s defense or for another
17 compelling reason.

18 “(j) PRESUMPTION OF INNOCENCE.—Nothing in this
19 section shall be construed as modifying or limiting the pre-
20 sumption of innocence.

21 **“§ 3143. Release or detention of a defendant pending sen-
22 tence or appeal**

23 “(a) RELEASE OR DETENTION PENDING SENTENCE.—
24 The judicial officer shall order that a person who has been
25 found guilty of an offense and who is waiting imposition or

1 execution of sentence, be detained, unless the judicial officer
2 finds by clear and convincing evidence that the person is not
3 likely to flee or pose a danger to the safety of any other
4 person or the community if released pursuant to section 3142
5 (b) or (c). If the judicial officer makes such a finding, he shall
6 order the release of the person in accordance with the provi-
7 sions of section 3142 (b) or (c).

8 “(b) RELEASE OR DETENTION PENDING APPEAL BY
9 THE DEFENDANT.—The judicial officer shall order that a
10 person who has been found guilty of an offense and sentenced
11 to a term of imprisonment, and who has filed an appeal or a
12 petition for a writ of certiorari, be detained, unless the judi-
13 cial officer finds—

14 “(1) by clear and convincing evidence that the
15 person is not likely to flee or pose a danger to the
16 safety of any other person or the community if released
17 pursuant to section 3142 (b) or (c); and

18 “(2) that the appeal is not for purpose of delay
19 and raises a substantial question of law or fact likely to
20 result in reversal or an order for a new trial.

21 If the judicial officer makes such findings, he shall order the
22 release of the person in accordance with the provisions of
23 section 3142 (b) or (c).

24 “(c) RELEASE OR DETENTION PENDING APPEAL BY
25 THE GOVERNMENT.—The judicial officer shall treat a de-

1 defendant in a case in which an appeal has been taken by the
2 United States pursuant to the provisions of section 3731 of
3 this title, in accordance with the provisions of section 3142,
4 unless the defendant is otherwise subject to a release or de-
5 tention order.

6 **“§ 3144. Release or detention of a material witness**

7 “If it appears from an affidavit filed by a party that the
8 testimony of a person is material in a criminal proceeding,
9 and if it is shown that it may become impracticable to secure
10 the presence of the person by subpoena, a judicial officer may
11 order the arrest of the person and treat the person in accord-
12 ance with the provisions of section 3142. No material witness
13 may be detained because of inability to comply with any con-
14 dition of release if the testimony of such witness can ade-
15 quately be secured by deposition, and if further detention is
16 not necessary to prevent a failure of justice. Release of a
17 material witness may be delayed for a reasonable period of
18 time until the deposition of the witness can be taken pursuant
19 to the Federal Rules of Criminal Procedure.

20 **“§ 3145. Review and appeal of a release or detention order**

21 “(a) REVIEW OF A RELEASE ORDER.—If a person is
22 ordered released by a magistrate, or by a person other than a
23 judge of a court having original jurisdiction over the offense
24 and other than a Federal appellate court—

1 “(1) the attorney for the Government may file,
2 with the court having original jurisdiction over the of-
3 fense, a motion for revocation of the order or amend-
4 ment of the conditions of release; and

5 “(2) the person may file, with the court having
6 original jurisdiction over the offense, a motion for
7 amendment of the conditions of release.

8 The motion shall be determined promptly.

9 “(b) REVIEW OF A DETENTION ORDER.—If a person is
10 ordered detained by a magistrate, or by a person other than a
11 judge of a court having original jurisdiction over the offense
12 and other than a Federal appellate court, the person may file,
13 with the court having original jurisdiction over the offense, a
14 motion for revocation or amendment of the order. The motion
15 shall be determined promptly.

16 “(c) APPEAL FROM A RELEASE OR DETENTION
17 ORDER.—An appeal from a release or detention order, or
18 from a decision denying revocation or amendment of such an
19 order, is governed by the provisions of section 1291 of title
20 28 and section 3731 of this title. The appeal shall be deter-
21 mined promptly.

22 “§ 3146. Penalty for failure to appear

23 “(a) OFFENSE.—A person commits an offense if, after
24 having been released pursuant to this chapter—

1 “(1) he knowingly fails to appear before a court
2 as required by the conditions of his release; or

3 “(2) he knowingly fails to surrender for service of
4 sentence pursuant to a court order.

5 “(b) GRADING.—If the person was released—

6 “(1) in connection with a charge of, or while
7 awaiting sentence, surrender for service of sentence, or
8 appeal or certiorari after conviction, for—

9 “(A) an offense punishable by death, life im-
10 prisonment, or imprisonment for a term of fifteen
11 years or more, he shall be fined not more than
12 \$25,000 or imprisoned for not more than ten
13 years, or both;

14 “(B) an offense punishable by imprisonment
15 for a term of five or more years, but less than fif-
16 teen years, he shall be fined not more than
17 \$10,000 or imprisoned for not more than five
18 years, or both;

19 “(C) any other felony, he shall be fined not
20 more than \$5,000 or imprisoned for not more
21 than two years, or both; or

22 “(D) a misdemeanor, he shall be fined not
23 more than \$2,000 or imprisoned for not more
24 than one year, or both; or

1 “(2) for appearance as a material witness, he shall
2 be fined not more than \$1,000 or imprisoned for not
3 more than one year, or both.

4 A term of imprisonment imposed pursuant to this section
5 shall be consecutive to the sentence of imprisonment for any
6 other offense.

7 “(c) **AFFIRMATIVE DEFENSE.**—It is an affirmative de-
8 fense to a prosecution under this section that uncontrollable
9 circumstances prevented the person from appearing or sur-
10 rendering, and that the person did not contribute to the cre-
11 ation of such circumstances in reckless disregard of the re-
12 quirement that he appear or surrender, and that he appeared
13 or surrendered as soon as such circumstances ceased to exist.

14 “(d) **DECLARATION OF FORFEITURE.**—If a person fails
15 to appear before a court as required, and the person executed
16 an appearance bond pursuant to section 3142(b) or is subject
17 to the release condition set forth in section 3142 (c)(2)(K) or
18 (c)(2)(L), the judicial officer may, regardless of whether the
19 person has been charged with an offense under this section,
20 declare any property designated pursuant to that section to
21 be forfeited to the United States.

1 **“§ 3147. Penalty for an offense committed while on re-**
2 **lease**

3 “A person convicted of an offense committed while re-
4 leased pursuant to this chapter shall be sentenced, in addition
5 to the sentence prescribed for the offense to—

6 “(1) a term of imprisonment of not less than two
7 years and not more than ten years if the offense is a
8 felony; or

9 “(2) a term of imprisonment of not less than
10 ninety days and not more than one year if the offense
11 is a misdemeanor.

12 A term of imprisonment imposed pursuant to this section
13 shall be consecutive to any other sentence of imprisonment.

14 **“§ 3148. Sanctions for violation of a release condition**

15 “(a) AVAILABLE SANCTIONS.—A person who has been
16 released pursuant to the provisions of section 3142, and who
17 has violated a condition of his release, is subject to a revoca-
18 tion of release, an order of detention, and a prosecution for
19 contempt of court.

20 “(b) REVOCATION OF RELEASE.—The attorney for the
21 Government may initiate a proceeding for revocation of an
22 order of release by filing a motion with the district court. A
23 judicial officer may issue a warrant for the arrest of a person
24 charged with violating a condition of release, and the person
25 shall be brought before a judicial officer in the district in
26 which his arrest was ordered for a proceeding in accordance

1 with this section. To the extent practicable, a person charged
2 with violating the condition of his release that he not commit
3 a Federal, State, or local crime during the period of release
4 shall be brought before the judicial officer who ordered the
5 release and whose order is alleged to have been violated. The
6 judicial officer shall enter an order of revocation and deten-
7 tion if, after a hearing, the judicial officer—

8 “(1) finds that there is—

9 “(A) probable cause to believe that the
10 person has committed a Federal, State, or local
11 crime while on release; or

12 “(B) clear and convincing evidence that the
13 person has violated any other condition of his re-
14 lease; and

15 “(2) finds that—

16 “(A) based on the factors set forth in section
17 3142(g), there is no condition or combination of
18 conditions of release that will assure that the
19 person will not flee or pose a danger to the safety
20 of any other person or the community; or

21 “(B) the person is unlikely to abide by any
22 condition or combination of conditions of release.

23 If there is probable cause to believe that, while on release,
24 the person committed a Federal, State, or local felony, a re-
25 buttable presumption arises that no condition or combination

1 of conditions will assure that the person will not pose a
2 danger to the safety of any other person or the community. If
3 the judicial officer finds that there are conditions of release
4 that will assure that the person will not flee or pose a danger
5 to the safety of any other person or the community, and that
6 the person will abide by such conditions, he shall treat the
7 person in accordance with the provisions of section 3142 and
8 may amend the conditions of release accordingly.

9 “(c) PROSECUTION FOR CONTEMPT.—The judge may
10 commence a prosecution for contempt, pursuant to the provi-
11 sions of section 401, if the person has violated a condition of
12 his release.

13 **“§ 3149. Surrender of an offender by a surety**

14 “A person charged with an offense, who is released
15 upon the execution of an appearance bond with a surety, may
16 be arrested by the surety, and if so arrested, shall be deliv-
17 ered promptly to a United States marshal and brought before
18 a judicial officer. The judicial officer shall determine in ac-
19 cordance with the provisions of section 3148(b) whether to
20 revoke the release of the person, and may absolve the surety
21 of responsibility to pay all or part of the bond in accordance
22 with the provisions of Rule 46 of the Federal Rules of Crimi-
23 nal Procedure. The person so committed shall be held in offi-
24 cial detention until released pursuant to this chapter or an-
25 other provision of law.

1 "§ 3150. Applicability to a case removed from a State
2 court

3 "The provisions of this chapter apply to a criminal case
4 removed to a Federal court from a State court."

5 (b) Section 3154 of title 18, United States Code, is
6 amended—

7 (1) in subsection (1), by striking out "and recom-
8 mend appropriate release conditions for each such
9 person" and inserting in lieu thereof "and, where ap-
10 propriate, include a recommendation as to whether
11 such individual should be released or detained and, if
12 release is recommended, recommend appropriate condi-
13 tions of release"; and

14 (2) in subsection (2), by striking out "section
15 3146(e) or section 3147" and inserting in lieu thereof
16 "section 3145".

17 (c) Section 3156(a) of title 18, United States Code, is
18 amended—

19 (1) by striking out "3146" and inserting in lieu
20 thereof "3141";

21 (2) in paragraph (1)—

22 (A) by striking out "bail or otherwise" and
23 inserting in lieu thereof "detain or"; and

24 (B) by deleting "and" at the end thereof;

25 (3) in paragraph (2), by striking out the period at
26 the end and inserting in lieu thereof "; and";

1 (4) by adding after paragraph (2) the following
2 new paragraphs:

3 “(3) The term ‘felony’ means an offense punish-
4 able by a maximum term of imprisonment of more than
5 one year; and

6 “(4) The term ‘crime of violence’ means—

7 “(A) an offense that has as an element of the
8 offense the use, attempted use, or threatened use
9 of physical force against the person or property of
10 another; or

11 “(B) any other offense that is a felony and
12 that, by its nature, involves a substantial risk that
13 physical force against the person or property of
14 another may be used in the course of committing
15 the offense.”; and

16 (5) in subsection (b)(1), by striking out “bail or
17 otherwise” and inserting in lieu thereof “detain or”.

18 (d) The item relating to chapter 207 in the analysis of
19 part II of title 18, United States Code, is amended to read as
20 follows:

 “207. Release and detention pending judicial proceedings..... 3141”.

21 (e)(1) The caption of chapter 207 is amended to read as
22 follows:

1 **"CHAPTER 207—RELEASE AND DETENTION**
2 **PENDING JUDICIAL PROCEEDINGS".**

3 (2) The section analysis for chapter 207 is amended by
4 striking out the items relating to sections 3141 through 3151
5 and inserting in lieu thereof the following:

- "3141. Release and detention authority generally.
- "3142. Release or detention of a defendant pending trial.
- "3143. Release or detention of a defendant pending sentence or appeal.
- "3144. Release or detention of a material witness.
- "3145. Review and appeal of a release or detention order.
- "3146. Penalty for failure to appear.
- "3147. Penalty for an offense committed while on release.
- "3148. Sanctions for violation of a release condition.
- "3149. Surrender of an offender by a surety.
- "3150. Applicability to a case removed from a State court."

6 SEC. 103. Chapter 203 of title 18, United States Code,
7 is amended as follows:

8 (a) The last sentence of section 3041 is amended by
9 striking out "determining to hold the prisoner for trial" and
10 inserting in lieu thereof "determining, pursuant to the provi-
11 sions of section 3142 of this title, whether to detain or condi-
12 tionally release the prisoner prior to trial".

13 (b) The second paragraph of section 3042 is amended by
14 striking out "imprisoned or admitted to bail" and inserting in
15 lieu thereof "detained or conditionally released pursuant to
16 section 3142 of this title".

17 (c) Section 3043 is repealed.

18 (d) The following new section is added after section
19 3061:

1 **“§ 3062. General arrest authority for violation of release**
 2 **conditions**

3 “A law enforcement officer, who is authorized to arrest
 4 for an offense committed in his presence, may arrest a person
 5 who is released pursuant to chapter 207 if the officer has
 6 reasonable grounds to believe that the person is violating, in
 7 his presence, a condition imposed on the person pursuant to
 8 section 3142 (c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or
 9 (c)(2)(M), or, if the violation involves a failure to remain in a
 10 specified institution as required, a condition imposed pursuant
 11 to section 3142(c)(2)(J).”

12 (e) The section analysis is amended—

13 (1) by amending the item relating to section 3043
 14 to read as follows:

“3043. Repealed.”; and

15 (2) by adding the following new item after the
 16 item relating to section 3061:

“3062. General arrest authority for violation of release conditions.”

17 **SEC. 104.** Section 3731 of title 18, United States Code,
 18 is amended by adding after the second paragraph the follow-
 19 ing new paragraph:

20 “An appeal by the United States shall lie to a court of
 21 appeals from a decision or order, entered by a district court of
 22 the United States, granting the release of a person charged
 23 with or convicted of an offense, or denying a motion for revo-

1 cation of, or modification of the conditions of, a decision or
2 order granting release.”.

3 SEC. 105. The second paragraph of section 3772 of title
4 18, United States Code, is amended by striking out “bail”
5 and inserting in lieu thereof “release pending appeal.”

6 SEC. 106. Section 4282 of title 18, United States Code,
7 is amended—

8 (a) by striking out “and not admitted to bail” and
9 substituting “and detained pursuant to chapter 207”;
10 and

11 (b) by striking out “and unable to make bail”.

12 SEC. 107. Section 636 of title 28, United States Code,
13 is amended by striking out “impose conditions of release
14 under section 3146 of title 18” and inserting in lieu thereof
15 “issue orders pursuant to section 3142 of title 18 concerning
16 release or detention of persons pending trial”.

17 SEC. 108. The Federal Rules of Criminal Procedure are
18 amended as follows:

19 (a) Rule 5(c) is amended by striking out “shall admit the
20 defendant to bail” and inserting in lieu thereof “shall detain
21 or conditionally release the defendant”.

22 (b) The second sentence of rule 15(a) is amended by
23 striking out “committed for failure to give bail to appear to
24 testify at a trial or hearing” and inserting in lieu thereof “de-

1 tained pursuant to section 3144 of title 18, United States
2 Code”.

3 (c) Rule 40(f) is amended to read as follows:

4 “(f) RELEASE OR DETENTION.—If a person was previ-
5 ously detained or conditionally released, pursuant to chapter
6 207 of title 18, United States Code, in another district where
7 a warrant, information or indictment issued, the Federal
8 magistrate shall take into account the decision previously
9 made and the reasons set forth therefor, if any, but will not
10 be bound by that decision. If the Federal magistrate amends
11 the release or detention decision or alters the conditions of
12 release, he shall set forth the reasons for his action in writ-
13 ing.”.

14 (d) Rule 46 is amended—

15 (1) in subdivision (a), by striking out “§ 3146,
16 § 3148, or § 3149” and inserting in lieu thereof
17 “§§ 3142 and 3144”;

18 (2) in subdivision (c), by striking out “3148” and
19 inserting in lieu thereof “3143”;

20 (3) by amending subdivision (e)(2) to read as fol-
21 lows:

22 “(2) SETTING ASIDE.—The court may direct that a for-
23 feiture be set aside in whole or in part, upon such conditions
24 as the court may impose, if a person released upon execution
25 of an appearance bond with a surety is subsequently surren-

1 dered by the surety into custody or if it otherwise appears
2 that justice does not require the forfeiture.”; and

3 (4) by adding the following new subdivision at the
4 end thereof:

5 “(h) FORFEITURE OF PROPERTY.—

6 “Nothing in this rule or in chapter 207 of title 18,
7 United States Code, shall prevent the court from disposing of
8 any charge by entering an order directing forfeiture of prop-
9 erty pursuant to 18 U.S.C. 3142(c)(2)(K) if the value of the
10 property is an amount that would be an appropriate sentence
11 after conviction of the offense charged and if such forfeiture is
12 authorized by statute or regulation.”.

13 (e) Rule 54(b)(3) is amended by striking out “under 18
14 U.S.C. § 3043, and”.

15 SEC. 109. Rule 9(c) of the Federal Rules of Appellate
16 Procedure is amended by striking out “3148” and inserting
17 in lieu thereof “3143”, and following the word “commu-
18 nity”, inserting “and that the appeal is not for purpose of
19 delay and raises a substantial question of law or fact likely to
20 result in reversal or in an order for a new trial”.

21 TITLE II—SENTENCING REFORM

22 SEC. 201. This title may be cited as the “Sentencing
23 Reform Act of 1984”.

24 SEC. 202. (a) Title 18 of the United States Code is
25 amended by—

1 (1) redesignating sections 3577, 3578, 3579,
 2 3580, 3611, 3612, 3615, 3617, 3618, 3619, 3620,
 3 and 3656 as sections 3661, 3662, 3663, 3664, 3665,
 4 3666, 3667, 3668, 3669, 3670, 3671, and 3672 of a
 5 new chapter 232 of title 18 of the United States Code,
 6 respectively;

7 (2) repealing chapters 227, 229, and 231 and sub-
 8 stituting the following new chapters:

9 **“CHAPTER 227—SENTENCES**

“Subchapter	
“A. General Provisions	3551
“B. Probation	3561
“C. Fines.....	3571
“D. Imprisonment	3581

“SUBCHAPTER A—GENERAL PROVISIONS

- “Sec.
- “3551. Authorized sentences.
- “3552. Presentence reports.
- “3553. Imposition of a sentence.
- “3554. Order of criminal forfeiture.
- “3555. Order of notice to victims.
- “3556. Order of restitution.
- “3557. Review of a sentence.
- “3558. Implementation of a sentence.
- “3559. Sentencing classification of offenses.

10 **“SUBCHAPTER A—GENERAL PROVISIONS**

11 **“§ 3551. Authorized sentences**

12 “(a) IN GENERAL.—Except as otherwise specifically
 13 provided, a defendant who has been found guilty of an offense
 14 described in any Federal statute, other than an Act of Con-
 15 gress applicable exclusively in the District of Columbia or the
 16 Uniform Code of Military Justice, shall be sentenced in ac-
 17 cordance with the provisions of this chapter so as to achieve

1 the purposes set forth in subparagraphs (A) through (D) of
2 section 3553(a)(2) to the extent that they are applicable in
3 light of all the circumstances of the case.

4 “(b) INDIVIDUALS.—An individual found guilty of an of-
5 fense shall be sentenced, in accordance with the provisions of
6 section 3553, to—

7 “(1) a term of probation as authorized by sub-
8 chapter B;

9 “(2) a fine as authorized by subchapter C; or

10 “(3) a term of imprisonment as authorized by sub-
11 chapter D.

12 A sentence to pay a fine may be imposed in addition to any
13 other sentence. A sanction authorized by section 3554, 3555,
14 or 3556 may be imposed in addition to the sentence required
15 by this subsection.

16 “(c) ORGANIZATIONS.—An organization found guilty of
17 an offense shall be sentenced, in accordance with the provi-
18 sions of section 3553, to—

19 “(1) a term of probation as authorized by sub-
20 chapter B; or

21 “(2) a fine as authorized by subchapter C.

22 A sentence to pay a fine may be imposed in addition to a
23 sentence to probation. A sanction authorized by section
24 3554, 3555, or 3556 may be imposed in addition to the sen-
25 tence required by this subsection.

1 **“§ 3552. Presentence reports**

2 “(a) **PRESENTENCE INVESTIGATION AND REPORT BY**
3 **PROBATION OFFICER.**—A United States probation officer
4 shall make a presentence investigation of a defendant that is
5 required pursuant to the provisions of Rule 32(c) of the Fed-
6 eral Rules of Criminal Procedure, and shall, before the impo-
7 sition of sentence, report the results of the investigation to
8 the court.

9 “(b) **PRESENTENCE STUDY AND REPORT BY BUREAU**
10 **OF PRISONS.**—If the court, before or after its receipt of a
11 report specified in subsection (a) or (c), desires more informa-
12 tion than is otherwise available to it as a basis for determin-
13 ing the sentence to be imposed on a defendant found guilty of
14 a misdemeanor or felony, it may order a study of the defend-
15 ant. The study shall be conducted in the local community by
16 qualified consultants unless the sentencing judge finds that
17 there is a compelling reason for the study to be done by the
18 Bureau of Prisons or there are no adequate professional re-
19 sources available in the local community to perform the
20 study. The period of the study shall take no more than sixty
21 days. The order shall specify the additional information that
22 the court needs before determining the sentence to be im-
23 posed. Such an order shall be treated for administrative pur-
24 poses as a provisional sentence of imprisonment for the maxi-
25 mum term authorized by section 3581(b) for the offense com-
26 mitted. The study shall inquire into such matters as are spec-

1 ified by the court and any other matters that the Bureau of
2 Prisons or the professional consultants believe are pertinent
3 to the factors set forth in section 3553(a). The period of the
4 study may, in the discretion of the court, be extended for an
5 additional period of not more than sixty days. By the expira-
6 tion of the period of the study, or by the expiration of any
7 extension granted by the court, the United States marshal
8 shall return the defendant to the court for final sentencing.
9 The Bureau of Prisons or the professional consultants shall
10 provide the court with a written report of the pertinent re-
11 sults of the study and make to the court whatever recommen-
12 dations the Bureau or the consultants believe will be helpful
13 to a proper resolution of the case. The report shall include
14 recommendations of the Bureau or the consultants concern-
15 ing the guidelines and policy statements, promulgated by the
16 Sentencing Commission pursuant to 28 U.S.C. 994(a), that
17 they believe are applicable to the defendant's case. After re-
18 ceiving the report and the recommendations, the court shall
19 proceed finally to sentence the defendant in accordance with
20 the sentencing alternatives and procedures available under
21 this chapter.

22 “(c) PRESENTENCE EXAMINATION AND REPORT BY
23 PSYCHIATRIC OR PSYCHOLOGICAL EXAMINERS.—If the
24 court, before or after its receipt of a report specified in sub-
25 section (a) or (b) desires more information than is otherwise

1 available to it as a basis for determining the mental condition
2 of the defendant, it may order that the defendant undergo a
3 psychiatric or psychological examination and that the court
4 be provided with a written report of the results of the exami-
5 nation pursuant to the provisions of section 4247.

6 “(d) DISCLOSURE OF PRESENTENCE REPORTS.—The
7 court shall assure that a report filed pursuant to this section
8 is disclosed to the defendant, the counsel for the defendant,
9 and the attorney for the Government at least ten days prior
10 to the date set for sentencing, unless this minimum period is
11 waived by the defendant.

12 “§ 3553. Imposition of a sentence

13 “(a) FACTORS TO BE CONSIDERED IN IMPOSING A
14 SENTENCE.—The court, in determining the particular sen-
15 tence to be imposed, shall consider—

16 “(1) the nature and circumstances of the offense
17 and the history and characteristics of the defendant;

18 “(2) the need for the sentence imposed—

19 “(A) to reflect the seriousness of the offense,
20 to promote respect for the law, and to provide
21 just punishment for the offense;

22 “(B) to afford adequate deterrence to crimi-
23 nal conduct;

24 “(C) to protect the public from further crimes
25 of the defendant; and

1 “(D) to provide the defendant with needed
2 educational or vocational training, medical care,
3 or other correctional treatment in the most effec-
4 tive manner;

5 “(3) the kinds of sentences available;

6 “(4) the kinds of sentence and the sentencing
7 range established for the applicable category of offense
8 committed by the applicable category of defendant as
9 set forth in the guidelines that are issued by the Sen-
10 tencing Commission pursuant to 28 U.S.C. 994(a)(1)
11 and that are in effect on the date the defendant is sen-
12 tenced;

13 “(5) any pertinent policy statement issued by the
14 Sentencing Commission pursuant to 28 U.S.C.
15 994(a)(2) that is in effect on the date the defendant is
16 sentenced; and

17 “(6) the need to avoid unwarranted sentence dis-
18 parities among defendants with similar records who
19 have been found guilty of similar conduct.

20 “(b) APPLICATION OF GUIDELINES IN IMPOSING A
21 SENTENCE.—The court shall impose a sentence of the kind,
22 and within the range, referred to in subsection (a)(4) unless
23 the court finds that an aggravating or mitigating circum-
24 stance exists that was not adequately taken into considera-
25 tion by the Sentencing Commission in formulating the guide-

1 lines and that should result in a sentence different from that
2 described.

3 “(c) STATEMENT OF REASONS FOR IMPOSING A SEN-
4 TENCE.—The court, at the time of sentencing, shall state in
5 open court the reasons for its imposition of the particular
6 sentence, and, if the sentence—

7 “(1) is of the kind, and within the range, de-
8 scribed in subsection (a)(4), the reason for imposing a
9 sentence at a particular point within the range; or

10 “(2) is not of the kind, or is outside the range, de-
11 scribed in subsection (a)(4), the specific reason for the
12 imposition of a sentence different from that described.

13 If the sentence does not include an order of restitution, the
14 court shall include in the statement the reason therefor. The
15 clerk of the court shall provide a transcription of the court’s
16 statement of reasons to the Probation System, and, if the
17 sentence includes a term of imprisonment, to the Bureau of
18 Prisons.

19 “(d) PRESENTENCE PROCEDURE FOR AN ORDER OF
20 NOTICE OR RESTITUTION.—Prior to imposing an order of
21 notice pursuant to section 3555, or an order of restitution
22 pursuant to section 3556, the court shall give notice to the
23 defendant and the Government that it is considering imposing
24 such an order. Upon motion of the defendant or the Govern-
25 ment, or on its own motion, the court shall—

1 “(1) permit the defendant and the Government to
2 submit affidavits and written memoranda addressing
3 matters relevant to the imposition of such an order;

4 “(2) afford counsel an opportunity in open court to
5 address orally the appropriateness of the imposition of
6 such an order; and

7 “(3) include in its statement of reasons pursuant
8 to subsection (c) specific reasons underlying its deter-
9 minations regarding the nature of such an order.

10 Upon motion of the defendant or the Government, or on its
11 own motion, the court may in its discretion employ any addi-
12 tional procedures that it concludes will not unduly complicate
13 or prolong the sentencing process.

14 **“§ 3554. Order of criminal forfeiture**

15 “The court, in imposing a sentence on a defendant who
16 has been found guilty of an offense described in section 1962
17 of this title or in title II or III of the Comprehensive Drug
18 Abuse Prevention and Control Act of 1970 shall order, in
19 addition to the sentence that is imposed pursuant to the pro-
20 visions of section 3551, that the defendant forfeit property to
21 the United States in accordance with the provisions of section
22 1963 of this title or section 413 of the Comprehensive Drug
23 Abuse and Control Act of 1970.

1 **“§ 3555. Order of notice to victims**

2 “The court, in imposing a sentence on a defendant who
3 has been found guilty of an offense involving fraud or other
4 intentionally deceptive practices, may order, in addition to
5 the sentence that is imposed pursuant to the provisions of
6 section 3551, that the defendant give reasonable notice and
7 explanation of the conviction, in such form as the court may
8 approve, to the victims of the offense. The notice may be
9 ordered to be given by mail, by advertising in designated
10 areas or through designated media, or by other appropriate
11 means. In determining whether to require the defendant to
12 give such notice, the court shall consider the factors set forth
13 in section 3553(a) to the extent that they are applicable and
14 shall consider the cost involved in giving the notice as it re-
15 lates to the loss caused by the offense, and shall not require
16 the defendant to bear the costs of notice in excess of
17 \$20,000.

18 **“§ 3556. Order of restitution**

19 “The court, in imposing a sentence on a defendant who
20 has been found guilty of an offense under this title, or an
21 offense under section 902 (h), (i), (j), or (n) of the Federal
22 Aviation Act of 1958 (49 U.S.C. 1472), may order, in addi-
23 tion to the sentence that is imposed pursuant to the provi-
24 sions of section 3551, that the defendant make restitution to
25 any victim of the offense in accordance with the provisions of
26 sections 3663 and 3664.

1 **“§ 3557. Review of a sentence**

2 “The review of a sentence imposed pursuant to section
3 3551 is governed by the provisions of section 3742.

4 **“§ 3558. Implementation of a sentence**

5 “The implementation of a sentence imposed pursuant to
6 section 3551 is governed by the provisions of chapter 229.

7 **“§ 3559. Sentencing classification of offenses**

8 “(a) CLASSIFICATION.—An offense that is not specifi-
9 cally classified by a letter grade in the section defining it, is
10 classified—

11 “(1) if the maximum term of imprisonment author-
12 ized is—

13 “(A) life imprisonment, or if the maximum
14 penalty is death, as a Class A felony;

15 “(B) twenty years or more, as a Class B
16 felony;

17 “(C) less than twenty years but ten or more
18 years, as a Class C felony;

19 “(D) less than ten years but five or more
20 years, as a Class D felony;

21 “(E) less than five years but more than one
22 year, as a Class E felony;

23 “(F) one year or less but more than six
24 months, as a Class A misdemeanor;

25 “(G) six months or less but more than thirty
26 days, as a Class B misdemeanor;

1 “(H) thirty days or less but more than five
2 days, as a Class C misdemeanor; or

3 “(I) five days or less, or if no imprisonment
4 is authorized, as an infraction.

5 “(b) EFFECT OF CLASSIFICATION.—An offense classi-
6 fied under subsection (a) carries all the incidents assigned to
7 the applicable letter designation except that:

8 “(1) the maximum fine that may be imposed is the
9 fine authorized by the statute describing the offense, or
10 by this chapter, whichever is the greater; and

11 “(2) the maximum term of imprisonment is the
12 term authorized by the statute describing the offense.

“SUBCHAPTER B—PROBATION

“Sec.

“3561. Sentence of probation.

“3562. Imposition of a sentence of probation.

“3563. Conditions of probation.

“3564. Running of a term of probation.

“3565. Revocation of probation.

“3566. Implementation of a sentence of probation.

13 “SUBCHAPTER B—PROBATION

14 “§ 3561. Sentence of probation

15 “(a) IN GENERAL.—A defendant who has been found
16 guilty of an offense may be sentenced to a term of probation
17 unless—

18 “(1) the offense is a Class A or Class B felony;

19 “(2) the offense is an offense for which probation
20 has been expressly precluded; or

1 “(3) the defendant is sentenced at the same time
2 to a term of imprisonment for the same or a different
3 offense.

4 The liability of a defendant for any unexecuted fine or other
5 punishment imposed as to which probation is granted shall be
6 fully discharged by the fulfillment of the terms and conditions
7 of probation.

8 “(b) AUTHORIZED TERMS.—The authorized terms of
9 probation are—

10 “(1) for a felony, not less than one nor more than
11 five years;

12 “(2) for a misdemeanor, not more than five years;
13 and

14 “(3) for an infraction, not more than one year.

15 **“§ 3562. Imposition of a sentence of probation**

16 “(a) FACTORS TO BE CONSIDERED IN IMPOSING A
17 TERM OF PROBATION.—The court, in determining whether
18 to impose a term of probation, and, if a term of probation is
19 to be imposed, in determining the length of the term and the
20 conditions of probation, shall consider the factors set forth in
21 section 3553(a) to the extent that they are applicable.

22 “(b) EFFECT OF FINALITY OF JUDGMENT.—Notwith-
23 standing the fact that a sentence of probation can subsequent-
24 ly be—

1 “(1) modified or revoked pursuant to the provi-
2 sions of section 3564 or 3565;

3 “(2) corrected pursuant to the provisions of rule
4 35 and section 3742; or

5 “(3) appealed and modified, if outside the guide-
6 line range, pursuant to the provisions of section 3742;
7 a judgment of conviction that includes such a sentence consti-
8 tutes a final judgment for all other purposes.

9 **“§ 3563. Conditions of probation**

10 “(a) **MANDATORY CONDITIONS.**—The court shall pro-
11 vide, as an explicit condition of a sentence of probation—

12 “(1) for a felony, a misdemeanor, or an infraction,
13 that the defendant not commit another Federal, State,
14 or local crime during the term of probation; and

15 “(2) for a felony, that the defendant also abide by
16 at least one condition set forth in subsection (b)(2),
17 (b)(3), or (b)(13).

18 If the court has imposed and ordered execution of a fine and
19 placed the defendant on probation, payment of the fine or
20 adherence to the court-established installment schedule shall
21 be a condition of the probation.

22 “(b) **DISCRETIONARY CONDITIONS.**—The court may
23 provide, as further conditions of a sentence of probation, to
24 the extent that such conditions are reasonably related to the
25 factors set forth in section 3553 (a)(1) and (a)(2) and to the

1 extent that such conditions involve only such deprivations of
2 liberty or property as are reasonably necessary for the pur-
3 poses indicated in section 3553(a)(2), that the defendant—

4 “(1) support his dependents and meet other family
5 responsibilities;

6 “(2) pay a fine imposed pursuant to the provisions
7 of subchapter C;

8 “(3) make restitution to a victim of the offense
9 pursuant to the provisions of section 3556;

10 “(4) give to the victims of the offense the notice
11 ordered pursuant to the provisions of section 3555;

12 “(5) work conscientiously at suitable employment
13 or pursue conscientiously a course of study or vocation-
14 al training that will equip him for suitable employment;

15 “(6) refrain, in the case of an individual, from en-
16 gaging in a specified occupation, business, or profession
17 bearing a reasonably direct relationship to the conduct
18 constituting the offense, or engage in such a specified
19 occupation, business, or profession only to a stated
20 degree or under stated circumstances;

21 “(7) refrain from frequenting specified kinds of
22 places or from associating unnecessarily with specified
23 persons;

24 “(8) refrain from excessive use of alcohol, or any
25 use of a narcotic drug or other controlled substance, as

1 defined in section 102 of the Controlled Substances
2 Act (21 U.S.C. 802), without a prescription by a li-
3 censed medical practitioner;

4 “(9) refrain from possessing a firearm, destructive
5 device, or other dangerous weapon;

6 “(10) undergo available medical, psychiatric, or
7 psychological treatment, including treatment for drug
8 or alcohol dependency, as specified by the court, and
9 remain in a specified institution if required for that pur-
10 pose;

11 “(11) remain in the custody of the Bureau of Pris-
12 ons during nights, weekends, or other intervals of time,
13 totaling no more than the lesser of one year or the
14 term of imprisonment authorized for the offense in sec-
15 tion 3581(b), during the first year of the term of proba-
16 tion;

17 “(12) reside at, or participate in the program of, a
18 community corrections facility for all or part of the
19 term of probation;

20 “(13) work in community service as directed by
21 the court;

22 “(14) reside in a specified place or area, or refrain
23 from residing in a specified place or area;

1 “(15) remain within the jurisdiction of the court,
2 unless granted permission to leave by the court or a
3 probation officer;

4 “(16) report to a probation officer as directed by
5 the court or the probation officer;

6 “(17) permit a probation officer to visit him at his
7 home or elsewhere as specified by the court;

8 “(18) answer inquiries by a probation officer and
9 notify the probation officer promptly of any change in
10 address or employment;

11 “(19) notify the probation officer promptly if ar-
12 rested or questioned by a law enforcement officer; or

13 “(20) satisfy such other conditions as the court
14 may impose.

15 “(e) MODIFICATIONS OF CONDITIONS.—The court
16 may, after a hearing, modify, reduce, or enlarge the condi-
17 tions of a sentence of probation at any time prior to the expi-
18 ration or termination of the term of probation, pursuant to
19 the provisions applicable to the initial setting of the condi-
20 tions of probation.

21 “(d) WRITTEN STATEMENT OF CONDITIONS.—The
22 court shall direct that the probation officer provide the de-
23 fendant with a written statement that sets forth all the condi-
24 tions to which the sentence is subject, and that is sufficiently

1 clear and specific to serve as a guide for the defendant's con-
2 duct and for such supervision as is required.

3 **“§ 3564. Running of a term of probation**

4 “(a) COMMENCEMENT.—A term of probation com-
5 mences on the day that the sentence of probation is imposed,
6 unless otherwise ordered by the court.

7 “(b) CONCURRENCE WITH OTHER SENTENCES.—Mul-
8 tiple terms of probation, whether imposed at the same time
9 or at different times, run concurrently with each other. A
10 term of probation runs concurrently with any Federal, State,
11 or local term of probation, or supervised release, or parole for
12 another offense to which the defendant is subject or becomes
13 subject during the term of probation, except that it does not
14 run during any period in which the defendant is imprisoned
15 for a period of at least 30 consecutive days in connection
16 with a conviction for a Federal, State, or local crime.

17 “(c) EARLY TERMINATION.—The court, after consider-
18 ing the factors set forth in section 3553(a) to the extent that
19 they are applicable, may terminate a term of probation previ-
20 ously ordered and discharge the defendant at any time in the
21 case of a misdemeanor or an infraction or at any time after
22 the expiration of one year of probation in the case of a felony,
23 if it is satisfied that such action is warranted by the conduct
24 of the defendant and the interest of justice.

1 “(d) **EXTENSION.**—The court may, after a hearing,
2 extend a term of probation, if less than the maximum author-
3 ized term was previously imposed, at any time prior to the
4 expiration or termination of the term of probation, pursuant
5 to the provisions applicable to the initial setting of the term
6 of probation.

7 “(e) **SUBJECT TO REVOCATION.**— A sentence of proba-
8 tion remains conditional and subject to revocation until its
9 expiration or termination.

10 **“§ 3565. Revocation of probation**

11 “(a) **CONTINUATION OR REVOCATION.**—If the defend-
12 ant violates a condition of probation at any time prior to the
13 expiration or termination of the term of probation, the court
14 may, after a hearing pursuant to Rule 32.1 of the Federal
15 Rules of Criminal Procedure, and after considering the fac-
16 tors set forth in section 3553(a) to the extent that they are
17 applicable—

18 “(1) continue him on probation, with or without
19 extending the term of modifying or enlarging the condi-
20 tions; or

21 “(2) revoke the sentence of probation and impose
22 any other sentence that was available under subchapter
23 A at the time of the initial sentencing.

24 “(b) **DELAYED REVOCATION.**—The power of the court
25 to revoke a sentence of probation for violation of a condition

1 of probation, and to impose another sentence, extends beyond
 2 the expiration of the term of probation for any period reason-
 3 ably necessary for the adjudication of matters arising before
 4 its expiration if, prior to its expiration, a warrant or summons
 5 has been issued on the basis of an allegation of such a viola-
 6 tion.

7 **“§ 3566. Implementation of a sentence of probation**

8 “The implementation of a sentence of probation is gov-
 9 erned by the provisions of subchapter A of chapter 229.

“SUBCHAPTER C—FINES

“Sec.

“3571. Sentence of fine.

“3572. Imposition of a sentence of fine.

“3573. Modification or remission of fine.

“3574. Implementation of a sentence of fine.

10 **“SUBCHAPTER C—FINES**

11 **“§ 3571. Sentence of fine**

12 “(a) IN GENERAL.—A defendant who has been found
 13 guilty of an offense may be sentenced to pay a fine.

14 “(b) AUTHORIZED FINES.—Except as otherwise pro-
 15 vided in this chapter, the authorized fines are—

16 “(1) if the defendant is an individual—

17 “(A) for a felony, or for a misdemeanor re-
 18 sulting in the loss of human life, not more than
 19 \$250,000;

20 “(B) for any other misdemeanor, not more
 21 than \$25,000; and

1 “(C) for an infraction, not more than \$1,000;

2 and

3 “(2) if the defendant is an organization--

4 “(A) for a felony, or for a misdemeanor re-
5 sulting in the loss of human life, not more than
6 \$500,000;

7 “(B) for any other misdemeanor, not more
8 than \$100,000; and

9 “(C) for an infraction, not more than
10 \$10,000.

11 **“§ 3572. Imposition of a sentence of fine**

12 “(a) **FACTORS TO BE CONSIDERED IN IMPOSING**
13 **FINE.**—The court, in determining whether to impose a fine,
14 and, if a fine is to be imposed, in determining the amount of
15 the fine, the time for payment, and the method of payment,
16 shall consider—

17 “(1) the factors set forth in section 3553(a), to the
18 extent they are applicable, including, with regard to
19 the characteristics of the defendant under section
20 3553(a), the ability of the defendant to pay the fine in
21 view of the defendant’s income, earning capacity, and
22 financial resources and, if the defendant is an organiza-
23 tion, the size of the organization;

24 “(2) the nature of the burden that payment of the
25 fine will impose on the defendant, and on any person

1 who is financially dependent upon the defendant, rela-
2 tive to the burden which alternative punishments
3 would impose;

4 “(3) any restitution or reparation made by the de-
5 fendant to the victim of the offense, and any obligation
6 imposed upon the defendant to make such restitution or
7 reparation to the victim of the offense;

8 “(4) if the defendant is an organization, any meas-
9 ure taken by the organization to discipline its employ-
10 ees or agents responsible for the offense or to insure
11 against a recurrence of such an offense; and

12 “(5) any other pertinent equitable consideration.

13 “(b) LIMIT ON AGGREGATE OF MULTIPLE FINES.—
14 Except as otherwise expressly provided, the aggregate of
15 fines that a court may impose on a defendant at the same
16 time for different offenses that arise from a common scheme
17 or plan, and that do not cause separable or distinguishable
18 kinds of harm or damage, is twice the amount imposable for
19 the most serious offense.

20 “(c) EFFECT OF FINALITY OF JUDGMENT.—Notwith-
21 standing the fact that a sentence to pay a fine can subse-
22 quently be—

23 “(1) modified or remitted pursuant to the provi-
24 sions of section 3573;

1 “(2) corrected pursuant to the provisions of rule
2 35 and section 3742; or

3 “(3) appealed and modified, if outside the guide-
4 line range, pursuant to the provisions of section 3742;
5 a judgment of conviction that includes such a sentence consti-
6 tutes a final judgment for all other purposes.

7 “(d) TIME AND METHOD OF PAYMENT.—Payment of a
8 fine is due immediately unless the court, at the time of sen-
9 tencing—

10 “(1) requires payment by a date certain; or

11 “(2) establishes an installment schedule, the spe-
12 cific terms of which shall be fixed by the court.

13 “(e) ALTERNATIVE SENTENCE PRECLUDED.—At the
14 time a defendant is sentenced to pay a fine, the court may not
15 impose an alternative sentence to be served in the event that
16 the fine is not paid.

17 “(f) INDIVIDUAL RESPONSIBILITY FOR PAYMENT.—If
18 a fine is imposed on an organization, it is the duty of each
19 individual authorized to make disbursement of the assets of
20 the organization to pay the fine from assets of the organiza-
21 tion. If a fine is imposed on an agent or shareholder of an
22 organization, the fine shall not be paid, directly or indirectly,
23 out of the assets of the organization, unless the court finds
24 that such payment is expressly permissible under applicable
25 State law.

1 “(g) RESPONSIBILITY TO PROVIDE CURRENT AD-
2 DRESS.—At the time of imposition of the fine, the court shall
3 order the person fined to provide the Attorney General with
4 a current mailing address for the entire period that any part
5 of the fine remains unpaid. Failure to provide the Attorney
6 General with a current address or a change in address shall
7 be punishable as a contempt of court.

8 “(h) STAY OF FINE PENDING APPEALS.—Unless ex-
9 ceptional circumstances exist, if a sentence to pay a fine is
10 stayed pending appeal, the court granting the stay shall in-
11 clude in such stay—

12 “(1) a requirement that the defendant, pending
13 appeal, to deposit the entire fine amount, or the
14 amount due under an installment schedule, during the
15 pendency of an appeal, in an escrow account in the
16 registry of the district court, or to give bond for the
17 payment thereof; or

18 “(2) an order restraining the defendant from
19 transferring or dissipating assets found to be sufficient,
20 if sold, to meet the defendant’s fine obligation.

21 “(i) DELINQUENT FINE.—A fine is delinquent if any
22 portion of such fine is not paid within thirty days of when it is
23 due, including any fines to be paid pursuant to an installment
24 schedule.

1 “(j) **DEFAULT.**—A fine is in default if any portion of
2 such fine is more than ninety days delinquent. When a crimi-
3 nal fine is in default, the entire amount is due with thirty
4 days of notification of the default, notwithstanding any in-
5 stallment schedule.

6 “§ 3573. **Modification or remission of fine**

7 “(a) **PETITION FOR MODIFICATION OR REMISSION.**—
8 A defendant who has been sentenced to pay a fine, and
9 who—

10 “(1) can show a good faith effort to comply with
11 the terms of the sentence and concerning whom the
12 circumstances no longer exist that warranted the im-
13 position of the fine in the amount imposed or payment by
14 the installment schedule, may at any time petition the
15 court for—

16 “(A) an extension of the installment sched-
17 ule, not to exceed two years except in case of in-
18 carceration or special circumstances; or

19 “(B) a remission of all or part of the unpaid
20 portion including interest and penalties; or

21 “(2) has voluntarily made restitution or reparation
22 to the victim of the offense, may at any time petition
23 the court for a remission of the unpaid portion of the
24 fine in an amount not exceeding the amount of such
25 restitution or reparation.

1 Any petition filed pursuant to this subsection shall be filed in
2 the court in which sentence was originally imposed, unless
3 that court transfers jurisdiction to another court. The peti-
4 tioner shall notify the Attorney General that the petition has
5 been filed within ten working days after filing. For the pur-
6 poses of clause (1), unless exceptional circumstances exist, a
7 person may be considered to have made a good faith effort to
8 comply with the terms of the sentence only after payment of
9 a reasonable portion of the fine.

10 “(b) ORDER OF MODIFICATION OR REMISSION.—If,
11 after the filing of a petition as provided in subsection (a), the
12 court finds that the circumstances warrant relief, the court
13 may enter an appropriate order, in which case it shall provide
14 the Attorney General with a copy of such order.

15 **“§ 3574. Implementation of a sentence of fine**

16 “‘The implementation of a sentence to pay a fine is gov-
17 erned by the provisions of subchapter B of chapter 229.

“SUBCHAPTER D—IMPRISONMENT

“Sec.

“3581. Sentence of imprisonment.

“3582. Imposition of a sentence of imprisonment.

“3583. Inclusion of a term of supervised release after imprisonment.

“3584. Multiple sentences of imprisonment.

“3585. Calculation of a term of imprisonment.

“3586. Implementation of a sentence of imprisonment.

1 "SUBCHAPTER D—IMPRISONMENT

2 "§ 3581. Sentence of imprisonment

3 "(a) IN GENERAL.—A defendant who has been found
4 guilty of an offense may be sentenced to a term of imprison-
5 ment.

6 "(b) AUTHORIZED TERMS.—The authorized terms of
7 imprisonment are—

8 "(1) for a Class A felony, the duration of the de-
9 fendant's life or any period of time;

10 "(2) for a Class B felony, not more than twenty-
11 five years;

12 "(3) for a Class C felony, not more than twelve
13 years;

14 "(4) for a Class D felony, not more than six
15 years;

16 "(5) for a Class E felony, not more than three
17 years;

18 "(6) for a Class A misdemeanor, not more than
19 one year;

20 "(7) for a Class B misdemeanor, not more than
21 six months;

22 "(8) for a Class C misdemeanor, not more than
23 thirty days; and

24 "(9) for an infraction, not more than five days.

1 "§ 3582. Imposition of a sentence of imprisonment

2 “(a) FACTORS TO BE CONSIDERED IN IMPOSING A
3 TERM OF IMPRISONMENT.—The court, in determining
4 whether to impose a term of imprisonment, and, if a term of
5 imprisonment is to be imposed, in determining the length of
6 the term, shall consider the factors set forth in section
7 3553(a) to the extent that they are applicable, recognizing
8 that imprisonment is not an appropriate means of promoting
9 correction and rehabilitation. In determining whether to
10 make a recommendation concerning the type of prison facility
11 appropriate for the defendant, the court shall consider any
12 pertinent policy statements issued by the Sentencing Com-
13 mission pursuant to 28 U.S.C. 994(a)(2).

14 “(b) EFFECT OF FINALITY OF JUDGMENT.—Notwith-
15 standing the fact that a sentence to imprisonment can subse-
16 quently be—

17 “(1) modified pursuant to the provisions of subsec-
18 tion (c);

19 “(2) corrected pursuant to the provisions of rule
20 35 and section 3742; or

21 “(3) appealed and modified, if outside the guide-
22 line range, pursuant to the provisions of section 3742;
23 a judgment of conviction that includes such a sentence consti-
24 tutes a final judgment for all other purposes.

1 “(c) MODIFICATION OF AN IMPOSED TERM OF IMPRIS-
2 ONMENT.—The court may not modify a term of imprison-
3 ment once it has been imposed except that—

4 “(1) in any case—

5 “(A) the court, upon motion of the Director
6 of the Bureau of Prisons, may reduce the term of
7 imprisonment, after considering the factors set
8 forth in section 3553(a) to the extent that they
9 are applicable, if it finds that extraordinary and
10 compelling reasons warrant such a reduction and
11 that such a reduction is consistent with applicable
12 policy statements issued by the Sentencing Com-
13 mission; and

14 “(B) the court may modify an imposed term
15 of imprisonment to the extent otherwise expressly
16 permitted by statute or by Rule 35 of the Federal
17 Rules of Criminal Procedure; and

18 “(2) in the case of a defendant who has been sen-
19 tenced to a term of imprisonment based on a sentenc-
20 ing range that has subsequently been lowered by the
21 Sentencing Commission pursuant to 28 U.S.C. 994(n),
22 upon motion of the defendant or the Director of the
23 Bureau of Prisons, or on its own motion, the court
24 may reduce the term of imprisonment, after considering
25 the factors set forth in section 3553(a) to the extent

1 that they are applicable, if such a reduction is consist-
2 ent with applicable policy statements issued by the
3 Sentencing Commission.

4 “(d) INCLUSION OF AN ORDER TO LIMIT CRIMINAL
5 ASSOCIATION OF ORGANIZED CRIME AND DRUG OFFEND-
6 ERS.—The court, in imposing a sentence to a term of impris-
7 onment upon a defendant convicted of a felony set forth in
8 chapter 95 (racketeering) or 96 (racketeer influenced and cor-
9 rupt organizations) of this title or in the Comprehensive Drug
10 Abuse Prevention and Control Act of 1970 (21 U.S.C. 801
11 et seq.), or at any time thereafter upon motion by the Direc-
12 tor of the Bureau of Prisons or a United States attorney, may
13 include as a part of the sentence an order that requires that
14 the defendant not associate or communicate with a specified
15 person, other than his attorney, upon a showing of probable
16 cause to believe that association or communication with such
17 person is for the purpose of enabling the defendant to control,
18 manage, direct, finance, or otherwise participate in an illegal
19 enterprise.

20 “§ 3583. Inclusion of a term of supervised release after im-
21 **prisonment**

22 “(a) IN GENERAL.—The court, in imposing a sentence
23 to a term of imprisonment for a felony or a misdemeanor,
24 may include as a part of the sentence a requirement that the

1 defendant be placed on a term of supervised release after
2 imprisonment.

3 “(b) AUTHORIZED TERMS OF SUPERVISED RE-
4 LEASE.—The authorized terms of supervised release are—

5 “(1) for a Class A or Class B felony, not more
6 than three years;

7 “(2) for a Class C or Class D felony, not more
8 than two years; and

9 “(3) for a Class E felony, or for a misdemeanor,
10 not more than one year.

11 “(c) FACTORS TO BE CONSIDERED IN INCLUDING A
12 TERM OF SUPERVISED RELEASE.—The court, in determin-
13 ing whether to include a term of supervised release, and, if a
14 term of supervised release is to be included, in determining
15 the length of the term and the conditions of supervised re-
16 lease, shall consider the factors set forth in section 3553
17 (a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6).

18 “(d) CONDITIONS OF SUPERVISED RELEASE.—The
19 court shall order, as an explicit condition of supervised re-
20 lease, that the defendant not commit another Federal, State,
21 or local crime during the term of supervision. The court may
22 order, as a further condition of supervised release, to the
23 extent that such condition—

24 “(1) is reasonably related to the factors set forth
25 in section 3553 (a)(1), (a)(2)(B), and (a)(2)(D);

1 “(2) involves no greater deprivation of liberty
2 than is reasonably necessary for the purposes set forth
3 in section 3553 (a)(2)(B) and (a)(2)(D); and

4 “(3) is consistent with any pertinent policy state-
5 ments issued by the Sentencing Commission pursuant
6 to 28 U.S.C. 994(a);

7 any condition set forth as a discretionary condition of proba-
8 tion in section 3563 (b)(1) through (b)(10) and (b)(12) through
9 (b)(19), and any other condition it considers to be appropriate.
10 If an alien defendant is subject to deportation, the court may
11 provide, as a condition of supervised release, that he be de-
12 ported and remain outside the United States, and may order
13 that he be delivered to a duly authorized immigration official
14 for such deportation.

15 “(e) MODIFICATION OF TERM OR CONDITIONS.—The
16 court may, after considering the factors set forth in section
17 3553 (a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6)—

18 “(1) terminate a term of supervised release previ-
19 ously ordered and discharge the person released at any
20 time after the expiration of one year of supervised re-
21 lease, if it is satisfied that such action is warranted by
22 the conduct of the person released and the interest of
23 justice;

24 “(2) after a hearing, extend a term of supervised
25 release if less than the maximum authorized term was

1 previously imposed, and may modify, reduce, or en-
2 large the conditions of supervised release, at any time
3 prior to the expiration or termination of the term of su-
4 pervised release, pursuant to the provisions applicable
5 to the initial setting of the terms and conditions of
6 post-release supervision; or

7 “(3) treat a violation of a condition of a term of
8 supervised release as contempt of court pursuant to
9 section 401(3) of this title.

10 “(f) WRITTEN STATEMENT OF CONDITIONS.—The
11 court shall direct that the probation officer provide the de-
12 fendant with a written statement that sets forth all the condi-
13 tions to which the term of supervised release is subject, and
14 that is sufficiently clear and specific to serve as a guide for
15 the defendant’s conduct and for such supervision as is re-
16 quired.

17 “§ 3584. Multiple sentences of imprisonment

18 “(a) IMPOSITION OF CONCURRENT OR CONSECUTIVE
19 TERMS.—If multiple terms of imprisonment are imposed on a
20 defendant at the same time, or if a term of imprisonment is
21 imposed on a defendant who is already subject to an undis-
22 charged term of imprisonment, the terms may run concur-
23 rently or consecutively, except that the terms may not run
24 consecutively for an attempt and for another offense that was
25 the sole objective of the attempt. Multiple terms of imprison-

1 ment imposed at the same time run concurrently unless the
 2 court orders or the statute mandates that the terms are to
 3 run consecutively. Multiple terms of imprisonment imposed at
 4 different times run consecutively unless the court orders that
 5 the terms are to run concurrently.

6 “(b) **FACTORS TO BE CONSIDERED IN IMPOSING CON-**
 7 **CURRENT OR CONSECUTIVE TERMS.**—The court, in deter-
 8 mining whether the terms imposed are to be ordered to run
 9 concurrently or consecutively, shall consider, as to each of-
 10 fense for which a term of imprisonment is being imposed, the
 11 factors set forth in section 3553(a).

12 “(c) **TREATMENT OF MULTIPLE SENTENCE AS AN AG-**
 13 **GREGATE.**—Multiple terms of imprisonment ordered to run
 14 consecutively or concurrently shall be treated for administra-
 15 tive purposes as a single, aggregate term of imprisonment.

16 “§ 3585. **Calculation of a term of imprisonment**

17 “(a) **COMMENCEMENT OF SENTENCE.**—A sentence to a
 18 term of imprisonment commences on the date the defendant
 19 is received in custody awaiting transportation to, or arrives
 20 voluntarily to commence service of sentence at, the official
 21 detention facility at which the sentence is to be served.

22 “(b) **CREDIT FOR PRIOR CUSTODY.**—A defendant shall
 23 be given credit toward the service of a term of imprisonment
 24 for any time he has spent in official detention prior to the
 25 date the sentence commences—

1 “(1) as a result of the offense for which the sen-
2 tence was imposed; or

3 “(2) as a result of any other charge for which the
4 defendant was arrested after the commission of the of-
5 fense for which the sentence was imposed;

6 that has not been credited against another sentence.

7 **“§ 3586. Implementation of a sentence of imprisonment**

8 “The implementation of a sentence of imprisonment is
9 governed by the provisions of subchapter C of chapter 229
10 and, if the sentence includes a term of supervised release, by
11 the provisions of subchapter A of chapter 229.

12 **“CHAPTER 229—POSTSENTENCE ADMINISTRATION**

“Subchapter	
“A. Probation	3601
“B. Fines	3611
“C. Imprisonment.....	3621

 “SUBCHAPTER A—PROBATION

- “Sec.
- “3601. Supervision of probation.
- “3602. Appointment of probation officers.
- “3603. Duties of probation officers.
- “3604. Transportation of a probationer.
- “3605. Transfer of jurisdiction over a probationer.
- “3606. Arrest and return of a probationer.
- “3607. Special probation and expungement procedures for drug possessor.

13 **“SUBCHAPTER A—PROBATION**

14 **“§ 3601. Supervision of probation**

15 “A person who has been sentenced to probation pursu-
16 ant to the provisions of subchapter B of chapter 227, or
17 placed on probation pursuant to the provisions of chapter
18 403, or placed on supervised release pursuant to the provi-

1 sions of section 3583, shall, during the term imposed, be su-
2 pervised by a probation officer to the degree warranted by
3 the conditions specified by the sentencing court.

4 **“§ 3602. Appointment of probation officers**

5 “(a) APPOINTMENT.—A district court of the United
6 States shall appoint qualified persons to serve, with or with-
7 out compensation, as probation officers within the jurisdiction
8 and under the direction of the court making the appointment.
9 The court may, for cause, remove a probation officer appoint-
10 ed to serve with compensation, and may, in its discretion,
11 remove a probation officer appointed to serve without com-
12 pensation.

13 “(b) RECORD OF APPOINTMENT.—The order of ap-
14 pointment shall be entered on the records of the court, a copy
15 of the order shall be delivered to the officer appointed, and a
16 copy shall be sent to the Director of the Administrative
17 Office of the United States Courts.

18 “(c) CHIEF PROBATION OFFICER.—If the court ap-
19 points more than one probation officer, one may be designat-
20 ed by the court as chief probation officer and shall direct the
21 work of all probation officers serving in the judicial district.

22 **“§ 3603. Duties of probation officers**

23 “A probation officer shall—

24 “(a) instruct a probationer or a person on super-
25 vised release, who is under his supervision, as to the

1 conditions specified by the sentencing court, and pro-
2 vide him with a written statement clearly setting forth
3 all such conditions;

4 "(b) keep informed, to the degree required by the
5 conditions specified by the sentencing court, as to the
6 conduct and condition of a probationer or a person on
7 supervised release, who is under his supervision, and
8 report his conduct and condition to the sentencing
9 court;

10 "(c) use all suitable methods, not inconsistent with
11 the conditions specified by the court, to aid a proba-
12 tioner or a person on supervised release who is under
13 his supervision, and to bring about improvements in his
14 conduct and condition;

15 "(d) be responsible for the supervision of any pro-
16 bationer or a person on supervised release who is
17 known to be within the judicial district;

18 "(e) keep a record of his work, and make such re-
19 ports to the Director of the Administrative Office of
20 the United States Courts as the Director may require;

21 "(f) upon request of the Attorney General or his
22 designee, supervise and furnish information about a
23 person within the custody of the Attorney General
24 while on work release, furlough, or other authorized
25 release from his regular place of confinement, or while

1 in prerelease custody pursuant to the provisions of sec-
2 tion 3624(c);

3 “(g) keep informed concerning the conduct, condi-
4 tion, and compliance with any condition of probation,
5 including the payment of a fine or restitution of each
6 probationer under his supervision and report thereon to
7 the court placing such person on probation and report
8 to the court any failure of a probationer under his su-
9 pervision to pay a fine in default within thirty days
10 after notification that it is in default so that the court
11 may determine whether probation should be revoked;
12 and

13 “(h) perform any other duty that the court may
14 designate.

15 **“§ 3604. Transportation of a probationer**

16 “A court, after imposing a sentence of probation, may
17 direct a United States marshal to furnish the probationer
18 with—

19 “(a) transportation to the place to which he is re-
20 quired to proceed as a condition of his probation; and

21 “(b) money, not to exceed such amount as the At-
22 torney General may prescribe, for subsistence expenses
23 while traveling to his destination.

1 **“§ 3605. Transfer of jurisdiction over a probationer**

2 “A court, after imposing a sentence, may transfer juris-
3 diction over a probationer or person on supervised release to
4 the district court for any other district to which the person is
5 required to proceed as a condition of his probation or release,
6 or is permitted to proceed, with the concurrence of such
7 court. A later transfer of jurisdiction may be made in the
8 same manner. A court to which jurisdiction is transferred
9 under this section is authorized to exercise all powers over
10 the probationer or releasee that are permitted by this sub-
11 chapter or subchapter B or D of chapter 227.

12 **“§ 3606. Arrest and return of a probationer**

13 “If there is probable cause to believe that a probationer
14 or a person on supervised release has violated a condition of
15 his probation or release, he may be arrested, and, upon
16 arrest, shall be taken without unnecessary delay before the
17 court having jurisdiction over him. A probation officer may
18 make such an arrest wherever the probationer or releasee is
19 found, and may make the arrest without a warrant. The
20 court having supervision of the probationer or releasee, or, if
21 there is no such court, the court last having supervision of
22 the probationer or releasee, may issue a warrant for the
23 arrest of a probationer or releasee for violation of a condition
24 of release, and a probation officer or United States marshal
25 may execute the warrant in the district in which the warrant

1 was issued or in any district in which the probationer or re-
2 leasee is found.

3 **“§ 3607. Special probation and expungement procedures**
4 **for drug possessors**

5 “(a) PRE-JUDGMENT PROBATION.—If a person found
6 guilty of an offense described in section 404 of the Controlled
7 Substances Act (21 U.S.C. 844)—

8 “(1) has not, prior to the commission of such of-
9 fense, been convicted of violating a Federal or State
10 law relating to controlled substances; and

11 “(2) has not previously been the subject of a dis-
12 position under this subsection;

13 the court may, with the consent of such person, place him on
14 probation for a term of not more than one year without enter-
15 ing a judgment of conviction. At any time before the expira-
16 tion of the term of probation, if the person has not violated a
17 condition of his probation, the court may, without entering a
18 judgment of conviction, dismiss the proceedings against the
19 person and discharge him from probation. At the expiration
20 of the term of probation, if the person has not violated a
21 condition of his probation, the court shall, without entering a
22 judgment of conviction, dismiss the proceedings against the
23 person and discharge him from probation. If the person vio-
24 lates a condition of his probation, the court shall proceed in
25 accordance with the provisions of section 3565.

1 “(b) RECORD OF DISPOSITION.—A nonpublic record of
2 a disposition under subsection (a), or a conviction that is the
3 subject of an expungement order under subsection (c), shall
4 be retained by the Department of Justice solely for the pur-
5 pose of use by the courts in determining in any subsequent
6 proceeding whether a person qualifies for the disposition pro-
7 vided in subsection (a) or the expungement provided in sub-
8 section (c). A disposition under subsection (a), or a conviction
9 that is the subject of an expungement order under subsection
10 (c), shall not be considered a conviction for the purpose of a
11 disqualification or a disability imposed by law upon conviction
12 of a crime, or for any other purpose.

13 “(c) EXPUNGEMENT OF RECORD OF DISPOSITION.—If
14 the case against a person found guilty of an offense under
15 section 404 of the Controlled Substances Act (21 U.S.C.
16 844) is the subject of a disposition under subsection (a), and
17 the person was less than twenty-one years old at the time of
18 the offense, the court shall enter an expungement order upon
19 the application of such person. The expungement order shall
20 direct that there be expunged from all official records, except
21 the nonpublic records referred to in subsection (b), all refer-
22 ences to his arrest for the offense, the institution of criminal
23 proceedings against him, and the results thereof. The effect
24 of the order shall be to restore such person, in the contempla-
25 tion of the law, to the status he occupied before such arrest

1 or institution of criminal proceedings. A person concerning
 2 whom such an order has been entered shall not be held there-
 3 after under any provision of law to be guilty of perjury, false
 4 swearing, or making a false statement by reason of his failure
 5 to recite or acknowledge such arrests or institution of crimi-
 6 nal proceedings, or the results thereof, in response to an in-
 7 quiry made of him for any purpose.

“SUBCHAPTER B—FINES

“Sec.

“3611. Payment of a fine.

“3612. Collection of an unpaid fine.

“3613. Civil remedies for satisfaction of an unpaid fine.

“3614. Resentencing upon failure to pay a fine.

“3615. Criminal default.

8 “SUBCHAPTER B—FINES

9 “§ 3611. Payment of a fine

10 “A person who has been sentenced to pay a fine pursu-
 11 ant to the provisions of subchapter C of chapter 227 shall pay
 12 the fine immediately, or by the time and method specified by
 13 the sentencing court, to the clerk of the court. The clerk shall
 14 forward the payment to the United States Treasury.

15 “§ 3612. Collection of an unpaid fine

16 “(a) DISPOSITION OF PAYMENT.—The clerk shall for-
 17 ward each fine payment to the United States Treasury and
 18 shall notify the Attorney General of its receipt within ten
 19 working days.

20 “(b) CERTIFICATION OF IMPOSITION.—If a fine ex-
 21 ceeding \$100 is imposed, modified, or remitted, the sentenc-
 22 ing court shall incorporate in the order imposing, remitting,

1 or modifying such fine, and promptly certify to the Attorney
2 General—

3 “(1) the name of the person fined;

4 “(2) his current address;

5 “(3) the docket number of the case;

6 “(4) the amount of the fine imposed;

7 “(5) any installment schedule;

8 “(6) the nature of any modification or remission of
9 the fine or installment schedule; and

10 “(7) the amount of the fine that is due and
11 unpaid.

12 “(c) RESPONSIBILITY FOR COLLECTION.—The Attor-
13 ney General shall be responsible for collection of an unpaid
14 fine concerning which a certification has been issued as pro-
15 vided in subsection (b). An order of restitution, pursuant to
16 section 3556, does not create any right of action against the
17 United States by the person to whom restitution is ordered to
18 be paid.

19 “(d) NOTIFICATION OF DELINQUENCY.—Within ten
20 working days after a fine is determined to be delinquent as
21 provided in section 3572(i), the Attorney General shall notify
22 the person whose fine is delinquent, by certified mail, to
23 inform him that the fine is delinquent.

24 “(e) NOTIFICATION OF DEFAULT.—Within ten work-
25 ing days after a fine is determined to be in default as provided

1 in section 3572(j), the Attorney General shall notify the
2 person defaulting, by certified mail, to inform him that the
3 fine is in default and the entire unpaid balance, including in-
4 terest and penalties, is due within thirty days.

5 “(f) INTEREST, MONETARY PENALTIES FOR DELIN-
6 QUENCY, AND DEFAULT.—Upon a determination of willful
7 nonpayment, the court may impose the following interest and
8 monetary penalties:

9 “(1) INTEREST.—Notwithstanding any other pro-
10 vision of law, interest at the rate of 1 per centum per
11 month, or 12 per centum per year, shall be charged,
12 beginning the thirty-first day after sentencing on the
13 first day of each month during which any fine balance
14 remains unpaid, including sums to be paid pursuant to
15 an installment schedule.

16 “(2) MONETARY PENALTIES FOR DELINQUENT
17 FINES.—Notwithstanding any other provision of law, a
18 penalty sum equal to 10 per centum shall be charged
19 for any portion of a criminal fine which has become de-
20 linquent. The Attorney General may waive all or part
21 of the penalty for good cause.

22 **“§ 3613. Civil remedies for satisfaction of an unpaid fine**

23 “(a) LIEN.—A fine imposed pursuant to the provisions
24 of subchapter C of chapter 227 is a lien in favor of the United
25 States upon all property belonging to the person fined. The

1 lien arises at the time of the entry of the judgment and con-
2 tinues until the liability is satisfied, remitted, or set aside, or
3 until it becomes unenforceable pursuant to the provisions of
4 subsection (b). On application of the person fined, the Attor-
5 ney General shall—

6 “(1) issue a certificate of release, as described in
7 section 6325 of the Internal Revenue Code, of any lien
8 imposed pursuant to this section, upon his acceptance
9 of a bond described in section 6325(a)(2) of the Inter-
10 nal Revenue Code; or

11 “(2) issue a certificate of discharge, as described
12 in section 6325 of the Internal Revenue Code, of any
13 part of the person’s property subject to a lien imposed
14 pursuant to this section, upon his determination that
15 the fair market value of that part of such property re-
16 maining subject to and available to satisfy the lien is at
17 least three times the amount of the fine.

18 “(b) EXPIRATION OF LIEN.—A lien becomes unen-
19 forceable and liability to pay a fine expires—

20 “(1) twenty years after the entry of the judgment;

21 or

22 “(2) upon the death of the individual fined.

23 The period set forth in paragraph (1) may be extended, prior
24 to its expiration, by a written agreement between the person
25 fined and the Attorney General. The running of the period

1 set forth in paragraph (1) is suspended during any interval for
2 which the running of the period of limitations for collection of
3 a tax would be suspended pursuant to section 6503(b),
4 6503(c), 6503(f), 6503(i), or 7508(a)(1)(I) of the Internal
5 Revenue Code of 1954 (26 U.S.C. 6503(b), 6503(c), 6503(f),
6 6503(i), or 7508(a)(1)(I)), or section 513 of the Act of Octo-
7 ber 17, 1940, 54 Stat. 1190.

8 “(c) APPLICATION OF OTHER LIEN PROVISIONS.—The
9 provisions of sections 6323, 6331, 6332, 6334 through 6336,
10 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424
11 through 7426, 7505(a), 7506, 7701, and 7805 of the Internal
12 Revenue Code of 1954 (26 U.S.C. 6323, 6331, 6332, 6334
13 through 6336, 6337(a), 6338 through 6343, 6901, 7402,
14 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805)
15 and of section 513 of the Act of October 17, 1940, 54 Stat.
16 1190, apply to a fine and to the lien imposed by subsection
17 (a) as if the liability of the person fined were for an internal
18 revenue tax assessment, except to the extent that the appli-
19 cation of such statutes is modified by regulations issued by
20 the Attorney General to accord with differences in the nature
21 of the liabilities. For the purposes of this subsection, refer-
22 ences in the preceding sections of the Internal Revenue Code
23 of 1954 to ‘the Secretary’ shall be construed to mean ‘the
24 Attorney General,’ and references in those sections to ‘tax’
25 shall be construed to mean ‘fine.’

1 “(d) EFFECT OF NOTICE OF LIEN.—A notice of the
2 lien imposed by subsection (a) shall be considered a notice of
3 lien for taxes payable to the United States for the purposes of
4 any State or local law providing for the filing of a notice of a
5 tax lien. The registration, recording, docketing, or indexing,
6 in accordance with 28 U.S.C. 1962, of the judgment under
7 which a fine is imposed shall be considered for all purposes as
8 the filing prescribed by section 6323(f)(1)(A) of the Internal
9 Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by sub-
10 section (c).

11 “(e) ALTERNATIVE ENFORCEMENT.—Notwithstanding
12 any other provision of this section, a judgment imposing a
13 fine may be enforced by execution against the property of the
14 person fined in like manner as judgments in civil cases, but in
15 no event shall liability for payment of a fine extend beyond
16 the period specified in subsection (b).

17 “(f) DISCHARGE OF DEBTS INAPPLICABLE.—No dis-
18 charge of debts pursuant to a bankruptcy proceeding shall
19 render a lien under this section unenforceable or discharge
20 liability to pay a fine.

21 “§ 3614. Resentencing upon failure to pay a fine

22 “(a) RESENTENCING.—Subject to the provisions of sub-
23 section (b), if a defendant knowingly fails to pay a delinquent
24 fine the court may resentence the defendant to any sentence
25 which might originally have been imposed.

1 “(b) IMPRISONMENT.—The defendant may be sen-
2 tenced to a term of imprisonment under subsection (a) only if
3 the court determines that—

4 “(1) the defendant willfully refused to pay the de-
5 linquent fine or had failed to make sufficient bona fide
6 efforts to pay the fine; or

7 “(2) in light of the nature of the offense and the
8 characteristics of the person, alternatives to imprison-
9 ment are not adequate to serve the purposes of punish-
10 ment and deterrence.

11 **“§ 3615. Criminal default**

12 “Whoever, having been sentenced to pay a fine, willful-
13 ly fails to pay the fine, shall be fined not more than twice the
14 amount of the unpaid balance of the fine or \$10,000, which-
15 ever is greater, imprisoned not more than one year, or both.

 “SUBCHAPTER C—IMPRISONMENT

 “Sec.

 “3621. Imprisonment of a convicted person.

 “3622. Temporary release of a prisoner.

 “3623. Transfer of a prisoner to State authority.

 “3624. Release of a prisoner.

 “3625. Inapplicability of the Administrative Procedure Act.

16 “SUBCHAPTER C—IMPRISONMENT

17 **“§ 3621. Imprisonment of a convicted person**

18 “(a) COMMITMENT TO CUSTODY OF BUREAU OF PRIS-
19 ONS.—A person who has been sentenced to a term of impris-
20 onment pursuant to the provisions of subchapter D of chapter
21 227 shall be committed to the custody of the Bureau of Pris-
22 ons until the expiration of the term imposed, or until earlier

1 released for satisfactory behavior pursuant to the provisions
2 of section 3624.

3 “(b) PLACE OF IMPRISONMENT.—The Bureau of Pris-
4 ons shall designate the place of the prisoner’s imprisonment.
5 The Bureau may designate any available penal or correction-
6 al facility that meets minimum standards of health and habit-
7 ability established by the Bureau, whether maintained by the
8 Federal Government or otherwise and whether within or
9 without the judicial district in which the person was convict-
10 ed, that the Bureau determines to be appropriate and suit-
11 able, considering—

12 “(1) the resources of the facility contemplated;

13 “(2) the nature and circumstances of the offense;

14 “(3) the history and characteristics of the prison-
15 er;

16 “(4) any statement by the court that imposed the
17 sentence—

18 “(A) concerning the purposes for which the
19 sentence to imprisonment was determined to be
20 warranted; or

21 “(B) recommending a type of penal or cor-
22 rectional facility as appropriate; and

23 “(5) any pertinent policy statement issued by the
24 Sentencing Commission pursuant to section 994(a)(2)
25 of title 28.

1 The Bureau may at any time, having regard for the same
2 matters, direct the transfer of a prisoner from one penal or
3 correctional facility to another.

4 “(c) DELIVERY OF ORDER OF COMMITMENT.—When a
5 prisoner, pursuant to a court order, is placed in the custody of
6 a person in charge of a penal or correctional facility, a copy
7 of the order shall be delivered to such person as evidence of
8 this authority to hold the prisoner, and the original order,
9 with the return endorsed thereon, shall be returned to the
10 court that issued it.

11 “(d) DELIVERY OF PRISONER FOR COURT APPEAR-
12 ANCES.—The United States marshal shall, without charge,
13 bring a prisoner into court or return him to a prison facility
14 on order of a court of the United States or on written request
15 of an attorney for the Government.

16 **“§ 3622. Temporary release of a prisoner**

17 “The Bureau of Prisons may release a prisoner from the
18 place of his imprisonment for a limited period if such release
19 appears to be consistent with the purpose for which the sen-
20 tence was imposed and any pertinent policy statement issued
21 by the Sentencing Commission pursuant to 28 U.S.C.
22 994(a)(2), if such release otherwise appears to be consistent
23 with the public interest and if there is reasonable cause to
24 believe that a prisoner will honor the trust to be imposed in
25 him, by authorizing him, under prescribed conditions, to—

1 “(a) visit a designated place for a period not to
2 exceed thirty days, and then return to the same or an-
3 other facility, for the purpose of—

4 “(1) visiting a relative who is dying;

5 “(2) attending a funeral of a relative;

6 “(3) obtaining medical treatment not other-
7 wise available;

8 “(4) contacting a prospective employer;

9 “(5) establishing or reestablishing family or
10 community ties; or

11 “(6) engaging in any other significant activi-
12 ty consistent with the public interest;

13 “(b) participate in a training or educational pro-
14 gram in the community while continuing in official de-
15 tention at the prison facility; or

16 “(c) work at paid employment in the community
17 while continuing in official detention at the penal or
18 correctional facility if—

19 “(1) the rates of pay and other conditions of
20 employment will not be less than those paid or
21 provided for work of a similar nature in the com-
22 munity; and

23 “(2) the prisoner agrees to pay to the
24 Bureau such costs incident to official detention as
25 the Bureau finds appropriate and reasonable under

1 all the circumstances, such costs to be collected
 2 by the Bureau and deposited in the Treasury to
 3 the credit of the appropriation available for such
 4 costs at the time such collections are made.

5 **“§ 3623. Transfer of a prisoner to State authority**

6 “The Director of the Bureau of Prisons shall order that
 7 a prisoner who has been charged in an indictment or informa-
 8 tion with, or convicted of, a State felony, be transferred to an
 9 official detention facility within such State prior to his release
 10 from a Federal prison facility if—

11 “(1) the transfer has been requested by the Gov-
 12 ernor or other executive authority of the State;

13 “(2) the State has presented to the Director a
 14 certified copy of the indictment, information, or judg-
 15 ment of conviction; and

16 “(3) the Director finds that the transfer would be
 17 in the public interest.

18 If more than one request is presented with respect to a pris-
 19 oner, the Director shall determine which request should re-
 20 ceive preference. The expenses of such transfer shall be
 21 borne by the State requesting the transfer.

22 **“§ 3624. Release of a prisoner**

23 “(a) DATE OF RELEASE.—A prisoner shall be released
 24 by the Bureau of Prisons on the date of the expiration of his
 25 term of imprisonment, less any time credited toward the serv-

1 ice of his sentence as provided in subsection (b). If the date
2 for a prisoner's release falls on a Saturday, a Sunday, or a
3 legal holiday at the place of confinement, the prisoner may be
4 released by the Bureau on the last preceding weekday.

5 “(b) CREDIT TOWARD SERVICE OF SENTENCE FOR
6 SATISFACTORY BEHAVIOR.—A prisoner who is serving a
7 term of imprisonment of more than one year, other than a
8 term of imprisonment for the duration of his life, shall receive
9 credit toward the service of his sentence, beyond the time
10 served, of thirty-six days at the end of each year of his term
11 of imprisonment, beginning after the first year of the term,
12 unless the Bureau of Prisons determines that, during that
13 year, he has not satisfactorily complied with such institution-
14 al disciplinary regulations as have been approved by the At-
15 torney General and issued to the prisoner. If the Bureau de-
16 termines that, during that year, the prisoner has not satisfac-
17 torily complied with such institutional regulations, he shall
18 receive no such credit toward service of his sentence or shall
19 receive such lesser credit as the Bureau determines to be
20 appropriate. The Bureau's determination shall be made
21 within fifteen days after the end of each year of the sentence.
22 Such credit toward service of sentence vests at the time that
23 it is received. Credit that has vested may not later be with-
24 drawn, and credit that has not been earned may not later be
25 granted. Credit for the last year or portion of a year of the

1 term of imprisonment shall be prorated and credited within
2 the last six weeks of the sentence.

3 “(c) PRE-RELEASE CUSTODY.—The Bureau of Prisons
4 shall, to the extent practicable, assure that a prisoner serving
5 a term of imprisonment spends a reasonable part, not to
6 exceed six months, of the last 10 per centum of the term to
7 be served under conditions that will afford the prisoner a rea-
8 sonable opportunity to adjust to and prepare for his re-entry
9 into the community. The United States Probation System
10 shall, to the extent practicable, offer assistance to a prisoner
11 during such pre-release custody.

12 “(d) ALLOTMENT OF CLOTHING, FUNDS, AND TRANS-
13 PORTATION.—Upon the release of a prisoner on the expira-
14 tion of his term of imprisonment, the Bureau of Prisons shall
15 furnish him with—

16 “(1) suitable clothing;

17 “(2) an amount of money, not more than \$500,
18 determined by the Director to be consistent with the
19 needs of the offender and the public interest, unless the
20 Director determines that the financial position of the
21 offender is such that no sum should be furnished; and

22 “(3) transportation to the place of his conviction,
23 to his bona fide residence within the United States, or
24 to such other place within the United States as may be
25 authorized by the Director.

1 “(e) SUPERVISION AFTER RELEASE.—A prisoner
2 whose sentence includes a term of supervised release after
3 imprisonment shall be released by the Bureau of Prisons to
4 the supervision of a probation officer who shall, during the
5 term imposed, supervise the person released to the degree
6 warranted by the conditions specified by the sentencing
7 court. The term of supervised release commences on the day
8 the person is released from imprisonment. The term runs
9 concurrently with any Federal, State, or local term of proba-
10 tion or supervised release or parole for another offense to
11 which the person is subject or becomes subject during the
12 term of supervised release, except that it does not run during
13 any period in which the person is imprisoned, other than
14 during limited intervals as a condition of probation or super-
15 vised release, in connection with a conviction for a Federal,
16 State, or local crime. No prisoner shall be released on super-
17 vision unless such prisoner agrees to adhere to an installment
18 schedule, not to exceed two years except in special circum-
19 stances, to pay for any fine imposed for the offense committed
20 by such prisoner.

21 **“§ 3625. Inapplicability of the Administrative Procedure**
22 **Act**

23 “The provisions of sections 554 and 555 and 701
24 through 706 of title 5, United States Code, do not apply to

1 the making of any determination, decision, or order under
2 this subchapter.”;

3 (3) in section 3663 (formerly section 3579):

4 (A) by amending subsection (g) to read as
5 follows:

6 “(g) If such defendant is placed on probation or sen-
7 tenced to a term of supervised release under this title, any
8 restitution ordered under this section shall be a condition of
9 such probation or supervised release. The court may revoke
10 probation, or modify the term or conditions of a term of su-
11 pervised release, or hold a defendant in contempt pursuant to
12 section 3583(e) if the defendant fails to comply with such
13 order. In determining whether to revoke probation, modify
14 the term or conditions of supervised release, or hold a defend-
15 ant serving a term of supervised release in contempt, the
16 court shall consider the defendant’s employment status, earn-
17 ing ability, financial resources, the willfulness of the defend-
18 ant’s failure to pay, and any other special circumstances that
19 may have a bearing on the defendant’s ability to pay.”; and

20 (B) by amending subsection (h) to read as
21 follows:

22 “(h) An order of restitution may be enforced by the
23 United States in the manner provided in sections 3812 and
24 3813 or in the same manner as a judgment in a civil action,

1 and by the victim named in the order to receive the restitu-
 2 tion in the same manner as a judgment in a civil action.”;

3 (4) adding the following new section at the end of
 4 chapter 232:

5 **“§ 3673. Definitions for sentencing provisions**

6 “As used in chapters 227 and 229—

7 “(a) ‘found guilty’ includes acceptance by a court
 8 of a plea of guilty or nolo contendere;

9 “(b) ‘commission of an offense’ includes the at-
 10 tempted commission of an offense, the consummation of
 11 an offense, and any immediate flight after the commis-
 12 sion of an offense; and

13 “(c) ‘law enforcement officer’ means a public serv-
 14 ant authorized by law or by a government agency to
 15 engage in or supervise the prevention, detection, inves-
 16 tigation, or prosecution of an offense.”; and

17 (5) adding the following caption and sectional
 18 analysis at the beginning of new chapter 232:

19 **“CHAPTER 232—MISCELLANEOUS SENTENCING**
 20 **PROVISIONS**

“Sec.

“3661. Use of information for sentencing.

“3662. Conviction records.

“3663. Order of restitution.

“3664. Procedure for issuing order of restitution.

“3665. Firearms possessed by convicted felons.

“3666. Bribe moneys.

“3667. Liquors and related property; definitions.

“3668. Remission or mitigation of forfeitures under liquor laws; possession pending
 trial.

“3669. Conveyance carrying liquor.

“3670. Disposition of conveyances seized for violation of the Indian liquor laws.

“3671. Vessels carrying explosives and steerage passengers.

“3672. Duties of Director of Administrative Office of the United States Courts.

“3673. Definitions for sentencing provisions.”.

1 (b) The chapter analysis of Part II of title 18, United
2 States Code, is amended by striking out the items relating to
3 chapters 227, 229, and 231, and inserting in lieu thereof the
4 following:

“227. Sentences	3551
“229. Post-Sentence Administration	3601
“231. Repealed.....	
“232. Miscellaneous Sentencing Provisions	3661”.

5 SEC. 203. (a) Chapter 235 of title 18, United States
6 Code, is amended by adding the following new section at the
7 end thereof:

8 **“§ 3742. Review of a sentence**

9 “(a) APPEAL BY A DEFENDANT.—A defendant may file
10 a notice of appeal in the district court for review of an other-
11 wise final sentence if the sentence—

12 “(1) was imposed in violation of law;

13 “(2) was imposed as a result of an incorrect appli-
14 cation of the sentencing guidelines issued by the Sen-
15 tencing Commission pursuant to 28 U.S.C. 994(a); or

16 “(3) was imposed for an offense for which a sen-
17 tencing guideline has been issued by the Sentencing
18 Commission pursuant to 28 U.S.C. 994(a)(1), and the
19 sentence is greater than—

20 “(A) the sentence specified in the applicable
21 guideline to the extent that the sentence includes

1 a greater fine or term of imprisonment or term of
2 supervised release than the maximum established
3 in the guideline, or includes a more limiting condi-
4 tion of probation or supervised release under sec-
5 tion 3563 (b)(6) or (b)(11) than the maximum es-
6 tablished in the guideline; and

7 “(B) the sentence specified in a plea agree-
8 ment, if any, under Rule 11 (e)(1)(B) or (e)(1)(C)
9 of the Federal Rules of Criminal Procedure; or

10 “(4) was imposed for an offense for which no sen-
11 tencing guideline has been issued by the Sentencing
12 Commission pursuant to 28 U.S.C. 994(a)(1) and is
13 greater than the sentence specified in a plea agree-
14 ment, if any, under Rule 11 (e)(1)(B) or (e)(1)(C) of the
15 Federal Rules of Criminal Procedure.

16 “(b) APPEAL BY THE GOVERNMENT.—The Govern-
17 ment may file a notice of appeal in the district court for
18 review of an otherwise final sentence if the sentence—

19 “(1) was imposed in violation of law;

20 “(2) was imposed as a result of an incorrect appli-
21 cation of the sentencing guidelines issued by the Sen-
22 tencing Commission pursuant to 28 U.S.C. 994(a);

23 “(3) was imposed for an offense for which a sen-
24 tencing guideline has been issued by the Sentencing

1 Commission pursuant to 28 U.S.C. 994(a)(1), and the
2 sentence is less than—

3 “(A) the sentence specified in the applicable
4 guideline to the extent that the sentence includes
5 a lesser fine or term of imprisonment or term of
6 supervised release than the minimum established
7 in the guideline, or includes a less limiting condi-
8 tion of probation or supervised release under sec-
9 tion 3563 (b)(6) or (b)(11) than the minimum es-
10 tablished in the guideline; and

11 “(B) the sentence specified in a plea agree-
12 ment, if any, under Rule 11 (e)(1)(B) or (e)(1)(C)
13 of the Federal Rules of Criminal Procedure; or

14 “(4) was imposed for an offense for which no sen-
15 tencing guideline has been issued by the Sentencing
16 Commission pursuant to 28 U.S.C. 994(a)(1) and is
17 less than the sentence specified in a plea agreement, if
18 any, under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal
19 Rules of Criminal Procedure;

20 and the Attorney General or the Solicitor General personally
21 approves the filing of the notice of appeal.

22 “(c) RECORD ON REVIEW.—If a notice of appeal is filed
23 in the district court pursuant to subsection (a) or (b), the clerk
24 shall certify to the court of appeals—

1 “(1) that portion of the record in the case that is
2 designated as pertinent by either of the parties;

3 “(2) the presentence report; and

4 “(3) the information submitted during the sentenc-
5 ing proceeding.

6 “(d) CONSIDERATION.—Upon review of the record, the
7 court of appeals shall determine whether the sentence—

8 “(1) was imposed in violation of law;

9 “(2) was imposed as a result of an incorrect appli-
10 cation of the sentencing guidelines; or

11 “(3) is outside the range of the applicable sentenc-
12 ing guideline, and is unreasonable, having regard for—

13 “(A) the factors to be considered in imposing
14 a sentence, as set forth in chapter 227 of this
15 title; and

16 “(B) the reasons for the imposition of the
17 particular sentence, as stated by the district court
18 pursuant to the provisions of section 3553(c).

19 The court of appeals shall give due regard to the opportunity
20 of the district court to judge the credibility of the witnesses,
21 and shall accept the findings of fact of the district court
22 unless they are clearly erroneous.

23 “(e) DECISION AND DISPOSITION.—If the court of ap-
24 peals determines that the sentence—

1 “(1) was imposed in violation of law or imposed
2 as a result of an incorrect application of the sentencing
3 guidelines, it shall—

4 “(A) remand the case for further sentencing
5 proceedings; or

6 “(B) correct the sentence;

7 “(2) is outside the range of the applicable sentenc-
8 ing guideline and is unreasonable, it shall state specific
9 reasons for its conclusions and—

10 “(A) if it determines that the sentence is too
11 high and the appeal has been filed under subsec-
12 tion (a), it shall set aside the sentence and—

13 “(i) remand the case for imposition of a
14 lesser sentence;

15 “(ii) remand the case for further sen-
16 tencing proceedings; or

17 “(iii) impose a lesser sentence;

18 “(B) if it determines that the sentence is too
19 low and the appeal has been filed under subsec-
20 tion (b), it shall set aside the sentence and—

21 “(i) remand the case for imposition of a
22 greater sentence;

23 “(ii) remand the case for further sen-
24 tencing proceedings; or

25 “(iii) impose a greater sentence; or

1 “(3) was not imposed in violation of law or im-
2 posed as a result of an incorrect application of the sen-
3 tencing guidelines, and is not unreasonable, it shall
4 affirm the sentence.”.

5 (b) The sectional analysis of chapter 235 of title 18,
6 United States Code, is amended by adding the following new
7 item after the item relating to section 3741:

 “3742. Review of a sentence.”.

8 SEC. 204. Chapter 403 of title 18, United States Code
9 is amended as follows:

10 (a) Section 5037 is amended—

11 (1) by redesignating subsection (c) as subsection
12 (d); and

13 (2) by striking out subsections (a) and (b) and in-
14 serting the following new subsections in lieu thereof:

15 “(a) If the court finds a juvenile to be a juvenile delin-
16 quent, the court shall hold a disposition hearing concerning
17 the appropriate disposition no later than twenty court days
18 after the juvenile delinquency hearing unless the court has
19 ordered further study pursuant to subsection (e). After the
20 disposition hearing, and after considering any pertinent policy
21 statements promulgated by the Sentencing Commission pur-
22 suant to 28 U.S.C. 994, the court may suspend the findings
23 of juvenile delinquency, enter an order of restitution pursuant
24 to section 3556, place him on probation, or commit him to
25 official detention. With respect to release or detention pend-

1 ing an appeal or a petition for a writ of certiorari after dispo-
2 sition, the court shall proceed pursuant to the provisions of
3 chapter 207.

4 “(b) The term for which probation may be ordered for a
5 juvenile found to be a juvenile delinquent may not extend—

6 “(1) in the case of a juvenile who is less than
7 eighteen years old, beyond the lesser of—

8 “(A) the date when the juvenile becomes
9 twenty-one years old; or

10 “(B) the maximum term that would be au-
11 thorized by section 3561(b) if the juvenile had
12 been tried and convicted as an adult; or

13 “(2) in the case of a juvenile who is between
14 eighteen and twenty-one years old, beyond the lesser
15 of—

16 “(A) three years; or

17 “(B) the maximum term that would be au-
18 thorized by section 3561(b) if the juvenile had
19 been tried and convicted as an adult.

20 The provisions dealing with probation set forth in sections
21 3563, 3564, and 3565 are applicable to an order placing a
22 juvenile on probation.

23 “(c) The term for which official detention may be or-
24 dered for a juvenile found to be a juvenile delinquent may not
25 extend—

1 “(1) in the case of a juvenile who is less than
2 eighteen years old, beyond the lesser of—

3 “(A) the date when the juvenile becomes
4 twenty-one years old; or

5 “(B) the maximum term of imprisonment
6 that would be authorized by section 3581(b) if the
7 juvenile had been tried and convicted as an adult;
8 or

9 “(2) in the case of a juvenile who is between
10 eighteen and twenty-one years old—

11 “(A) who if convicted as an adult would be
12 convicted of a Class A, B, or C felony, beyond
13 five years; or

14 “(B) in any other case beyond the lesser of—

15 “(i) three years; or

16 “(ii) the maximum term of imprisonment
17 that would be authorized by section 3581(b)
18 if the juvenile had been tried and convicted
19 as an adult.”.

20 (b) Section 5041 is repealed.

21 (c) Section 5042 is amended by—

22 (1) striking out “parole or” each place it appears
23 in the caption and text; and

24 (2) striking out “parolee or”.

1 (d) The sectional analysis is amended by striking out the
2 items relating to sections 5041 and 5042 and inserting in lieu
3 thereof the following:

“5041. Repealed.

“5042. Revocation of Probation.”.

4 SEC. 205. The Federal Rules of Criminal Procedure are
5 amended as follows:

6 (a) Rule 32 is amended—

7 (1) by deleting subdivision (a)(1) and inserting in
8 lieu thereof the following:

9 “(1) IMPOSITION OF SENTENCE.—Sentence shall be
10 imposed without unnecessary delay, but the court may, upon
11 a motion that is jointly filed by the defendant and by the
12 attorney for the Government and that asserts a factor impor-
13 tant to the sentencing determination is not capable of being
14 resolved at that time, postpone the imposition of sentence for
15 a reasonable time until the factor is capable of being resolved.
16 Prior to the sentencing hearing, the court shall provide the
17 counsel for the defendant and the attorney for the Govern-
18 ment with notice of the probation officer’s determination,
19 pursuant to the provisions of subdivision (c)(2)(B), of the sen-
20 tencing classifications and sentencing guideline range be-
21 lieved to be applicable to the case. At the sentencing hearing,
22 the court shall afford the counsel for the defendant and the
23 attorney for the Government an opportunity to comment
24 upon the probation officer’s determination and on other mat-

1 ters relating to the appropriate sentence. Before imposing
2 sentence, the court shall also—

3 “(A) determine that the defendant and his counsel
4 have had the opportunity to read and discuss the pre-
5 sentence investigation report made available pursuant
6 to subdivision (c)(3)(A) or summary thereof made avail-
7 able pursuant to subdivision (c)(3)(B);

8 “(B) afford counsel for the defendant an opportu-
9 nity to speak on behalf of the defendant; and

10 “(C) address the defendant personally and ask him
11 if he wishes to make a statement in his own behalf and
12 to present any information in mitigation of the sen-
13 tence.

14 The attorney for the Government shall have an equivalent
15 opportunity to speak to the court. Upon a motion that is
16 jointly filed by the defendant and by the attorney for the
17 Government, the court may hear in camera such a statement
18 by the defendant, counsel for the defendant, or the attorney
19 for the Government.”;

20 (2) in subdivision (a)(2), by adding “, including
21 any right to appeal the sentence,” after “right to
22 appeal” in the first sentence;

23 (3) in subdivision (a)(2), by adding “, except that
24 the court shall advise the defendant of any right to

1 appeal his sentence” after “nolo contendere” in the
2 second sentence;

3 (4) by amending the first sentence of subdivision
4 (c)(1) to read as follows:

5 “A probation officer shall make a presentence investiga-
6 tion and report to the court before the imposition of sentence
7 unless the court finds that there is in the record information
8 sufficient to enable the meaningful exercise of sentencing au-
9 thority pursuant to 18 U.S.C. 3553, and the court explains
10 this finding on the record.”;

11 (5) by amending subdivision (c)(2) to read as fol-
12 lows:

13 “(2) REPORT.—The report of the presentence investi-
14 gation shall contain—

15 “(A) information about the history and character-
16 istics of the defendant, including his prior criminal
17 record, if any, his financial condition, and any circum-
18 stances affecting his behavior that may be helpful in
19 imposing sentence or in the correctional treatment of
20 the defendant;

21 “(B) the classification of the offense and of the de-
22 fendant under the categories established by the Sen-
23 tencing Commission pursuant to section 994(a) of title
24 28, that the probation officer believes to be applicable
25 to the defendant’s case; the kinds of sentence and the

1 sentencing range suggested for such a category of of-
2 fense committed by such a category of defendant as set
3 forth in the guidelines issued by the Sentencing Com-
4 mission pursuant to 28 U.S.C. 994(a)(1); and an expla-
5 nation by the probation officer of any factors that may
6 indicate that a sentence of a different kind or of a dif-
7 ferent length than one within the applicable guideline
8 would be more appropriate under all the circumstances;

9 “(C) any pertinent policy statement issued by the
10 Sentencing Commission pursuant to 28 U.S.C.
11 994(a)(2);

12 “(D) verified information stated in a nonargumen-
13 tative style containing an assessment of the financial,
14 social, psychological, and medical impact upon, and
15 cost to, any individual against whom the offense has
16 been committed;

17 “(E) unless the court orders otherwise, informa-
18 tion concerning the nature and extent of nonprison pro-
19 grams and resources available for the defendant; and

20 “(F) such other information as may be required by
21 the court.”;

22 (6) in subdivision (c)(3)(A), by deleting “exclusive
23 of any recommendations as to sentence” and inserting
24 in lieu thereof “, including the information required by

1 subdivision (c)(2) but not including any final recommen-
2 dation as to sentence,”;

3 (7) in subdivision (c)(3)(D), delete “or the Parole
4 Commission”;

5 (8) in subdivision (c)(3)(F), delete “or the Parole
6 Commission pursuant to 18 U.S.C. §§ 4205(c), 4252,
7 5010(e), or 5037(c)” and substitute “pursuant to 18
8 U.S.C. § 3552(b)”;

9 (9) by deleting “imposition of sentence is suspend-
10 ed, or disposition is had under 18 U.S.C. § 4205(c),”
11 in subdivision (d).

12 (b) Rule 35 is amended to read as follows:

13 **“Rule 35. Correction of Sentence**

14 “(a) CORRECTION OF A SENTENCE ON REMAND.—The
15 court shall correct a sentence that is determined on appeal
16 under 18 U.S.C. 3742 to have been imposed in violation of
17 law, to have been imposed as a result of an incorrect applica-
18 tion of the sentencing guidelines, or to be unreasonable, upon
19 remand of the case to the court—

20 “(1) for imposition of a sentence in accord with
21 the findings of the court of appeals; or

22 “(2) for further sentencing proceedings if, after
23 such proceedings, the court determines that the origi-
24 nal sentence was incorrect.

1 “(b) CORRECTION OF SENTENCE FOR CHANGED CIR-
2 CUMSTANCES.—The court, on motion of the Government,
3 may within one year after the imposition of a sentence, lower
4 a sentence to reflect a defendant’s subsequent, substantial as-
5 sistance in the investigation or prosecution of another person
6 who has committed an offense, to the extent that such assist-
7 ance is a factor in applicable guidelines or policy statements
8 issued by the Sentencing Commission pursuant to 28 U.S.C.
9 994(a).”.

10 (c) Rule 38 is amended—

11 (1) by amending the caption to read: “Stay of Ex-
12 ecution” and deleting “(a) Stay of Execution.”;

13 (2) by deleting subdivisions (b) and (c);

14 (3) by redesignating subdivisions (a)(1) through
15 (a)(4) as subdivisions (a) through (d), respectively;

16 (4) in subdivision (a), by adding “from the convic-
17 tion or sentence” after “is taken”;

18 (5) in the first sentence of subdivision (b), by
19 adding “from the conviction or sentence” after “is
20 taken”;

21 (6) by amending subdivision (d) to read as follows:

22 “(d) PROBATION.—A sentence of probation may be
23 stayed if an appeal from the conviction or sentence is taken.
24 If the sentence is stayed, the court shall fix the terms of the
25 stay.”; and

1 (7) by adding new subdivisions (e) and (f) as fol-
2 lows:

3 “(e) CRIMINAL FORFEITURE, NOTICE TO VICTIMS,
4 AND RESTITUTION.—A sanction imposed as part of the sen-
5 tence pursuant to 18 U.S.C. 3554, 3555, or 3556 may, if an
6 appeal of the conviction or sentence is taken, be stayed by
7 the district court or by the court of appeals upon such terms
8 as the court finds appropriate. The court may issue such
9 orders as may be reasonably necessary to ensure compliance
10 with the sanction upon disposition of the appeal, including
11 the entering of a restraining order or an injunction or requir-
12 ing a deposit in whole or in part of the monetary amount
13 involved into the registry of the district court or execution of
14 a performance bond.

15 “(f) DISABILITIES.—A civil or employment disability
16 arising under a Federal statute by reason of the defendant’s
17 conviction or sentence, may, if an appeal is taken, be stayed
18 by the district court or by the court of appeals upon such
19 terms as the court finds appropriate. The court may enter a
20 restraining order or an injunction, or take any other action
21 that may be reasonably necessary to protect the interest rep-
22 resented by the disability pending disposition of the appeal.”.

23 (d) Rule 40 is amended by deleting “3653” in subdivi-
24 sion (d)(1) and inserting in lieu thereof “3605”.

1 (e) Rule 54 is amended by amending the definition of
2 "Petty offense" in subdivision (c) to read as follows: " 'Petty
3 offense' means a class B or C misdemeanor or an infrac-
4 tion."

5 (f) Rule 6(e)(3)(C) is amended by adding the following
6 subdivision:

7 (iv) when permitted by a court at the re-
8 quest of an attorney for the government, upon a
9 showing that such matters may disclose a viola-
10 tion of state criminal law, to an appropriate offi-
11 cial of a state or subdivision of a state for the pur-
12 pose of enforcing such law."

13 (g) The Table of Rules that precedes Rule 1 is amended
14 as follows:

15 (1) The item relating to Rule 35 is amended to
16 read as follows:

"35. Correction of Sentence.

"(a) Correction of a sentence on remand.

"(b) Correction of a sentence for changed circumstances."

17 (2) The item relating to Rule 38 is amended to
18 read as follows:

"38. Stay of Execution.

"(a) Death.

"(b) Imprisonment.

"(c) Fine.

"(d) Probation.

"(e) Criminal forfeiture, notice to victims, and restitution.

"(f) Disabilities."

1 SEC. 206. (a) The Rules of Procedure for the Trial of
 2 Misdemeanors Before United States Magistrates are amended
 3 by adding the following new rule at the end thereof:

4 **“Rule 9. Definition**

5 “As used in these rules, ‘petty offense’ means a Class B
 6 or C misdemeanor or an infraction.”.

7 (b) The Table of Rules that precedes Rule 1 is amended
 8 by adding at the end thereof the following new item:

“9. Definition.”.

9 SEC. 207. (a) Title 28 of the United States Code is
 10 amended by adding the following new chapter after chapter
 11 57:

12 **“CHAPTER 58—UNITED STATES SENTENCING**

13 **COMMISSION**

“Sec.

“991. United States Sentencing Commission; establishment and purposes.

“992. Terms of office; compensation.

“993. Powers and duties of Chairman.

“994. Duties of the Commission.

“995. Powers of the Commission.

“996. Director and staff.

“997. Annual report.

“998. Definitions.

14 **“§ 991. United States Sentencing Commission; establish-**
 15 **ment and purposes**

16 “(a) There is established as an independent commission
 17 in the judicial branch of the United States a United States
 18 Sentencing Commission which shall consist of seven voting
 19 members and one nonvoting member. The President, after
 20 consultation with representatives of judges, prosecuting at-

1 torneys, defense attorneys, law enforcement officials, senior
2 citizens, victims of crime, and others interested in the crimi-
3 nal justice process, shall appoint the voting members of the
4 Commission, by and with the advice and consent of the
5 Senate, one of whom shall be appointed, by and with the
6 advice and consent of the Senate, as the Chairman. At least
7 two of the members shall be Federal judges in regular active
8 service selected after considering a list of six judges recom-
9 mended to the President by the Judicial Conference of the
10 United States. Not more than four of the members of the
11 Commission shall be members of the same political party.
12 The Attorney General, or his designee, shall be an ex officio,
13 nonvoting member of the Commission. The Chairman and
14 members of the Commission shall be subject to removal from
15 the Commission by the President only for neglect of duty or
16 malfeasance in office or for other good cause shown.

17 “(b) The purposes of the United States Sentencing
18 Commission are to—

19 “(1) establish sentencing policies and practices for
20 the Federal criminal justice system that—

21 “(A) assure the meeting of the purposes of
22 sentencing as set forth in section 3553(a)(2) of
23 title 18, United States Code;

24 “(B) provide certainty and fairness in meet-
25 ing the purposes of sentencing, avoiding unwar-

1 ranted sentencing disparities among defendants
2 with similar records who have been found guilty
3 of similar criminal conduct while maintaining suf-
4 ficient flexibility to permit individualized sentences
5 when warranted by mitigating or aggravating fac-
6 tors not taken into account in the establishment of
7 general sentencing practices; and

8 “(C) reflect, to the extent practicable, ad-
9 vancement in knowledge of human behavior as it
10 relates to the criminal justice process; and

11 “(2) develop means of measuring the degree to
12 which the sentencing, penal, and correctional practices
13 are effective in meeting the purposes of sentencing as
14 set forth in section 3553(a)(2) of title 18, United States
15 Code.

16 **“§ 992. Terms of office; compensation**

17 “(a) The voting members of the United States Sentenc-
18 ing Commission shall be appointed for six-year terms, except
19 that the initial terms of the first members of the Commission
20 shall be staggered so that—

21 “(1) two members, including the Chairman, serve
22 terms of six years;

23 “(2) three members serve terms of four years; and

24 “(3) two members serve terms of two years.

1 “(b) No voting member may serve more than two full
2 terms. A voting member appointed to fill a vacancy that
3 occurs before the expiration of the term for which his prede-
4 cessor was appointed shall be appointed only for the remain-
5 der of such term.

6 “(c) The Chairman of the Commission shall hold a full-
7 time position and shall be compensated during the term of
8 office at the annual rate at which judges of the United States
9 courts of appeals are compensated. The voting members of
10 the Commission, other than the Chairman, shall hold full-
11 time positions until the end of the first six years after the
12 sentencing guidelines go into effect pursuant to section
13 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983, and
14 shall be compensated at the annual rate at which judges of
15 the United States courts of appeals are compensated. There-
16 after, the voting members of the Commission, other than the
17 Chairman, shall hold part-time positions and shall be paid at
18 the daily rate at which judges of the United States courts of
19 appeals are compensated. A Federal judge may serve as a
20 member of the Commission without resigning his appoint-
21 ment as a Federal judge.

22 **“§ 993. Powers and duties of Chairman**

23 “The Chairman shall—

24 “(a) call and preside at meetings of the Commis-
25 sion, which shall be held for at least two weeks in each

1 quarter after the members of the Commission hold
2 part-time positions; and

3 “(b) direct—

4 “(1) the preparation of requests for appropri-
5 ations for the Commission; and

6 “(2) the use of funds made available to the
7 Commission.

8 **“§ 994. Duties of the Commission**

9 “(a) The Commission, by affirmative vote of at least
10 four members of the Commission, and pursuant to its rules
11 and regulations and consistent with all pertinent provisions of
12 this title and title 18, United States Code, shall promulgate
13 and distribute to all courts of the United States and to the
14 United States Probation System—

15 “(1) guidelines, as described in this section, for
16 use of a sentencing court in determining the sentence
17 to be imposed in a criminal case, including—

18 “(A) a determination whether to impose a
19 sentence to probation, a fine, or a term of impris-
20 onment;

21 “(B) a determination as to the appropriate
22 amount of a fine or the appropriate length of a
23 term of probation or a term of imprisonment;

24 “(C) a determination whether a sentence to a
25 term of imprisonment should include a require-

1 ment that the defendant be placed on a term of
2 supervised release after imprisonment, and, if so,
3 the appropriate length of such a term; and

4 “(D) a determination whether multiple sen-
5 tences to terms of imprisonment should be ordered
6 to run concurrently or consecutively;

7 “(2) general policy statements regarding applica-
8 tion of the guidelines or any other aspect of sentencing
9 or sentence implementation that in the view of the
10 Commission would further the purposes set forth in
11 section 3553(a)(2) of title 18, United States Code, in-
12 cluding the appropriate use of—

13 “(A) the sanctions set forth in sections 3554,
14 3555, and 3556 of title 18;

15 “(B) the conditions of probation and super-
16 vised release set forth in sections 3563(b) and
17 3583(d) of title 18;

18 “(C) the sentence modification provisions set
19 forth in sections 3563(c), 3573, and 3582(c) of
20 title 18;

21 “(D) the authority granted under rule
22 11(e)(2) of the Federal Rules of Criminal Proce-
23 dure to accept or reject a plea agreement entered
24 into pursuant to rule 11(e)(1); and

1 “(E) the temporary release provisions set
2 forth in section 3622 of title 18, and the pre-
3 release custody provisions set forth in section
4 3624(c) of title 18; and

5 “(3) guidelines or general policy statements re-
6 garding the appropriate use of the probation revocation
7 provisions set forth in section 3565 of title 18, and the
8 provisions for modification of the term or conditions of
9 probation or supervised release set forth in sections
10 3563(c), 3564(d), and 3583(e) of title 18.

11 “(b) The Commission, in the guidelines promulgated
12 pursuant to subsection (a)(1), shall, for each category of of-
13 fense involving each category of defendant, establish a sen-
14 tencing range that is consistent with all pertinent provisions
15 of title 18, United States Code. If a sentence specified by the
16 guidelines includes a term of imprisonment, the maximum of
17 the range established for such a term shall not exceed the
18 minimum of that range by more than 25 per centum.

19 “(c) The Commission, in establishing categories of of-
20 fenses for use in the guidelines and policy statements govern-
21 ing the imposition of sentences of probation, a fine, or impris-
22 onment, governing the imposition of other authorized sanc-
23 tions, governing the size of a fine or the length of a term of
24 probation, imprisonment, or supervised release, and govern-
25 ing the conditions of probation, supervised release, or impris-

1 onment, shall consider whether the following matters, among
2 others, have any relevance to the nature, extent, place of
3 service, or other incidents of an appropriate sentence, and
4 shall take them into account only to the extent that they do
5 have relevance—

6 “(1) the grade of the offense;

7 “(2) the circumstances under which the offense
8 was committed which mitigate or aggravate the seri-
9 ousness of the offense;

10 “(3) the nature and degree of the harm caused by
11 the offense, including whether it involved property,
12 irreplaceable property, a person, a number of persons,
13 or a breach of public trust;

14 “(4) the community view of the gravity of the of-
15 fense;

16 “(5) the public concern generated by the offense;

17 “(6) the deterrent effect a particular sentence may
18 have on the commission of the offense by others; and

19 “(7) the current incidence of the offense in the
20 community and in the Nation as a whole.

21 “(d) The Commission in establishing categories of de-
22 fendants for use in the guidelines and policy statements gov-
23 erning the imposition of sentences of probation, a fine, or
24 imprisonment, governing the imposition of other authorized
25 sanctions, governing the size of a fine or the length of a term

1 of probation, imprisonment, or supervised release, and gov-
2 erning the conditions of probation, supervised release, or im-
3 prisonment, shall consider whether the following matters,
4 among others, with respect to a defendant, have any rel-
5 evance to the nature, extent, place of service, or other inci-
6 dents of an appropriate sentence, and shall take them into
7 account only to the extent that they do have relevance—

8 “(1) age;

9 “(2) education;

10 “(3) vocational skills;

11 “(4) mental and emotional condition to the extent
12 that such condition mitigates the defendant’s culpability
13 or to the extent that such condition is otherwise plainly
14 relevant;

15 “(5) physical condition, including drug depend-
16 ence;

17 “(6) previous employment record;

18 “(7) family ties and responsibilities;

19 “(8) community ties;

20 “(9) role in the offense;

21 “(10) criminal history; and

22 “(11) degree of dependence upon criminal activity
23 for a livelihood.

1 The Commission shall assure that the guidelines and policy
2 statements are entirely neutral as to the race, sex, national
3 origin, creed, and socioeconomic status of offenders.

4 “(e) The Commission shall assure that the guidelines
5 and policy statements, in recommending a term of imprison-
6 ment or length of a term of imprisonment, reflect the general
7 inappropriateness of considering the education, vocational
8 skills, employment record, family ties and responsibilities,
9 and community ties of the defendant.

10 “(f) The Commission, in promulgating guidelines pursu-
11 ant to subsection (a)(1), shall promote the purposes set forth
12 in section 991(b)(1), with particular attention to the require-
13 ments of subsection 991(b)(1)(B) for providing certainty and
14 fairness in sentencing and reducing unwarranted sentence
15 disparities.

16 “(g) The Commission, in promulgating guidelines pursu-
17 ant to subsection (a)(1) to meet the purposes of sentencing as
18 set forth in section 3553(a)(2) of title 18, United States Code,
19 shall take into account the nature and capacity of the penal,
20 correctional, and other facilities and services available, and
21 shall make recommendations concerning any change or ex-
22 pansion in the nature or capacity of such facilities and serv-
23 ices that might become necessary as a result of the guidelines
24 promulgated pursuant to the provisions of this chapter.

1 “(h) The Commission shall assure that the guidelines
2 will specify a sentence to a term of imprisonment at or near
3 the maximum term authorized by section 3581(b) of title 18,
4 United States Code, for categories of defendants in which the
5 defendant is eighteen years old or older and—

6 “(1) has been convicted of a felony that is—

7 “(A) a crime of violence; or

8 “(B) an offense described in section 401 of
9 the Controlled Substances Act (21 U.S.C. 841),
10 sections 1002(a), 1005, and 1009 of the Con-
11 trolled Substances Import and Export Act (21
12 U.S.C. 952(a), 955, and 959), and section 1 of
13 the Act of September 15, 1980 (21 U.S.C. 955a);
14 and

15 “(2) has previously been convicted of two or more
16 prior felonies, each of which is—

17 “(A) a crime of violence; or

18 “(B) an offense described in section 401 of
19 the Controlled Substances Act (21 U.S.C. 841),
20 sections 1002(a), 1005, and 1009 of the Con-
21 trolled Substances Import and Export Act (21
22 U.S.C. 952(a), 955, and 959), and section 1 of
23 the Act of September 15, 1980 (21 U.S.C. 955a).

1 “(i) The Commission shall assure that the guidelines
2 will specify a sentence to a substantial term of imprisonment
3 for categories of defendants in which the defendant—

4 “(1) has a history of two or more prior Federal,
5 State, or local felony convictions for offenses commit-
6 ted on different occasions;

7 “(2) committed the offense as part of a pattern of
8 criminal conduct from which he derived a substantial
9 portion of his income;

10 “(3) committed the offense in furtherance of a
11 conspiracy with three or more persons engaging in a
12 pattern of racketeering activity in which the defendant
13 participated in a managerial or supervisory capacity;

14 “(4) committed a crime of violence that consti-
15 tutes a felony while on release pending trial, sentence,
16 or appeal from a Federal, State, or local felony for
17 which he was ultimately convicted; or

18 “(5) committed a felony that is set forth in section
19 401 or 1010 of the Comprehensive Drug Abuse Pre-
20 vention and Control Act of 1970 (21 U.S.C. 841 and
21 960), and that involved trafficking in a substantial
22 quantity of a controlled substance.

23 “(j) The Commission shall insure that the guidelines re-
24 flect the general appropriateness of imposing a sentence
25 other than imprisonment in cases in which the defendant is a

1 first offender who has not been convicted of a crime of vio-
2 lence or an otherwise serious offense, and the general appro-
3 priateness of imposing a term of imprisonment on a person
4 convicted of a crime of violence that results in serious bodily
5 injury.

6 “(k) The Commission shall insure that the guidelines re-
7 flect the inappropriateness of imposing a sentence to a term
8 of imprisonment for the purpose of rehabilitating the defend-
9 ant or providing the defendant with needed educational or
10 vocational training, medical care, or other correctional treat-
11 ment.

12 “(l) The Commission shall insure that the guidelines
13 promulgated pursuant to subsection (a)(1) reflect—

14 “(1) the appropriateness of imposing an incre-
15 mental penalty for each offense in a case in which a
16 defendant is convicted of—

17 “(A) multiple offenses committed in the same
18 course of conduct that result in the exercise of an-
19 cillary jurisdiction over one or more of the of-
20 fenses; and

21 “(B) multiple offenses committed at different
22 times, including those cases in which the subse-
23 quent offense is a violation of section 3146 (penal-
24 ty for failure to appear) or is committed while the
25 person is released pursuant to the provisions of

1 section 3147 (penalty for an offense committed
2 while on release) of title 18; and

3 “(2) the general inappropriateness of imposing
4 consecutive terms of imprisonment for an offense of
5 conspiring to commit an offense or soliciting commis-
6 sion of an offense and for an offense that was the sole
7 object of the conspiracy or solicitation.

8 “(m) The Commission shall insure that the guidelines
9 reflect the fact that, in many cases, current sentences do not
10 accurately reflect the seriousness of the offense. This will re-
11 quire that, as a starting point in its development of the initial
12 sets of guidelines for particular categories of cases, the Com-
13 mission ascertain the average sentences imposed in such cat-
14 egories of cases prior to the creation of the Commission, and
15 in cases involving sentences to terms of imprisonment, the
16 length of such terms actually served. The Commission shall
17 not be bound by such average sentences, and shall independ-
18 ently develop a sentencing range that is consistent with the
19 purposes of sentencing described in section 3553(a)(2) of title
20 18, United States Code.

21 “(n) The Commission periodically shall review and
22 revise, in consideration of comments and data coming to its
23 attention, the guidelines promulgated pursuant to the provi-
24 sions of this section. In fulfilling its duties and in exercising
25 its powers, the Commission shall consult with authorities on,

1 and individual and institutional representatives of, various as-
2 pects of the Federal criminal justice system. The United
3 States Probation System, the Bureau of Prisons, the Judicial
4 Conference of the United States, the Criminal Division of the
5 United States Department of Justice, and a representative of
6 the Federal Public Defenders shall submit to the Commission
7 any observations, comments, or questions pertinent to the
8 work of the Commission whenever they believe such commu-
9 nication would be useful, and shall, at least annually, submit
10 to the Commission a written report commenting on the oper-
11 ation of the Commission's guidelines, suggesting changes in
12 the guidelines that appear to be warranted, and otherwise
13 assessing the Commission's work.

14 “(o) The Commission, at or after the beginning of a reg-
15 ular session of Congress but not later than the first day of
16 May, shall report to the Congress any amendments of the
17 guidelines promulgated pursuant to subsection (a)(1), and a
18 report of the reasons therefor, and the amended guidelines
19 shall take effect one hundred and eighty days after the Com-
20 mission reports them, except to the extent the effective date
21 is enlarged or the guidelines are disapproved or modified by
22 Act of Congress.

23 “(p) The Commission and the Bureau of Prisons shall
24 submit to Congress an analysis and recommendations con-
25 cerning maximum utilization of resources to deal effectively

1 with the Federal prison population. Such report shall be
2 based upon consideration of a variety of alternatives, includ-
3 ing—

4 “(1) modernization of existing facilities;

5 “(2) inmate classification and periodic review of
6 such classification for use in placing inmates in the
7 least restrictive facility necessary to ensure adequate
8 security; and

9 “(3) use of existing Federal facilities, such as
10 those currently within military jurisdiction.

11 “(q) The Commission, within three years of the date of
12 enactment of the Sentencing Reform Act of 1983, and there-
13 after whenever it finds it advisable, shall recommend to the
14 Congress that it raise or lower the grades, or otherwise
15 modify the maximum penalties, of those offenses for which
16 such an adjustment appears appropriate.

17 “(r) The Commission shall give due consideration to any
18 petition filed by a defendant requesting modification of the
19 guidelines utilized in the sentencing of such defendant, on the
20 basis of changed circumstances unrelated to the defendant,
21 including changes in—

22 “(1) the community view of the gravity of the of-
23 fense;

24 “(2) the public concern generated by the offense;
25 and

1 “(3) the deterrent effect particular sentences may
2 have on the commission of the offense by others.

3 Within one hundred and eighty days of the filing of such peti-
4 tion the Commission shall provide written notice to the de-
5 fendant whether or not it has approved the petition. If the
6 petition is disapproved the written notice shall contain the
7 reasons for such disapproval. The Commission shall submit to
8 the Congress at least annually an analysis of such written
9 notices.

10 “(s) The Commission, in promulgating general policy
11 statements regarding the sentencing modification provisions
12 in section 3582(c)(1)(A) of title 18, shall describe what should
13 be considered extraordinary and compelling reasons for sen-
14 tence reduction, including the criteria to be applied and a list
15 of specific examples. Rehabilitation of the defendant alone
16 shall not be considered an extraordinary and compelling
17 reason.

18 “(t) If the Commission reduces the term of imprison-
19 ment recommended in the guidelines applicable to a particu-
20 lar offense or category of offenses, it shall specify by what
21 amount the sentences of prisoners serving terms of imprison-
22 ment that are outside the applicable guideline ranges for the
23 offense may be reduced.

24 “(u) The Commission shall ensure that the general
25 policy statements promulgated pursuant to subsection (a)(2)

1 include a policy limiting consecutive terms of imprisonment
2 for an offense involving a violation of a general prohibition
3 and for an offense involving a violation of a specific prohibi-
4 tion encompassed within the general prohibition.

5 “(v) The appropriate judge or officer shall submit to the
6 Commission in connection with each sentence imposed a
7 written report of the sentence, the offense for which it is
8 imposed, the age, race, and sex of the offender, information
9 regarding factors made relevant by the guidelines, and such
10 other information as the Commission finds appropriate. The
11 Commission shall submit to Congress at least annually an
12 analysis of these reports and any recommendations for legis-
13 lation that the Commission concludes is warranted by that
14 analysis.

15 “(w) The provisions of section 553 of title 5, relating to
16 publication in the Federal Register and public hearing proce-
17 dure, shall apply to the promulgation of guidelines pursuant
18 to this section.

19 **“§ 995. Powers of the Commission**

20 “(a) The Commission, by vote of a majority of the mem-
21 bers present and voting, shall have the power to—

22 “(1) establish general policies and promulgate
23 such rules and regulations for the Commission as are
24 necessary to carry out the purposes of this chapter;

1 “(2) appoint and fix the salary and duties of the
2 Staff Director of the Sentencing Commission, who
3 shall serve at the discretion of the Commission and
4 who shall be compensated at a rate not to exceed the
5 highest rate now or hereafter prescribed for grade 18
6 of the General Schedule pay rates (5 U.S.C. 5332);

7 “(3) deny, revise, or ratify any request for regu-
8 lar, supplemental, or deficiency appropriations prior to
9 any submission of such request to the Office of Man-
10 agement and Budget by the Chairman;

11 “(4) procure for the Commission temporary and
12 intermittent services to the same extent as is author-
13 ized by section 3109(b) of title 5, United States Code;

14 “(5) utilize, with their consent, the services,
15 equipment, personnel, information, and facilities of
16 other Federal, State, local, and private agencies and
17 instrumentalities with or without reimbursement there-
18 for;

19 “(6) without regard to 31 U.S.C. 3324, enter into
20 and perform such contracts, leases, cooperative agree-
21 ments, and other transactions as may be necessary in
22 the conduct of the functions of the Commission, with
23 any public agency, or with any person, firm, associ-
24 ation, corporation, educational institution, or non-profit
25 organization;

1 “(7) accept and employ, in carrying out the provi-
2 sions of this title, voluntary and uncompensated serv-
3 ices, notwithstanding the provisions of 31 U.S.C.
4 1342, however, individuals providing such services
5 shall not be considered Federal employees except for
6 purposes of chapter 81 of title 5, United States Code,
7 with respect to job-incurred disability and title 28,
8 United States Code, with respect to tort claims;

9 “(8) request such information, data, and reports
10 from any Federal agency or judicial officer as the Com-
11 mission may from time to time require and as may be
12 produced consistent with other law;

13 “(9) monitor the performance of probation officers
14 with regard to sentencing recommendations, including
15 application of the Sentencing Commission guidelines
16 and policy statements;

17 “(10) issue instructions to probation officers con-
18 cerning the application of Commission guidelines and
19 policy statements;

20 “(11) arrange with the head of any other Federal
21 agency for the performance by such agency of any
22 function of the Commission, with or without reimburse-
23 ment;

24 “(12) establish a research and development pro-
25 gram within the Commission for the purpose of—

1 “(A) serving as a clearinghouse and informa-
2 tion center for the collection, preparation, and dis-
3 semination of information on Federal sentencing
4 practices; and

5 “(B) assisting and serving in a consulting ca-
6 pacity to Federal courts, departments, and agen-
7 cies in the development, maintenance, and coordi-
8 nation of sound sentencing practices;

9 “(13) collect systematically the data obtained from
10 studies, research, and the empirical experience of
11 public and private agencies concerning the sentencing
12 process;

13 “(14) publish data concerning the sentencing proc-
14 ess;

15 “(15) collect systematically and disseminate infor-
16 mation concerning sentences actually imposed, and the
17 relationship of such sentences to the factors set forth in
18 section 3553(a) of title 18, United States Code;

19 “(16) collect systematically and disseminate infor-
20 mation regarding effectiveness of sentences imposed;

21 “(17) devise and conduct, in various geographical
22 locations, seminars and workshops providing continuing
23 studies for persons engaged in the sentencing field;

24 “(18) devise and conduct periodic training pro-
25 grams of instruction in sentencing techniques for judi-

1 cial and probation personnel and other persons con-
2 nected with the sentencing process;

3 “(19) study the feasibility of developing guidelines
4 for the disposition of juvenile delinquents;

5 “(20) make recommendations to Congress con-
6 cerning modification or enactment of statutes relating
7 to sentencing, penal, and correctional matters that the
8 Commission finds to be necessary and advisable to
9 carry out an effective, humane and rational sentencing
10 policy;

11 “(21) hold hearings and call witnesses that might
12 assist the Commission in the exercise of its powers or
13 duties; and

14 “(22) perform such other functions as are required
15 to permit Federal courts to meet their responsibilities
16 under section 3553(a) of title 18, United States Code,
17 and to permit others involved in the Federal criminal
18 justice system to meet their related responsibilities.

19 “(b) The Commission shall have such other powers and
20 duties and shall perform such other functions as may be nec-
21 essary to carry out the purposes of this chapter, and may
22 delegate to any member or designated person such powers as
23 may be appropriate other than the power to establish general
24 policy statements and guidelines pursuant to section 994(a)
25 (1) and (2), the issuance of general policies and promulgation

1 of rules and regulations pursuant to subsection (a)(1) of this
2 section, and the decisions as to the factors to be considered in
3 establishment of categories of offenses and offenders pursuant
4 to section 994(b). The Commission shall, with respect to its
5 activities under subsections (a)(9), (a)(10), (a)(11), (a)(12),
6 (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the
7 extent practicable, utilize existing resources of the Adminis-
8 trative Office of the United States Courts and the Federal
9 Judicial Center for the purpose of avoiding unnecessary du-
10 plication.

11 “(c) Upon the request of the Commission, each Federal
12 agency is authorized and directed to make its services, equip-
13 ment, personnel, facilities, and information available to the
14 greatest practicable extent to the Commission in the execu-
15 tion of its functions.

16 “(d) A simple majority of the membership then serving
17 shall constitute a quorum for the conduct of business. Other
18 than for the promulgation of guidelines and policy statements
19 pursuant to section 994, the Commission may exercise its
20 powers and fulfill its duties by the vote of a simple majority
21 of the members present.

22 “(e) Except as otherwise provided by law, the Commis-
23 sion shall maintain and make available for public inspection a
24 record of the final vote of each member on any action taken
25 by it.

1 **“§ 996. Director and staff**

2 “(a) The Staff Director shall supervise the activities of
3 persons employed by the Commission and perform other
4 duties assigned to him by the Commission.

5 “(b) The Staff Director shall, subject to the approval of
6 the Commission, appoint such officers and employees as are
7 necessary in the execution of the functions of the Commis-
8 sion. The officers and employees of the Commission shall be
9 exempt from the provisions of part III of title 5, United
10 States Code, except the following chapters: 81 (Compensa-
11 tion for Work Injuries), 83 (Retirement), 85 (Unemployment
12 Compensation), 87 (Life Insurance), 89 (Health Insurance),
13 and 91 (Conflicts of Interest).

14 **“§ 997. Annual report**

15 “The Commission shall report annually to the Judicial
16 Conference of the United States, the Congress, and the
17 President of the United States on the activities of the Com-
18 mission.

19 **“§ 998. Definitions**

20 “As used in this chapter—

21 “(a) ‘Commission’ means the United States Sen-
22 tencing Commission;

23 “(b) ‘Commissioner’ means a member of the
24 United States Sentencing Commission;

1 “(c) ‘guidelines’ means the guidelines promulgated
2 by the Commission pursuant to section 994(a) of this
3 title; and

4 “(d) ‘rules and regulations’ means rules and regu-
5 lations promulgated by the Commission pursuant to
6 section 995 of this title.”.

7 (b) The chapter analysis of part III of title 28, United
8 States Code, is amended by adding after the item relating to
9 chapter 57 the following new item:

 “58. United States Sentencing Commission..... 991”.

10

REPEALERS

11 SEC. 208. (a) The following provisions of title 18,
12 United States Code, are repealed:

13 (1) section 1;

14 (2) section 3012;

15 (3) sections 4082(a), 4082(b), 4082(c), 4082(e),
16 4084, and 4085;

17 (4) chapter 309;

18 (5) chapter 311;

19 (6) chapter 314;

20 (7) sections 4281, 4283, and 4284; and

21 (8) chapter 402.

22 Redesignate subsections in section 4082 accordingly.

23 (b) The item relating to section 1 in the sectional analy-
24 sis of chapter 1 of title 18, United States Code, is amended to
25 read:

"1. Repealed."

1 (c) The item relating to section 3012 in the sectional
2 analysis of chapter 201 of title 18, United States Code, is
3 amended to read:

"3012. Repealed."

4 (d) The chapter analysis of Part III of title 18, United
5 States Code, is amended by amending the items relating to—

6 (1) chapters 309 and 311 to read as follows:

"309. Repealed.....
"311. Repealed.....";

7 and

8 (2) chapter 314 to read as follows:

"314. Repealed....."

9 (e) The items relating to sections 4084 and 4085 in the
10 sectional analysis of chapter 305 of title 18, United States
11 Code, are amended to read as follows:

"4084. Repealed.
"4085. Repealed."

12 (f) The sectional analysis of chapter 315 of title 18,
13 United States Code, is amended by amending the items relat-
14 ing to—

15 (1) section 4281 to read:

"4281. Repealed."; and

16 (2) sections 4283 and 4284 to read as follows:

"4283. Repealed.
"4284. Repealed."

1 (g) The item relating to chapter 402 in the chapter anal-
 2 ysis of Part IV of title 18, United States Code, is amended to
 3 read as follows:

“402. Repealed.....”.

4 SEC. 209. (a) Sections 404(b) and 409 of the Controlled
 5 Substances Act (21 U.S.C. 844(b) and 849) are repealed.

6 (b) Section 404(a) of the Controlled Substances Act (21
 7 U.S.C. 844(a)) is amended by deleting the designation “(a)”
 8 at the beginning of the subsection.

9 TECHNICAL AND CONFORMING AMENDMENTS

10 SEC. 210. The Immigration and Nationality Act (8
 11 U.S.C. 1101 et seq.) is amended as follows:

12 (a) The second sentence of section 212(a)(9) (8 U.S.C.
 13 1182(a)(9)) is amended to read: “An alien who would be ex-
 14 cludable because of the conviction of an offense for which the
 15 sentence actually imposed did not exceed a term of imprison-
 16 ment in excess of six months, or who would be excludable as
 17 one who admits the commission of an offense for which a
 18 sentence not to exceed one year’s imprisonment might have
 19 been imposed on him, may be granted a visa and admitted to
 20 the United States if otherwise admissible: *Provided*, That the
 21 alien has committed only one such offense, or admits the
 22 commission of acts which constitute the essential elements of
 23 only one such offense.”.

24 (b) Section 242(h) (8 U.S.C. 1252(h)) is amended by
 25 adding “supervised release,” after “parole,”.

1 SEC. 211. Section 4 of the Act of September 28, 1962
2 (16 U.S.C. 460k-3) is amended by deleting "petty offense
3 (18 U.S.C. 1)" and substituting "misdemeanor".

4 SEC. 212. Section 9 of the Act of October 8, 1964 (16
5 U.S.C. 460n-8) is amended—

6 (a) in the first paragraph, by deleting "commis-
7 sioner" each place it appears and substituting "magis-
8 trate"; and

9 (b) in the second paragraph, by amending the first
10 sentence to read: "The functions of the magistrate
11 shall include the trial and sentencing of persons
12 charged with the commission of misdemeanors and in-
13 fractions as defined in section 3581 of title 18, United
14 States Code."

15 SEC. 213. Title 18 of the United States Code is amend-
16 ed as follows:

17 (a) Section 924(a) is amended by deleting ", and shall
18 become eligible for parole as the Board of Parole shall deter-
19 mine".

20 (b) Section 1161 is amended by deleting "3618" and
21 substituting "3669".

22 (c) Section 1761(a) is amended by adding ", supervised
23 release," after "parole".

24 (d) Section 2114 is amended by adding "not more than"
25 after "imprisoned".

1 (e) Section 3006A is amended—

2 (1) in subsections (a)(1) and (b), by deleting “mis-
3 demeanor (other than a petty offense as defined in sec-
4 tion 1 of this title)” each place it appears and substi-
5 tuting “Class A misdemeanor”; and

6 (2) in subsections (a)(3) and (g), deleting “subject
7 to revocation of parole,” each place it appears.

8 (f) Section 3143, as amended by this Act, is amended—

9 (1) in subsection (a), by adding “other than a
10 person for whom the applicable guideline promulgated
11 pursuant to 28 U.S.C. 994 does not recommend a term
12 of imprisonment,” after “sentence,”; and

13 (2) in subsection (c), by adding the following at
14 the end thereof: “The judge shall treat a defendant in
15 a case in which an appeal has been taken by the
16 United States pursuant to the provisions of section
17 3742 in accordance with the provisions of—

18 “(1) subsection (a) if the person has been sen-
19 tenced to a term of imprisonment; or

20 “(2) section 3142 if the person has not been sen-
21 tenced to a term of imprisonment.”.

22 (g) Section 3147, as amended by this Act, is amended—

23 (1) in paragraph (1), by deleting “not less than
24 two years and”; and

1 (2) in paragraph (2), by deleting “not less than
2 ninety days and”.

3 (h) Section 3156(b)(2) is amended by deleting “petty of-
4 fense as defined in section 1(3) of this title” and substituting
5 “Class B or C misdemeanor or an infraction”.

6 (i) Section 3172(2) is amended by deleting “petty of-
7 fense as defined in section 1(3) of this title” and substituting
8 “Class B or C misdemeanor or an infraction”.

9 (j) Section 3401 is amended—

10 (1) by repealing subsection (g) and redesignating
11 (h) to (g); and

12 (2) in subsection (h), by deleting “petty offense
13 case” and substituting “Class B or C misdemeanor
14 case, or infraction case,”.

15 (k) Section 3670 (formerly section 3619) is amended by
16 deleting “3617” and “3618” and substituting “3668” and
17 “3669”, respectively.

18 (l) Section 4004 is amended by deleting “record clerks,
19 and parole officers” and substituting “and record clerks”.

20 (m) Chapter 306 is amended as follows:

21 (1) Section 4101 is amended—

22 (A) in subsection (f), by adding “, including a
23 term of supervised release pursuant to section
24 3583” after “supervision”; and

1 (B) in subsection (g), by deleting “to a penal-
2 ty of imprisonment the execution of which is sus-
3 pended and” and substituting “under which”, and
4 by deleting “the suspended” and substituting “a”.

5 (2) Section 4105(c) is amended—

6 (A) in paragraph (1), by deleting “for good
7 time” the second place it appears and substituting
8 “toward service of sentence for satisfactory be-
9 havior”;

10 (B) in paragraphs (1) and (2), by deleting
11 “section 4161” and substituting “section
12 3624(b)”;

13 (C) in paragraph (1), by deleting “section
14 4164” and substituting “section 3624(a)”;

15 (D) by repealing paragraph (3);

16 (E) by amending paragraph (4) to read as
17 follows:

18 “(3) Credit toward service of sentence may be withheld
19 as provided in section 3624(b) of this title.”; and

20 (F) by redesignating paragraphs accordingly.

21 (3) Section 4106 is amended—

22 (A) in subsection (a), by deleting “Parole
23 Commission” and substituting “Probation
24 System”;

1 (B) by amending subsection (b) to read as fol-
2 lows:

3 “(b) An offender transferred to the United States to
4 serve a sentence of imprisonment shall be released pursuant
5 to section 3624(a) of this title after serving the period of time
6 specified in the applicable sentencing guideline promulgated
7 pursuant to 28 U.S.C. 994(a)(1). He shall be released to
8 serve a term of supervised release for any term specified in
9 the applicable guideline. The provisions of section 3742 of
10 this title apply to a sentence to a term of imprisonment under
11 this subsection, and the United States court of appeals for the
12 district in which the offender is imprisoned after transfer to
13 the United States has jurisdiction to review the period of im-
14 prisonment as though it had been imposed by the United
15 States district court.”; and

16 (C) by repealing subsection (c).

17 (4) Section 4108(a) is amended by adding “, in-
18 cluding any term of imprisonment or term of super-
19 vised release specified in the applicable sentencing
20 guideline promulgated pursuant to 28 U.S.C.
21 994(a)(1),” after “consequences thereof”.

22 (n) Section 4321 is amended by deleting “parole or”.

23 (o) Section 4351(b) is amended by deleting “Parole
24 Board” and substituting “Sentencing Commission”.

1 (p) Section 5002 is amended by deleting "Board of
2 Parole, the Chairman of the Youth Division," and substitut-
3 ing "United States Sentencing Commission,".

4 SEC. 214. The Controlled Substances Act (21 U.S.C.
5 801 et seq.) is amended as follows:

6 (a) Section 401 (21 U.S.C. 841) is amended—

7 (1) in subsection (b)(1)(A), by deleting the last
8 sentence;

9 (2) in subsection (b)(1)(B), by deleting the last sen-
10 tence;

11 (3) in subsection (b)(2), by deleting the last sen-
12 tence;

13 (4) in subsection (b)(4), by deleting "subsections
14 (a) and (b) of", and by adding "and section 3607 of
15 title 18, United States Code" after "404";

16 (5) in subsection (b)(5), by deleting the last sen-
17 tence; and

18 (6) by repealing subsection (c).

19 (b) Section 405 (21 U.S.C. 845) is amended—

20 (1) in subsection (a), by deleting "(1)" the second
21 place it appears, and by deleting ", and (2) at least
22 twice any special parole term authorized by section
23 401(b), for a first offense involving the same controlled
24 substance and schedule"; and

1 (2) in subsection (b), by deleting “(1)” the second
2 place it appears, and by deleting “, and (2) at least
3 three times any special parole term authorized by sec-
4 tion 401(b), for a second or subsequent offense involv-
5 ing the same controlled substance and schedule”.

6 (c) Section 408(c) (21 U.S.C. 848(c)) is amended by de-
7 leting “and section 4202 of title 18 of the United States
8 Code”.

9 SEC. 215. The Controlled Substances Import and
10 Export Act (21 U.S.C. 951 et seq.) is amended as follows:

11 (a) Section 1010 (21 U.S.C. 960) is amended—

12 (1) in subsection (b)(1), by deleting the last sen-
13 tence;

14 (2) in subsection (b)(2), by deleting the last sen-
15 tence; and

16 (3) by repealing subsection (c).

17 (b) Section 1012(a) (21 U.S.C. 962(a)) is amended by
18 deleting the last sentence.

19 SEC. 216. Section 114(b) of title 23, United States
20 Code, is amended by adding “, supervised release,” after
21 “parole”.

22 SEC. 217. Section 5871 of the Internal Revenue Code
23 of 1954 (26 U.S.C. 5871) is amended by deleting “, and shall
24 become eligible for parole as the Board of Parole shall deter-
25 mine”.

1 SEC. 218. Title 28 of the United States Code is amend-
2 ed as follows:

3 (a) Section 509 is amended—

4 (1) by adding “and” after paragraph (2) and, in
5 paragraph (3), by deleting “; and” and substituting a
6 period; and

7 (2) by repealing paragraph (4).

8 (b) Section 591(a) is amended by deleting “petty of-
9 fense” and substituting “Class B or C misdemeanor or an
10 infraction”.

11 (c) Section 2901 is amended—

12 (1) in subsection (e), by deleting “section 1” and
13 substituting “section 3581”; and

14 (2) in subsection (g)(3), by adding “, supervised
15 release,” after “parole”, and by adding “supervised re-
16 lease,” after “parole,”.

17 SEC. 219. Section 504(a) of the Labor Management Re-
18 porting and Disclosure Act of 1959 (29 U.S.C. 504(a)) and
19 section 411(a) of the Employee Retirement Income Security
20 Act of 1974 (29 U.S.C. 1111(a)) are amended—

21 (a) by deleting “the Board of Parole of the United
22 States Department of Justice” and substituting “if the
23 offense is a Federal offense, the sentencing judge or, if
24 the offense is a State or local offense, on motion of the
25 United States Department of Justice, the district court

1 of the United States for the district in which the of-
2 fense was committed, pursuant to sentencing guidelines
3 and policy statements issued pursuant to 28 U.S.C.
4 994(a),”;

5 (b) by deleting “Board” and “Board’s” and sub-
6 stituting “court” and “court’s”, respectively; and

7 (c) by deleting “an administrative” and substitut-
8 ing “a”.

9 SEC. 220. Section 411(c)(3) of the Employee Retire-
10 ment Income Security Act of 1974 (29 U.S.C. 1111(c)(3)) is
11 amended by adding “or supervised release” after “parole”.

12 SEC. 221. Section 425(b) of the Job Training and Part-
13 nership Act is amended by deleting “or parole” the first
14 place it appears and substituting “, parole, or supervised re-
15 lease”.

16 SEC. 222. The Public Health Service Act (42 U.S.C.
17 201 et seq.) is amended as follows:

18 (a) Section 341(a) (42 U.S.C. 257(a)) is amended by de-
19 leting “or convicted of offenses against the United States and
20 sentenced to treatment” and “addicts who are committed to
21 the custody of the Attorney General pursuant to provisions of
22 the Federal Youth Corrections Act (chapter 402 of title 18 of
23 the United States Code),”.

24 (b) Section 343(d) (42 U.S.C. 259(d)) is amended by
25 adding “or supervised release” after “parole”.

1 SEC. 222A. Section 902 of the Federal Aviation Act of
2 1958 (49 U.S.C. 1472) is amended by inserting “notwith-
3 standing the provisions of 18 U.S.C. 3559(b),” before the
4 term “if” in paragraphs (i)(1)(B) and (n)(1)(B).

5 SEC. 223. Section 11507 of title 49, United States
6 Code, is amended by adding “, supervised release,” after
7 “parole”.

8 SEC. 224. Section 10(b)(7) of the Military Selective
9 Service Act (50 U.S.C. App. 460(b)(7)) is amended by delet-
10 ing “parole” and substituting “release”.

11 EFFECTIVE DATE

12 SEC. 225. (a)(1) This title shall take effect on the first
13 day of the first calendar month beginning twenty-four months
14 after the date of enactment, except that—

15 (A) the repeal of chapter 402 of title 18, United
16 States Code, shall take effect on the date of enactment;

17 (B)(i) chapter 58 of title 28, United States Code,
18 shall take effect on the date of enactment of this Act
19 or October 1, 1983, whichever occurs later, and the
20 United States Sentencing Commission shall submit the
21 initial sentencing guidelines promulgated to section
22 994(a)(1) of title 28 to the Congress within eighteen
23 months of the effective date of the chapter; and

24 (ii) the sentencing guidelines promulgated pursu-
25 ant to section 994(a)(1), and the provisions of sections

1 3581, 3583, and 3624 of title 18, United States Code,
2 shall not go into effect until the day after—

3 (I) the United States Sentencing Commission
4 has submitted the initial set of sentencing guide-
5 lines to the Congress pursuant to subparagraph
6 (B)(i), along with a report stating the reasons for
7 the Commission's recommendations;

8 (II) the General Accounting Office has un-
9 dertaken a study of the guidelines, and their po-
10 tential impact in comparison with the operation of
11 the existing sentencing and parole release system,
12 and has, within one hundred and fifty days of sub-
13 mission of the guidelines, reported to the Con-
14 gress the results of its study; and

15 (III) the Congress has had six months after
16 the date described in subclause (I) in which to ex-
17 amine the guidelines and consider the reports; and

18 (IV) the provisions of sections 227 and 228
19 shall take effect on the date of enactment.

20 (2) For the purposes of section 992(a) of title 28, the
21 terms of the first members of the United States Sentencing
22 Commission shall not begin to run until the sentencing guide-
23 lines go into effect pursuant to paragraph (1)(B)(ii).

24 (b)(1) The following provisions of law in effect on the
25 day before the effective date of this Act shall remain in effect

1 for five years after the effective date as to an individual con-
2 victed of an offense or adjudicated to be a juvenile delinquent
3 before the effective date and as to a term of imprisonment
4 during the period described in subsection (a)(1)(B):

5 (A) Chapter 311 of title 18, United States Code.

6 (B) Chapter 309 of title 18, United States Code.

7 (C) Sections 4251 through 4255 of title 18,
8 United States Code.

9 (D) Sections 5041 and 5042 of title 18, United
10 States Code.

11 (E) Sections 5017 through 5020 of title 18,
12 United States Code, as to a sentence imposed before
13 the date of enactment.

14 (F) The maximum term of imprisonment in effect
15 on the effective date for an offense committed before
16 the effective date.

17 (G) Any other law relating to a violation of a con-
18 dition of release or to arrest authority with regard to a
19 person who violates a condition of release.

20 (2) Notwithstanding the provisions of section 4202 of
21 title 18, United States Code, as in effect on the day before
22 the effective date of this Act, the term of office of a Commis-
23 sioner who is in office on the effective date is extended to the
24 end of the five-year period after the effective date of this Act.

1 (3) The United States Parole Commission shall set a
2 release date, for an individual who will be in its jurisdiction
3 the day before the expiration of five years after the effective
4 date of this Act, that is within the range that applies to the
5 prisoner under the applicable parole guideline. A release date
6 set pursuant to this paragraph shall be set early enough to
7 permit consideration of an appeal of the release date, in ac-
8 cordance with Parole Commission procedures, before the ex-
9 piration of five years following the effective date of this Act.

10 (4) Notwithstanding the other provisions of this subsec-
11 tion, all laws in effect on the day before the effective date of
12 this Act pertaining to an individual who is—

13 (A) released pursuant to a provision listed in para-
14 graph (1); and

15 (B)(i) subject to supervision on the day before the
16 expiration of the five-year period following the effective
17 date of this Act; or

18 (ii) released on a date set pursuant to paragraph
19 (3);

20 including laws pertaining to terms and conditions of release,
21 revocation of release, provision of counsel, and payment of
22 transportation costs, shall remain in effect as to the individual
23 until the expiration of his sentence, except that the district
24 court shall determine, in accord with the Federal Rules of
25 Criminal Procedure, whether release should be revoked or

1 the conditions of release amended for violation of a condition
2 of release.

3 (5) Notwithstanding the provisions of section 991 of title
4 28, United States Code, and sections 4351 and 5002 of title
5 18, United States Code, the Chairman of the United States
6 Parole Commission or his designee shall be a member of the
7 National Institute of Corrections, and the Chairman of the
8 United States Parole Commission shall be a member of the
9 Advisory Corrections Council and a nonvoting member of the
10 United States Sentencing Commission, ex officio, until the
11 expiration of the five-year period following the effective date
12 of this Act. Notwithstanding the provisions of section 4351 of
13 title 18, during the five-year period the National Institute of
14 Corrections shall have seventeen members, including seven
15 ex officio members. Notwithstanding the provisions of section
16 991 of title 28, during the five-year period the United States
17 Sentencing Commission shall consist of nine members, in-
18 cluding two ex officio, nonvoting members.

19 SEC. 226. (a)(1) Four years after the sentencing guide-
20 lines promulgated pursuant to section 994(a)(1), and the pro-
21 visions of sections 3581, 3583, and 3624 of title 18, United
22 States Code, go into effect, the General Accounting Office
23 shall undertake a study of the guidelines in order to deter-
24 mine their impact and compare the guidelines system with
25 the operation of the previous sentencing and parole release

1 system, and, within six months of the undertaking of such
2 study, report to the Congress the results of its study.

3 (2) Within one month of the start of the study required
4 under subsection (a), the United States Sentencing Commis-
5 sion shall submit a report to the General Accounting Office,
6 all appropriate courts, the Department of Justice, and the
7 Congress detailing the operation of the sentencing guideline
8 system and discussing any problems with the system or re-
9 forms needed. The report shall include an evaluation of the
10 impact of the sentencing guidelines on prosecutorial discre-
11 tion, plea bargaining, disparities in sentencing, and the use of
12 incarceration, and shall be issued by affirmative vote of a
13 majority of the voting members of the Commission.

14 (b) The Congress shall review the study submitted pur-
15 suant to subsection (a) in order to determine—

16 (1) whether the sentencing guideline system has
17 been effective;

18 (2) whether any changes should be made in the
19 sentencing guideline system; and

20 (3) whether the parole system should be reinstated
21 in some form and the life of the Parole Commission ex-
22 tended.

23 SEC. 227. (a)(1) Except as provided in paragraph (2),
24 for each criminal fine for which the unpaid balance exceeds
25 \$100 as of the effective date of this Act, the Attorney Gener-

1 al shall, within one hundred and twenty days, notify the
2 person by certified mail of his obligation, within thirty days
3 after notification, to—

4 (A) pay the fine in full;

5 (B) specify, and demonstrate compliance with, an
6 installment schedule established by a court before en-
7 actment of the amendments made by this Act, specify-
8 ing the dates on which designated partial payments
9 will be made; or

10 (C) establish with the concurrence of the Attorney
11 General, a new installment schedule of a duration not
12 exceeding two years, except in special circumstances,
13 and specifying the dates on which designated partial
14 payments will be made.

15 (2) This subsection shall not apply in cases in which—

16 (A) the Attorney General believes the likelihood
17 of collection is remote; or

18 (B) criminal fines have been stayed pending
19 appeal.

20 (b) The Attorney General shall, within one hundred and
21 eighty days after the effective date of this Act, declare all
22 fines for which this obligation is unfulfilled to be in criminal
23 default, subject to the civil and criminal remedies established
24 by amendments made by this Act. No interest or monetary
25 penalties shall be charged on any fines subject to this section.

1 (c) Not later than one year following the effective date
 2 of this Act, the Attorney General shall include in the annual
 3 crime report steps taken to implement this Act and the prog-
 4 ress achieved in criminal fine collection, including collection
 5 data for each judicial district.

6 SEC. 228. (a) Title 18 of the United States Code is
 7 amended by adding the following new chapter after chapter
 8 227:

9 **“CHAPTER 228—IMPOSITION, PAYMENT, AND**
 10 **COLLECTION OF FINES**

“Sec.

“3591. Imposition of a fine.

“3592. Payment of a fine, delinquency and default.

“3593. Modification or remission of fine.

“3594. Certification and notification.

“3595. Interest, monetary penalties for delinquency, and default.

“3596. Civil remedies for satisfaction of an unpaid fine.

“3597. Resentencing upon failure to pay a fine.

“3598. Statute of limitations.

“3599. Criminal default.

11 **“§ 3591. Imposition of a fine**

12 **“(a) FACTORS TO BE CONSIDERED IN IMPOSING A**
 13 **FINE.**—The court, in determining whether to impose a fine,
 14 the amount of any fine, the time for payment, and the method
 15 of payment, shall consider—

16 **“(1) the ability of the defendant to pay the fine in**
 17 **view of the income of the defendant, earning capacity**
 18 **and financial resources, and, if the defendant is an or-**
 19 **ganization, the size of the organization;**

1 “(2) the nature of the burden that payment of the
2 fine will impose on the defendant, and on any person
3 who is financially dependent on the defendant, relative
4 to the burden which alternative punishments would
5 impose;

6 “(3) any restitution or reparation made by the de-
7 fendant in connection with the offense and any obliga-
8 tion imposed upon the defendant to make such restitu-
9 tion or reparation;

10 “(4) if the defendant is an organization, any meas-
11 ure taken by the organization to discipline its employ-
12 ees or agents responsible for the offense or to ensure
13 against a recurrence of such an offense; and

14 “(5) any other pertinent consideration.

15 “(b) EFFECT OF FINALITY OF JUDGMENT.—Notwith-
16 standing the fact that a sentence to pay a fine can subse-
17 quently be—

18 “(1) modified or remitted pursuant to the provi-
19 sions of section 3592;

20 “(2) corrected pursuant to the provisions of rule
21 35; or

22 “(3) appealed;
23 a judgment of conviction that includes such a sentence consti-
24 tutes a final judgment for all other purposes.

1 **“§ 3592. Payment of a fine, delinquency and default**

2 “(a) **TIME AND METHOD OF PAYMENT.**—Payment of a
3 fine is due immediately unless the court, at the time of sen-
4 tencing—

5 “(1) requires payment by a date certain; or

6 “(2) establishes an installment schedule, the spe-
7 cific terms of which shall be fixed by the court.

8 “(b) **INDIVIDUAL RESPONSIBILITIES FOR PAYMENT.**—

9 If a fine is imposed on an organization, it is the duty of each
10 individual authorized to make disbursement of the assets of
11 the organization to pay the fine from assets of the organiza-
12 tion. If a fine is imposed on an agent or shareholder of an
13 organization, the fine shall not be paid, directly or indirectly,
14 out of the assets of the organization, unless the court finds
15 that such payment is expressly permissible under applicable
16 State law.

17 “(c) **RESPONSIBILITY TO PROVIDE CURRENT AD-**
18 **DRESS.**—At the time of imposition of the fine, the court shall
19 order the person fined to provide the Attorney General with
20 a current mailing address for the entire period that any part
21 of the fine remains unpaid. Failure to provide the Attorney
22 General with a current address or a change in address shall
23 be punishable as a contempt of court.

24 “(d) **STAY OF FINE PENDING APPEAL.**—Unless excep-
25 tional circumstances exist, if a sentence to pay a fine is

1 stayed pending appeal, the court granting the stay shall in-
2 clude in such stay—

3 “(1) a requirement that the defendant, pending
4 appeal, to deposit the entire fine amount, or the
5 amount due under an installment schedule, during the
6 pendency of an appeal, in an escrow account in the
7 registry of the district court, or to give bond for the
8 payment thereof; or

9 “(2) an order restraining the defendant from
10 transferring or dissipating assets found to be sufficient,
11 if sold, to meet the defendant’s fine obligation.

12 “(e) DELINQUENT FINE.—A fine is delinquent if any
13 portion of such fine is not paid within thirty days of when it is
14 due, including any fines to be paid pursuant to an installment
15 schedule.

16 “(f) DEFAULT.—A fine is in default if any portion of
17 such fine is more than ninety days delinquent. When a crimi-
18 nal fine is in default, the entire amount is due within thirty
19 days of notification of the default, notwithstanding any in-
20 stallment schedule.

21 **“§ 3593. Modification or remission of fine**

22 “(a) PETITION FOR MODIFICATION OR REMISSION.—

23 A person who has been sentenced to pay a fine, and who—

24 “(1) can show a good faith effort to comply with
25 the terms of the sentence and concerning whom the

1 circumstances no longer exist that warranted the im-
2 position of the fine in the amount imposed or payment by
3 the installment schedule, may at any time petition the
4 court for—

5 “(A) an extension of the installment sched-
6 ule, not to exceed two years except in case of in-
7 carceration or special circumstances; or

8 “(B) a remission of all or part of the unpaid
9 portion including interest and penalties; or

10 “(2) has voluntarily made restitution or reparation
11 to the victim of the offense, may at any time petition
12 the court for a remission of the unpaid portion of the
13 fine in an amount not exceeding the amount of such
14 restitution or reparation.

15 Any petition filed pursuant to this subsection shall be filed in
16 the court in which sentence was originally imposed, unless
17 that court transfers jurisdiction to another court. The peti-
18 tioner shall notify the Attorney General that the petition has
19 been filed within ten working days after filing. For the pur-
20 poses of clause (1), unless exceptional circumstances exist, a
21 person may be considered to have made a good faith effort to
22 comply with the terms of the sentence only after payment of
23 a reasonable portion of the fine.

24 “(b) ORDER OF MODIFICATION OR REMISSION.—If,
25 after the filing of a petition as provided in subsection (a), the

1 court finds that the circumstances warrant relief, the court
2 may enter an appropriate order, in which case it shall provide
3 the Attorney General with a copy of such order.

4 **“§ 3594. Certification and notification**

5 “(a) DISPOSITION OF PAYMENT.—The clerk shall for-
6 ward each fine payment to the United States Treasury and
7 shall notify the Attorney General of its receipt within ten
8 working days.

9 “(b) CERTIFICATION OF IMPOSITION.—If a fine ex-
10 ceeding \$100 is imposed, modified, or remitted, the sentenc-
11 ing court shall incorporate in the order imposing, remitting,
12 and modifying such fine, and promptly certify to the Attorney
13 General—

14 “(1) the name of the person fined;

15 “(2) his current address;

16 “(3) the docket number of the case;

17 “(4) the amount of the fine imposed;

18 “(5) any installment schedule;

19 “(6) the nature of any modification or remission of
20 the fine or installment schedule; and

21 “(7) the amount of the fine that is due and
22 unpaid.

23 “(c) RESPONSIBILITY FOR COLLECTION.—The Attor-
24 ney General shall be responsible for collection of an unpaid

1 fine concerning which a certification has been issued as pro-
2 vided in subsection (a).

3 “(d) NOTIFICATION OF DELINQUENCY.—Within ten
4 working days after a fine is determined to be delinquent as
5 provided in section 3592(e), the Attorney General shall notify
6 the person whose fine is delinquent, by certified mail, to
7 inform him that the fine is delinquent.

8 “(e) NOTIFICATION OF DEFAULT.—Within ten work-
9 ing days after a fine is determined to be in default as provided
10 in section 3592(f), the Attorney General shall notify the
11 person defaulting, by certified mail, to inform him that the
12 fine is in default and the entire unpaid balance, including in-
13 terest and penalties, is due within thirty days.

14 **“§ 3595. Interest, monetary penalties for delinquency, and**
15 **default**

16 “Upon a determination of willful nonpayment, the court
17 may impose the following interest and monetary penalties:

18 “(1) INTEREST.—Notwithstanding any other pro-
19 vision of law, interest at the rate of 1 per centum per
20 month, or 12 per centum per year, shall be charged,
21 beginning the thirty-first day after sentencing on the
22 first day of each month during which any fine balance
23 remains unpaid, including sums to be paid pursuant to
24 an installment schedule.

1 “(2) **MONETARY PENALTIES FOR DELINQUENT**
2 **FINES.**—Notwithstanding any other provision of law, a
3 penalty sum equal to 10 per centum shall be charged
4 for any portion of a criminal fine which has become de-
5 linquent. The Attorney General may waive all or part
6 of the penalty for good cause.

7 **“§ 3596. Civil remedies for satisfaction of an unpaid fine**

8 “(a) **LIEN.**—A fine imposed as a sentence is a lien in
9 favor of the United States upon all property belonging to the
10 person fined. The lien arises at the time of the entry of the
11 judgment and continues until the liability is satisfied, remit-
12 ted, or set aside, or until it becomes unenforceable pursuant
13 to the provisions of subsection (b). On application of the
14 person fined, the Attorney General shall—

15 “(1) issue a certificate of release, as described in
16 section 6325 of the Internal Revenue Code, of any lien
17 imposed pursuant to this section, upon his acceptance
18 of a bond described in section 6325(a)(2) of the Inter-
19 nal Revenue Code; or

20 “(2) issue a certificate of discharge, as described
21 in section 6325 of the Internal Revenue Code, of any
22 part of the person’s property subject to a lien imposed
23 pursuant to this section, upon his determination that
24 the fair market value of that part of such property re-

1 remaining subject to and available to satisfy the lien is at
2 least three times the amount of the fine.

3 “(b) EXPIRATION OF LIEN.—A lien becomes unen-
4 forceable at the time liability to pay a fine expires as provided
5 in section 3598.

6 “(c) APPLICATION OF OTHER LIEN PROVISIONS.—The
7 provisions of sections 6323, 6331, 6334 through 6336,
8 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424
9 through 7426, 7505(a), 7506, 7701, and 7805 of the Internal
10 Revenue Code of 1954 (26 U.S.C. 6323, 6331, 6332, 6334
11 through 6336, 6337(a), 6338 through 6343, 6901, 7402,
12 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805)
13 and of section 513 of the Act of October 17, 1940 (54 Stat.
14 1190), apply to a fine and to the lien imposed by subsection
15 (a) as if the liability of the person fined were for an internal
16 revenue tax assessment, except to the extent that the appli-
17 cation of such statutes is modified by regulations issued by
18 the Attorney General to accord with differences in the nature
19 of the liabilities. For the purposes of this subsection, refer-
20 ences in the preceding sections of the Internal Revenue Code
21 of 1954 to ‘the Secretary’ shall be construed to mean ‘the
22 Attorney General,’ and references in those sections to ‘tax’
23 shall be construed to mean ‘fine.’

24 “(d) EFFECT ON NOTICE OF LIEN.—A notice of the
25 lien imposed by subsection (a) shall be considered a notice of

1 lien for taxes payable to the United States for the purposes of
2 any State or local law providing for the filing of a notice of a
3 tax lien. The registration, recording, docketing, or indexing,
4 in accordance with 28 U.S.C. 1962, of the judgment under
5 which a fine is imposed shall be considered for all purposes as
6 the filing prescribed by section 6323(f)(1)(A) of the Internal
7 Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by sub-
8 section (c).

9 “(e) ALTERNATIVE ENFORCEMENT.—Notwithstanding
10 any other provision of this section, a judgment imposing a
11 fine may be enforced by execution against the property of the
12 person fined in like manner as judgments in civil cases.

13 “(f) DISCHARGE OF DEBTS INAPPLICABLE.—No dis-
14 charge of debts pursuant to a bankruptcy proceeding shall
15 render a lien under this section unenforceable or discharge
16 liability to pay a fine.

17 **“§ 3597. Resentencing upon failure to pay a fine**

18 “(a) RESENTENCING.—Subject to the provisions of sub-
19 section (b), if a person knowingly fails to pay a delinquent
20 fine the court may resentence the person to any sentence
21 which might originally have been imposed.

22 “(b) IMPRISONMENT.—The defendant may be sen-
23 tenced to a term of imprisonment under subsection (a) only if
24 the court determines that—

1 “(1) the person willfully refused to pay the delin-
2 quent fine or had failed to make sufficient bona fide ef-
3 forts to pay the fine; or

4 “(2) in light of the nature of the offense and the
5 characteristics of the person, alternatives to imprison-
6 ment are not adequate to serve the purposes of punish-
7 ment and deterrence.

8 **“§ 3598. Statute of limitations**

9 “(a) LIABILITY TO PAY A FINE EXPIRES.—

10 “(1) twenty years after the entry of the judgment;

11 “(2) upon the death of the person fined.

12 “(b) The period set forth in subsection (a) may be ex-
13 tended, prior to its expiration, by a written agreement be-
14 tween the person fined and the Attorney General. The run-
15 ning of the period set forth in subsection (a) is suspended
16 during any interval for which the running of the period of
17 limitations for collection of a tax would be suspended pursu-
18 ant to section 6503(b), 6503(c), 6503(f), 6503(i), or
19 7508(a)(1)(I) of the Internal Revenue Code of 1954 (26
20 U.S.C. 6503(b), 6503(c), 6503(f), 6503(i), or 7508(a)(1)(I)),
21 or section 513 of the Act of October 17, 1940 (54 Stat.
22 1190).

23 **“§ 3599. Criminal default**

24 “Whoever, having been sentenced to pay a fine, willful-
25 ly fails to pay the fine, shall be fined not more than twice the

1 amount of the unpaid balance of the fine or \$10,000, which-
2 ever is greater, imprisoned not more than one year, or
3 both.”

4 (b) Section 3651 of title 18, United States Code, is
5 amended by inserting after “May be required to provide for
6 the support of any persons, for whose support he is legally
7 responsible.” the following new paragraph:

8 “If the court has imposed and ordered execution of a
9 fine and placed the defendant on probation, payment of the
10 fine or adherence to the court-established installment sched-
11 ule shall be a condition of the probation.”

12 (c) Section 3651 of title 18, United States Code, is
13 amended by striking out the last paragraph and inserting in
14 lieu thereof the following:

15 “The defendant’s liability for any unexecuted fine or
16 other punishment imposed as to which probation is granted,
17 shall be fully discharged by the fulfillment of the terms and
18 conditions of probation.”

19 (d) The second paragraph of section 3655 of title 18,
20 United States Code, is amended to read as follows:

21 “He shall keep informed concerning the conduct, condi-
22 tion, and compliance with any condition of probation, includ-
23 ing the payment of a fine or restitution of each probationer
24 under his supervision, and shall report thereon to the court
25 placing such person on probation. He shall report to the court

1 any failure of a probationer under his supervision to pay a
2 fine in default within thirty days after notification that it is in
3 default so that the court may determine whether probation
4 should be revoked.”.

5 (e) Section 4209 of title 18, United States Code, is
6 amended in subsection (a) by striking out the period at the
7 end of the first sentence and inserting in lieu thereof “and, in
8 a case involving a criminal fine that has not already been
9 paid, that the parolee pay or agree to adhere to an install-
10 ment schedule, not to exceed two years except in special cir-
11 cumstances, to pay for any fine imposed for the offense.”.

12 (f) Subsection (b) (1) of section 4214 of title 18, United
13 States Code, is amended by adding after “parole” the follow-
14 ing: “or a failure to pay a fine in default within thirty days
15 after notification that it is in default”.

16 (g)(1) Section 3565 of title 18, United States Code, is
17 repealed.

18 (2) The table of sections for chapter 227 of title 18,
19 United States Code, is amended by striking out the item for
20 section 3565 and inserting in lieu thereof the following:

“3565. Repealed.”.

21 (h) Section 3569 of title 18, United States Code, is
22 amended by—

23 (1) striking out “(a)”; and

24 (2) striking out subsection (b).

1 (i) This section shall be repealed on the first day of the
2 first calendar month beginning twenty-four months after the
3 date of enactment of this Act.

4 SEC. 229. Since, due to an impending crisis in prison
5 overcrowding, available Federal prison space must be treated
6 as a scarce resource in the sentencing of criminal defendants;

7 Since, sentencing decisions should be designed to ensure
8 that prison resources are, first and foremost, reserved for
9 those violent and serious criminal offenders who pose the
10 most dangerous threat to society;

11 Since, in cases of nonviolent and nonserious offenders,
12 the interests of society as a whole as well as individual vic-
13 tims of crime can continue to be served through the imposi-
14 tion of alternative sentences, such as restitution and commu-
15 nity service;

16 Since, in the two years preceding the enactment of sen-
17 tencing guidelines, Federal sentencing practice should ensure
18 that scarce prison resources are available to house violent
19 and serious criminal offenders by the increased use of restitu-
20 tion, community service, and other alternative sentences in
21 cases of nonviolent and nonserious offenders: Now, therefore,
22 be it

23 Declared, That it is the sense of the Senate that in the
24 two years preceding the enactment of the sentencing guide-

1 lines, Federal judges, in determining the particular sentence
2 to be imposed, consider—

3 (1) the nature and circumstances of the offense
4 and the history and characteristics of the defendant;

5 (2) the general appropriateness of imposing a sen-
6 tence other than imprisonment in cases in which the
7 defendant has not been convicted of a crime of violence
8 or otherwise serious offense; and

9 (3) the general appropriateness of imposing a sen-
10 tence of imprisonment in cases in which the defendant
11 has been convicted of a crime of violence or otherwise
12 serious offense.

13 TITLE III—FORFEITURE

14 SEC. 301. This title may be cited as the “Comprehen-
15 sive Forfeiture Act of 1984”.

16 PART A

17 SEC. 302. Section 1963 of title 18 of the United States
18 Code is amended to read as follows:

19 “§ 1963. Criminal penalties

20 “(a) Whoever violates any provision of section 1962 of
21 this chapter shall be fined not more than \$25,000 or impris-
22 oned not more than twenty years, or both, and shall forfeit to
23 the United States, irrespective of any provision of State
24 law—

1 “(1) any interest the person has acquired or main-
2 tained in violation of section 1962;

3 “(2) any—

4 “(A) interest in;

5 “(B) security of;

6 “(C) claim against; or

7 “(D) property or contractual right of any
8 kind affording a source of influence over;

9 any enterprise which the person has established, oper-
10 ated, controlled, conducted, or participated in the con-
11 duct of, in violation of section 1962; and

12 “(3) any property constituting, or derived from,
13 any proceeds which the person obtained, directly or in-
14 directly, from racketeering activity or unlawful debt
15 collection in violation of section 1962.

16 The court, in imposing sentence on such person shall order,
17 in addition to any other sentence imposed pursuant to this
18 section, that the person forfeit to the United States all prop-
19 erty described in this subsection.

20 “(b) Property subject to criminal forfeiture under this
21 section includes—

22 “(1) real property, including things growing on,
23 affixed to, and found in land; and

1 “(2) tangible and intangible personal property, in-
2 cluding rights, privileges, interests, claims, and securi-
3 ties.

4 “(c) All right, title, and interest in property described in
5 subsection (a) vests in the United States upon the commission
6 of the act giving rise to forfeiture under this section. Any
7 such property that is subsequently transferred to a person
8 other than the defendant may be the subject of a special ver-
9 dict of forfeiture and thereafter shall be ordered forfeited to
10 the United States, unless the transferee establishes in a hear-
11 ing pursuant to subsection (m) that he is a bona fide purchas-
12 er for value of such property who at the time of purchase was
13 reasonably without cause to believe that the property was
14 subject to forfeiture under this section.

15 “(d) If any of the property described in subsection (a)—

16 “(1) cannot be located;

17 “(2) has been transferred to, sold to, or deposited
18 with, a third party;

19 “(3) has been placed beyond the jurisdiction of the
20 court;

21 “(4) has been substantially diminished in value by
22 any act or omission of the defendant; or

23 “(5) has been commingled with other property
24 which cannot be divided without difficulty;

1 the court shall order the forfeiture of any other property of
2 the defendant up to the value of any property described in
3 paragraphs (1) through (5).

4 “(e)(1) Upon application of the United States, the court
5 may enter a restraining order or injunction, require the ex-
6 ecution of a satisfactory performance bond, or take any other
7 action to preserve the availability of property described in
8 subsection (a) for forfeiture under this section—

9 “(A) upon the filing of an indictment or informa-
10 tion charging a violation of section 1962 of this chap-
11 ter and alleging that the property with respect to
12 which the order is sought would, in the event of con-
13 viction, be subject to forfeiture under this section; or

14 “(B) prior to the filing of such an indictment or
15 information, if, after notice to persons appearing to
16 have an interest in the property and opportunity for a
17 hearing, the court determines that—

18 “(i) there is a substantial probability that the
19 United States will prevail on the issue of forfeit-
20 ure and that failure to enter the order will result
21 in the property being destroyed, removed from the
22 jurisdiction of the court, or otherwise made un-
23 available for forfeiture; and

24 “(ii) the need to preserve the availability of
25 the property through the entry of the requested

1 order outweighs the hardship on any party against
2 whom the order is to be entered:

3 *Provided, however,* That an order entered pursuant to sub-
4 paragraph (B) shall be effective for not more than ninety
5 days, unless extended by the court for good cause shown or
6 unless an indictment or information described in subpara-
7 graph (A) has been filed.

8 “(2) A temporary restraining order under this subsection
9 may be entered upon application of the United States without
10 notice or opportunity for a hearing when an information or
11 indictment has not yet been filed with respect to the proper-
12 ty, if the United States demonstrates that there is probable
13 cause to believe that the property with respect to which the
14 order is sought would, in the event of conviction, be subject
15 to forfeiture under this section and that provision of notice
16 will jeopardize the availability of the property for forfeiture.
17 Such a temporary order shall expire not more than ten days
18 after the date on which it is entered, unless extended for good
19 cause shown or unless the party against whom it is entered
20 consents to an extension for a longer period. A hearing re-
21 quested concerning an order entered under this paragraph
22 shall be held at the earliest possible time, and prior to the
23 expiration of the temporary order.

24 “(3) The court may receive and consider, at a hearing
25 held pursuant to this subsection, evidence and information

1 that would be inadmissible under the Federal Rules of Evi-
2 dence.

3 “(f) Upon conviction of a person under this section, the
4 court shall enter a judgment of forfeiture of the property to
5 the United States and shall also authorize the Attorney Gen-
6 eral to seize all property ordered forfeited upon such terms
7 and conditions as the court shall deem proper. Following the
8 entry of an order declaring the property forfeited, the court
9 may, upon application of the United States, enter such appro-
10 priate restraining orders or injunctions, require the execution
11 of satisfactory performance bonds, appoint receivers, conser-
12 vators, appraisers, accountants, or trustees, or take any other
13 action to protect the interest of the United States in the prop-
14 erty ordered forfeited. Any income accruing to, or derived
15 from, an enterprise or an interest in an enterprise which has
16 been ordered forfeited under this section may be used to
17 offset ordinary and necessary expenses to the enterprise
18 which are required by law, or which are necessary to protect
19 the interests of the United States or third parties.

20 “(g) Following the seizure of property ordered forfeited
21 under this section, the Attorney General shall direct the dis-
22 position of the property by sale or any other commercially
23 feasible means, making due provision for the rights of any
24 innocent persons. Any property right or interest not exercis-
25 able by, or transferable for value to, the United States shall

1 expire and shall not revert to the defendant, nor shall the
2 defendant or any person acting in concert with or on behalf of
3 the defendant be eligible to purchase forfeited property at any
4 sale held by the United States. Upon application of a person,
5 other than the defendant or a person acting in concert with or
6 on behalf of the defendant, the court may restrain or stay the
7 sale or disposition of the property pending the conclusion of
8 any appeal of the criminal case giving rise to the forfeiture, if
9 the applicant demonstrates that proceeding with the sale or
10 disposition of the property will result in irreparable injury,
11 harm or loss to him. Notwithstanding 31 U.S.C. 3302(b), the
12 proceeds of any sale or other disposition of property forfeited
13 under this section and any moneys forfeited shall be used to
14 pay all proper expenses for the forfeiture and the sale, includ-
15 ing expenses of seizure, maintenance and custody of the
16 property pending its disposition, advertising and court costs.
17 The Attorney General shall deposit in the Treasury any
18 amounts of such proceeds or moneys remaining after the pay-
19 ment of such expenses.

20 “(h) With respect to property ordered forfeited under
21 this section, the Attorney General is authorized to—

22 “(1) grant petitions for mitigation or remission of
23 forfeiture, restore forfeited property to victims of a vio-
24 lation of this chapter, or take any other action to pro-
25 tect the rights of innocent persons which is in the in-

1 terest of justice and which is not inconsistent with the
2 provisions of this chapter;

3 “(2) compromise claims arising under this section;

4 “(3) award compensation to persons providing in-
5 formation resulting in a forfeiture under this section;

6 “(4) direct the disposition by the United States of
7 all property ordered forfeited under this section by
8 public sale or any other commercially feasible means,
9 making due provision for the rights of innocent per-
10 sons; and

11 “(5) take appropriate measures necessary to safe-
12 guard and maintain property ordered forfeited under
13 this section pending its disposition.

14 “(i) The Attorney General may promulgate regulations
15 with respect to—

16 “(1) making reasonable efforts to provide notice to
17 persons who may have an interest in property ordered
18 forfeited under this section;

19 “(2) granting petitions for remission or mitigation
20 of forfeiture;

21 “(3) the restitution of property to victims of an of-
22 fense petitioning for remission or mitigation of forfeit-
23 ure under this chapter;

1 “(4) the disposition by the United States of forfeit-
2 ed property by public sale or other commercially feasi-
3 ble means;

4 “(5) the maintenance and safekeeping of any
5 property forfeited under this section pending its disposi-
6 tion; and

7 “(6) the compromise of claims arising under this
8 chapter.

9 Pending the promulgation of such regulations, all provisions
10 of law relating to the disposition of property, or the proceeds
11 from the sale thereof, or the remission or mitigation of forfeit-
12 ures for violation of the customs laws, and the compromise of
13 claims and the award of compensation to informers in respect
14 of such forfeitures shall apply to forfeitures incurred, or al-
15 leged to have been incurred, under the provisions of this sec-
16 tion, insofar as applicable and not inconsistent with the provi-
17 sions hereof. Such duties as are imposed upon the Customs
18 Service or any person with respect to the disposition of prop-
19 erty under the customs law shall be performed under this
20 chapter by the Attorney General.

21 “(j) Except as provided in subsection (m), no party
22 claiming an interest in property subject to forfeiture under
23 this section may—

1 “(1) intervene in a trial or appeal of a criminal
2 case involving the forfeiture of such property under this
3 section; or

4 “(2) commence an action at law or equity against
5 the United States concerning the validity of his alleged
6 interest in the property subsequent to the filing of an
7 indictment or information alleging that the property is
8 subject to forfeiture under this section.

9 “(k) The district courts of the United States shall have
10 jurisdiction to enter orders as provided in this section without
11 regard to the location of any property which may be subject
12 to forfeiture under this section or which has been ordered
13 forfeited under this section.

14 “(l) In order to facilitate the identification or location of
15 property declared forfeited and to facilitate the disposition of
16 petitions for remission or mitigation of forfeiture, after the
17 entry of an order declaring property forfeited to the United
18 States the court may, upon application of the United States,
19 order that the testimony of any witness relating to the prop-
20 erty forfeited be taken by deposition and that any designated
21 book, paper, document, record, recording, or other material
22 not privileged be produced at the same time and place, in the
23 same manner as provided for the taking of depositions under
24 Rule 15 of the Federal Rules of Criminal Procedure.

1 “(m)(1) Following the entry of an order of forfeiture
2 under this section, the United States shall publish notice of
3 the order and of its intent to dispose of the property for at
4 least seven successive court days in such manner as the At-
5 torney General may direct. The Government may also, to the
6 extent practicable, provide direct written notice to any
7 person known to have alleged an interest in the property that
8 is the subject of the order of forfeiture as a substitute for
9 published notice as to those persons so notified.

10 “(2) Any person, other than the defendant, asserting a
11 legal interest in property which has been ordered forfeited to
12 the United States pursuant to this section may, within thirty
13 days of the final publication of notice or his receipt of notice
14 under paragraph (1), whichever is earlier, petition the court
15 for a hearing to adjudicate the validity of his alleged interest
16 in the property. The hearing shall be held before the court
17 alone, without a jury.

18 “(3) The petition shall be signed by the petitioner under
19 penalty of perjury and shall set forth the nature and extent of
20 the petitioner’s right, title, or interest in the property, the
21 time and circumstances of the petitioner’s acquisition of the
22 right, title, or interest in the property, any additional facts
23 supporting the petitioner’s claim, and the relief sought.

24 “(4) The hearing on the petition shall, to the extent
25 practicable and consistent with the interests of justice, be

1 held within thirty days of the filing of the petition. The court
2 may consolidate the hearing on the petition with a hearing on
3 any other petition filed by a person other than the defendant
4 under this subsection.

5 “(5) At the hearing, the petitioner may testify and
6 present evidence and witnesses on his own behalf, and cross-
7 examine witnesses who appear at the hearing. The United
8 States may present evidence and witnesses in rebuttal and in
9 defense of its claim to the property and cross-examine wit-
10 nesses who appear at the hearing. In addition to testimony
11 and evidence presented at the hearing, the court shall consid-
12 er the relevant portions of the record of the criminal case
13 which resulted in the order of forfeiture.

14 “(6) If, after the hearing, the court determines that the
15 petitioner has established by a preponderance of the evidence
16 that—

17 “(A) the petitioner has a legal right, title, or in-
18 terest in the property, and such right, title, or interest
19 renders the order of forfeiture invalid in whole or in
20 part because the right, title, or interest was vested in
21 the petitioner rather than the defendant or was superi-
22 or to any right, title, or interest of the defendant at the
23 time of the commission of the acts which gave rise to
24 the forfeiture of the property under this section; or

1 “(B) the petitioner is a bona fide purchaser for
2 value of the right, title, or interest in the property and
3 was at the time of purchase reasonably without cause
4 to believe that the property was subject to forfeiture
5 under this section;

6 the court shall amend the order of forfeiture in accordance
7 with its determination.

8 “(7) Following the court’s disposition of all petitions
9 filed under this subsection, or if no such petitions are filed
10 following the expiration of the period provided in paragraph
11 (2) for the filing of such petitions, the United States shall
12 have clear title to property that is the subject of the order of
13 forfeiture and may warrant good title to any subsequent pur-
14 chaser or transferee.”.

15 PART B

16 SEC. 303. Part D of title II of the Comprehensive Drug
17 Abuse Prevention and Control Act of 1970 (21 U.S.C. 841
18 et seq.) is amended by adding at the end thereof the following
19 new sections 413 and 414:

20 “CRIMINAL FORFEITURES

21 “PROPERTY SUBJECT TO CRIMINAL FORFEITURE

22 “SEC. 413. (a) Any person convicted of a violation of
23 this title or title III punishable by imprisonment for more
24 than one year shall forfeit to the United States, irrespective
25 of any provision of State law—

1 “(1) any property constituting, or derived from,
2 any proceeds the person obtained, directly or indirectly,
3 as the result of such violation;

4 “(2) any of the person’s property used, or intend-
5 ed to be used, in any manner or part, to commit, or to
6 facilitate the commission of, such violation; and

7 “(3) in the case of a person convicted of engaging
8 in a continuing criminal enterprise in violation of sec-
9 tion 408 of this title (21 U.S.C. 848), the person shall
10 forfeit, in addition to any property described in para-
11 graph (1) or (2), any of his interest in, claims against,
12 and property or contractual rights affording a source of
13 control over, the continuing criminal enterprise.

14 The court, in imposing sentence on such person, shall order,
15 in addition to any other sentence imposed pursuant to this
16 title or title III, that the person forfeit to the United States
17 all property described in this subsection.

18 “MEANING OF TERM ‘PROPERTY’

19 “(b) Property subject to criminal forfeiture under this
20 section includes—

21 “(1) real property, including things growing on,
22 affixed to, and found in land; and

23 “(2) tangible and intangible personal property, in-
24 cluding rights, privileges, interests, claims, and securi-
25 ties.

1 "THIRD PARTY TRANSFERS

2 "(c) All right, title, and interest in property described in
3 subsection (a) vests in the United States upon the commission
4 of the act giving rise to forfeiture under this section. Any
5 such property that is subsequently transferred to a person
6 other than the defendant may be the subject of a special ver-
7 dict of forfeiture and thereafter shall be ordered forfeited to
8 the United States, unless the transferee establishes in a hear-
9 ing pursuant to subsection (o) that he is a bona fide purchaser
10 for value of such property who at the time of purchase was
11 reasonably without cause to believe that the property was
12 subject to forfeiture under this section.

13 "(d) If any of the property described in subsection (a)—

14 "(1) cannot be located;

15 "(2) has been transferred to, sold to, or deposited
16 with a third party;

17 "(3) has been placed beyond the jurisdiction of the
18 court;

19 "(4) has been substantially diminished in value by
20 any act or omission of the defendant; or

21 "(5) has been commingled with other property
22 which cannot be divided without difficulty;

23 the court shall order the forfeiture of any other property of
24 the defendant up to the value of any property described in
25 paragraphs (1) through (5).

1 "REBUTTABLE PRESUMPTION

2 "(e) There is a rebuttable presumption at trial that any
3 property of a person convicted of a felony under this title or
4 title III is subject to forfeiture under this section if the
5 United States establishes by a preponderance of the evidence
6 that—

7 "(1) such property was acquired by such person
8 during the period of the violation of this title or title
9 III or within a reasonable time after such period; and
10 "(2) there was no likely source for such property
11 other than the violation of this title or title III.

12 "PROTECTIVE ORDERS

13 "(f)(1) Upon application of the United States, the court
14 may enter a restraining order or injunction, require the ex-
15 ecution of a satisfactory performance bond, or take any other
16 action to preserve the availability of property described in
17 subsection (a) for forfeiture under this section—

18 "(A) upon the filing of an indictment or informa-
19 tion charging a violation of this title or title III for
20 which criminal forfeiture may be ordered under this
21 section and alleging that the property with respect to
22 which the order is sought would, in the event of con-
23 viction, be subject to forfeiture under this section; or

24 "(B) prior to the filing of such an indictment or
25 information, if, after notice to persons appearing to

1 have an interest in the property and opportunity for a
2 hearing, the court determines that—

3 “(i) there is a substantial probability that the
4 United States will prevail on the issue of forfeit-
5 ure and that failure to enter the order will result
6 in the property being destroyed, removed from the
7 jurisdiction of the court, or otherwise made un-
8 available for forfeiture; and

9 “(ii) the need to preserve the availability of
10 the property through the entry of the requested
11 order outweighs the hardship on any party against
12 whom the order is to be entered:

13 *Provided, however,* That an order entered pursuant to sub-
14 paragraph (B) shall be effective for not more than ninety
15 days, unless extended by the court for good cause shown or
16 unless an indictment or information described in subpara-
17 graph (A) has been filed.

18 “(2) A temporary restraining order under this subsection
19 may be entered upon application of the United States without
20 notice or opportunity for a hearing when an information or
21 indictment has not yet been filed with respect to the proper-
22 ty, if the United States demonstrates that there is probable
23 cause to believe that the property with respect to which the
24 order is sought would, in the event of conviction, be subject
25 to forfeiture under this section and that provision of notice

1 will jeopardize the availability of the property for forfeiture.
2 Such a temporary order shall expire not more than ten days
3 after the date on which it is entered, unless extended for good
4 cause shown or unless the party against whom it is entered
5 consents to an extension for a longer period. A hearing re-
6 quested concerning an order entered under this paragraph
7 shall be held at the earliest possible time and prior to the
8 expiration of the temporary order.

9 “(3) The court may receive and consider, at a hearing
10 held pursuant to this subsection, evidence and information
11 that would be inadmissible under the Federal Rules of Evi-
12 dence.

13 “WARRANT OF SEIZURE

14 “(g) The Government may request the issuance of a
15 warrant authorizing the seizure of property subject to forfeit-
16 ure under this section in the same manner as provided for a
17 search warrant. If the court determines that there is probable
18 cause to believe that the property to be seized would, in the
19 event of conviction, be subject to forfeiture and that an order
20 under subsection (f) may not be sufficient to assure the avail-
21 ability of the property for forfeiture, the court shall issue a
22 warrant authorizing the seizure of such property.

23 “EXECUTION

24 “(h) Upon entry of an order of forfeiture under this sec-
25 tion, the court shall authorize the Attorney General to seize

1 all property ordered forfeited upon such terms and conditions
2 as the court shall deem proper. Following entry of an order
3 declaring the property forfeited, the court may, upon applica-
4 tion of the United States, enter such appropriate restraining
5 orders or injunctions, require the execution of satisfactory
6 performance bonds, appoint receivers, conservators, apprais-
7 ers, accountants, or trustees, or take any other action to pro-
8 tect the interest of the United States in the property ordered
9 forfeited. Any income accruing to or derived from property
10 ordered forfeited under this section may be used to offset or-
11 dinary and necessary expenses to the property which are re-
12 quired by law, or which are necessary to protect the interests
13 of the United States or third parties.

14 "DISPOSITION OF PROPERTY

15 "(i) Following the seizure of property ordered forfeited
16 under this section, the Attorney General shall direct the dis-
17 position of the property by sale or any other commercially
18 feasible means, making due provision for the rights of any
19 innocent persons. Any property right or interest not exercis-
20 able by, or transferable for value to, the United States shall
21 expire and shall not revert to the defendant, nor shall the
22 defendant or any person acting in concert with him or on his
23 behalf be eligible to purchase forfeited property at any sale
24 held by the United States. Upon application of a person,
25 other than the defendant or a person acting in concert with

1 him or on his behalf, the court may restrain or stay the sale
2 or disposition of the property pending the conclusion of any
3 appeal of the criminal case giving rise to the forfeiture, if the
4 applicant demonstrates that proceeding with the sale or dis-
5 position of the property will result in irreparable injury,
6 harm, or loss to him.

7 "AUTHORITY OF THE ATTORNEY GENERAL

8 "(j) With respect to property ordered forfeited under this
9 section, the Attorney General is authorized to—

10 "(1) grant petitions for mitigation or remission of
11 forfeiture, restore forfeited property to victims of a vio-
12 lation of this chapter, or take any other action to pro-
13 tect the rights of innocent persons which is in the in-
14 terest of justice and which is not inconsistent with the
15 provisions of this section;

16 "(2) compromise claims arising under this section;

17 "(3) award compensation to persons providing in-
18 formation resulting in a forfeiture under this section;

19 "(4) direct the disposition by the United States, in
20 accordance with the provisions of section 511(e) of this
21 title (21 U.S.C. 881(e)), of all property ordered forfeit-
22 ed under this section by public sale or any other com-
23 mercially feasible means, making due provision for the
24 rights of innocent persons; and

1 “(5) take appropriate measures necessary to safe-
2 guard and maintain property ordered forfeited under
3 this section pending its disposition.

4 “APPLICABILITY OF CIVIL FORFEITURE PROVISIONS

5 “(k) Except to the extent that they are inconsistent with
6 the provisions of this section, the provisions of section 511(d)
7 of this title (21 U.S.C. 881(d)) shall apply to a criminal for-
8 feiture under this section.

9 “BAR ON INTERVENTION

10 “(l) Except as provided in subsection (o), no party claim-
11 ing an interest in property subject to forfeiture under this
12 section may—

13 “(1) intervene in a trial or appeal of a criminal
14 case involving the forfeiture of such property under this
15 section; or

16 “(2) commence an action at law or equity against
17 the United States concerning the validity of his alleged
18 interest in the property subsequent to the filing of an
19 indictment or information alleging that the property is
20 subject to forfeiture under this section.

21 “JURISDICTION TO ENTER ORDERS

22 “(m) The district courts of the United States shall have
23 jurisdiction to enter orders as provided in this section without
24 regard to the location of any property which may be subject

1 to forfeiture under this section or which has been ordered
2 forfeited under this section.

3 "DEPOSITIONS

4 "(n) In order to facilitate the identification and location
5 of property declared forfeited and to facilitate the disposition
6 of petitions for remission or mitigation of forfeiture, after the
7 entry of an order declaring property forfeited to the United
8 States, the court may, upon application of the United States,
9 order that the testimony of any witness relating to the prop-
10 erty forfeited be taken by deposition and that any designated
11 book, paper, document, record, recording, or other material
12 not privileged be produced at the same time and place, in the
13 same manner as provided for the taking of depositions under
14 Rule 15 of the Federal Rules of Criminal Procedure.

15 "THIRD PARTY INTERESTS

16 "(o)(1) Following the entry of an order of forfeiture
17 under this section, the United States shall publish notice of
18 the order and of its intent to dispose of the property for at
19 least seven successive court days in such manner as the At-
20 torney General may direct. The Government may also, to the
21 extent practicable, provide direct written notice to any
22 person known to have alleged an interest in the property that
23 is the subject of the order of forfeiture as a substitute for
24 published notice as to those persons so notified.

1 “(2) Any person, other than the defendant, asserting a
2 legal interest in property which has been ordered forfeited to
3 the United States pursuant to this section may, within thirty
4 days of the final publication of notice or his receipt of notice
5 under paragraph (1), whichever is earlier, petition the court
6 for a hearing to adjudicate the validity of his alleged interest
7 in the property. The hearing shall be held before the court
8 alone, without a jury.

9 “(3) The petition shall be signed by the petitioner under
10 penalty of perjury and shall set forth the nature and extent of
11 the petitioner’s right, title, or interest in the property, the
12 time and circumstances of the petitioner’s acquisition of the
13 right, title, or interest in the property, any additional facts
14 supporting the petitioner’s claim, and the relief sought.

15 “(4) The hearing on the petition shall, to the extent
16 practicable and consistent with the interests of justice, be
17 held within thirty days of the filing of the petition. The court
18 may consolidate the hearing on the petition with a hearing on
19 any other petition filed by a person other than the defendant
20 under this subsection.

21 “(5) At the hearing, the petitioner may testify and
22 present evidence and witnesses on his own behalf, and cross-
23 examine witnesses who appear at the hearing. The United
24 States may present evidence and witnesses in rebuttal and in
25 defense of its claim to the property and cross-examine wit-

1 nesses who appear at the hearing. In addition to testimony
2 and evidence presented at the hearing, the court shall consid-
3 er the relevant portions of the record of the criminal case
4 which resulted in the order of forfeiture.

5 “(6) If, after the hearing, the court determines that the
6 petitioner has established by a preponderance of the evidence
7 that—

8 “(A) the petitioner has a legal right, title, or in-
9 terest in the property, and such right, title, or interest
10 renders the order of forfeiture invalid in whole or in
11 part because the right, title, or interest was vested in
12 the petitioner rather than the defendant or was superi-
13 or to any right, title, or interest of the defendant at the
14 time of the commission of the acts which gave rise to
15 the forfeiture of the property under this section; or

16 “(B) the petitioner is a bona fide purchaser for
17 value of the right, title, or interest in the property and
18 was at the time of purchase reasonably without cause
19 to believe that the property was subject to forfeiture
20 under this section;

21 the court shall amend the order of forfeiture in accordance
22 with its determination.

23 “(7) Following the court’s disposition of all petitions
24 filed under this subsection, or if no such petitions are filed
25 following the expiration of the period provided in paragraph

1 (2) for the filing of such petitions, the United States shall
2 have clear title to property that is the subject of the order of
3 forfeiture and may warrant good title to any subsequent pur-
4 chaser or transferee.”.

5 “(p) The provisions of this section shall be liberally con-
6 strued to effectuate its remedial purposes.

7 “INVESTMENT OF ILLICIT DRUG PROFITS

8 “SEC. 414. (a) It shall be unlawful for any person who
9 has received any income derived, directly or indirectly, from
10 a violation of this title or title III punishable by imprison-
11 ment for more than one year in which such person has par-
12 ticipated as a principal within the meaning of section 2 of
13 title 18, United States Code, to use or invest, directly or
14 indirectly, any part of such income, or the proceeds of such
15 income, in acquisition of any interest in, or the establishment
16 or operation of, any enterprise which is engaged in, or the
17 activities of which affect interstate or foreign commerce. A
18 purchase of securities on the open market for purposes of
19 investment, and without the intention of controlling or par-
20 ticipating in the control of the issuer, or of assisting another
21 to do so, shall not be unlawful under this section if the securi-
22 ties of the issuer held by the purchaser, the members of his
23 immediate family, and his or their accomplices in any viola-
24 tion of this title or title III after such purchase do not amount
25 in the aggregate to 1 per centum of the outstanding securities

1 of any one class, and do not confer, either in law or in fact,
2 the power to elect one or more directors of the issuer.

3 “(b) Whoever violates this section shall be fined not
4 more than \$50,000 or imprisoned not more than ten years, or
5 both.

6 “(c) As used in this section, the term ‘enterprise’ in-
7 cludes any individual, partnership, corporation, association,
8 or other legal entity, and any union or group of individuals
9 associated in fact although not a legal entity.

10 “(d) The provisions of this section shall be liberally con-
11 strued to effectuate its remedial purposes.”.

12 SEC. 304. Section 304 of the Comprehensive Drug
13 Abuse Prevention and Control Act of 1970 (21 U.S.C. 824)
14 is amended by adding at the end of subsection (f) the follow-
15 ing sentence: “All right, title, and interest in such controlled
16 substances shall vest in the United States upon a revocation
17 order becoming final.”.

18 SEC. 305. Section 408 of the Comprehensive Drug
19 Abuse Prevention and Control Act of 1970 (21 U.S.C. 848)
20 is amended—

21 (a) in subsection (a)—

22 (1) by striking out “(1)”;

23 (2) by striking out “paragraph (2)” each time it
24 appears, and inserting in lieu thereof “section 413 of
25 this title”; and

1 (3) by striking out paragraph (2); and

2 (b) by striking out subsection (d).

3 SEC. 306. Section 511 of the Comprehensive Drug
4 Abuse Prevention and Control Act of 1970 (21 U.S.C. 881)
5 is amended—

6 (a) in subsection (a) by inserting at the end thereof the
7 following new subsection:

8 “(7) All real property, including any right, title,
9 and interest in the whole of any lot or tract of land and
10 any appurtenances or improvements, which is used, or
11 intended to be used, in any manner or part, to commit,
12 or to facilitate the commission of, a violation of this
13 title punishable by more than one year’s imprisonment,
14 except that no property shall be forfeited under this
15 paragraph, to the extent of an interest of an owner, by
16 reason of any act or omission established by that
17 owner to have been committed or omitted without the
18 knowledge or consent of that owner.”;

19 (b) in subsection (b)—

20 (1) by inserting “civil or criminal” after “Any
21 property subject to”; and

22 (2) by striking out in paragraph (4) “has been
23 used or is intended to be used in violation of” and in-
24 serting in lieu thereof “is subject to civil or criminal
25 forfeiture under”;

1 (c) in subsection (c)—

2 (1) by inserting in the second sentence “any of”
3 after “Whenever property is seized under”; and

4 (2) by inserting in paragraph (3) “, if practicable,”
5 after “remove it”;

6 (d) in subsection (d), by inserting “any of” after “alleged
7 to have been incurred, under”;

8 (e) in subsection (e)—

9 (1) by inserting “civilly or criminally” in the first
10 sentence after “Whenever property is”; and

11 (2) by striking out in paragraph (3) “and remove
12 it for disposition” and inserting in lieu thereof “and
13 dispose of it”; and

14 (f) by inserting at the end thereof the following new sub-
15 sections:

16 “(h) All right, title, and interest in property described in
17 subsection (a) shall vest in the United States upon commis-
18 sion of the act giving rise to forfeiture under this section.

19 “(i) The filing of an indictment or information alleging a
20 violation of this title or title III which is also related to a
21 civil forfeiture proceeding under this section shall, upon
22 motion of the United States and for good cause shown, stay
23 the civil forfeiture proceeding.

24 “(j) In addition to the venue provided for in section
25 1395 of title 28, United States Code, or any other provision

1 of law, in the case of property of a defendant charged with a
 2 violation that is the basis for forfeiture of the property under
 3 this section, a proceeding for forfeiture under this section
 4 may be brought in the judicial district in which the defendant
 5 owning such property is found or in the judicial district in
 6 which the criminal prosecution is brought.”.

7 SEC. 307. Part A of title III of the Comprehensive
 8 Drug Abuse Prevention and Control Act of 1970 is amended
 9 by adding at the end thereof the following new section:

10 “CRIMINAL FORFEITURES

11 “SEC. 1017. Section 413 of title II, relating to criminal
 12 forfeitures, shall apply in every respect to a violation of this
 13 title punishable by imprisonment for more than one year.”.

14 SEC. 308. The table of contents of the Comprehensive
 15 Drug Abuse Prevention and Control Act of 1970 is amend-
 16 ed—

17 (a) by adding immediately after

“Sec. 412. Applicability of treaties and other international agreements.”

18 the following new items:

“Sec. 413. Criminal forfeitures.

“Sec. 414. Investment of illicit drug profits.”.

19 and

20 (b) by adding immediately after

“Sec. 1016. Authority of Secretary of the Treasury.”

21 the following new item:

“Sec. 1017. Criminal forfeitures.”.

PART C

1

2 SEC. 309. (a) Section 511(e)(1) of the Comprehensive
3 Drug Abuse Prevention and Control Act of 1970 (21 U.S.C.
4 881(e)(1)) is amended by adding after "retain the property for
5 official use" the following: "or transfer the custody or owner-
6 ship of any forfeited property to any Federal, State, or local
7 agency pursuant to section 616 of the Tariff Act of 1930 (19
8 U.S.C. 1616)".

9 (b) Section 511(e) of the Comprehensive Drug Abuse
10 Prevention and Control Act of 1970 (21 U.S.C. 881(e)) is
11 amended by inserting before "The proceeds from any sale
12 under paragraph (2)" the following: "The Attorney General
13 shall ensure the equitable transfer pursuant to paragraph (1)
14 of any forfeited property to the appropriate State or local law
15 enforcement agency so as to reflect generally the contribution
16 of any such agency participating directly in any of the acts
17 which led to the seizure or forfeiture of such property. A
18 decision by the Attorney General pursuant to paragraph (1)
19 shall not be subject to review."

20 (c) Section 511(e) of the Comprehensive Drug Abuse
21 Prevention and Control Act of 1970 (21 U.S.C. 881(e)) is
22 further amended by striking out "the general fund of the
23 United States Treasury" in the sentence beginning "The At-
24 torney General shall" and inserting in lieu thereof "accord-
25 ance with section 524(c) of title 28, United States Code".

1 SEC. 310. Section 524 of title 28, United States Code,
2 is amended by adding at the end the following new subsec-
3 tion:

4 “(c)(1) There is established in the United States Treas-
5 ury a special fund to be known as the Department of Justice
6 Assets Forfeiture Fund (hereinafter in this subsection re-
7 ferred to as the ‘fund’) which shall be available to the Attor-
8 ney General without fiscal year limitation in such amounts as
9 may be specified in appropriations Acts for the following pur-
10 poses of the Department of Justice—

11 “(A) the payment, at the discretion of the Attor-
12 ney General, of any expenses necessary to seize,
13 detain, inventory, safeguard, maintain, advertise, or
14 sell property under seizure, detention, or forfeited pur-
15 suant to any law enforced or administered by the De-
16 partment of Justice, or of any other necessary ex-
17 penses incident to the seizure, detention, or forfeiture
18 of such property; such payments may include payments
19 for contract services and payments to reimburse any
20 Federal, State, or local agency for any expenditures
21 made to perform the foregoing functions;

22 “(B) the payment of awards for information or as-
23 sistance leading to a civil or criminal forfeiture under
24 the Comprehensive Drug Abuse Prevention and Con-
25 trol Act of 1970 (21 U.S.C. 800 et seq.) or a criminal

1 forfeiture under the Racketeer Influenced and Corrupt
2 Organizations statute (18 U.S.C. 1961 et seq.), at the
3 discretion of the Attorney General;

4 “(C) the compromise and payment of valid liens
5 and mortgages against property that has been forfeited
6 pursuant to any law enforced or administered by the
7 Department of Justice, subject to the discretion of the
8 Attorney General to determine the validity of any such
9 lien or mortgage and the amount of payment to be
10 made; and

11 “(D) disbursements authorized in connection with
12 remission or mitigation procedures relating to property
13 forfeited under any law enforced or administered by the
14 Department of Justice.

15 “(2) Any award paid from the fund for information con-
16 cerning a forfeiture, as provided in paragraph (1)(B), shall be
17 paid at the discretion of the Attorney General or his delegate,
18 except that the authority to pay an award of \$10,000 or
19 more shall not be delegated to any person other than the
20 Deputy Attorney General, the Associate Attorney General,
21 the Director of the Federal Bureau of Investigation, or the
22 Administrator of the Drug Enforcement Administration. Any
23 award for such information shall not exceed the lesser of
24 \$150,000 or one-fourth of the amount realized by the United
25 States from the property forfeited.

1 “(3) There shall be deposited in the fund all amounts
2 from the forfeiture of property under any law enforced or
3 administered by the Department of Justice remaining after
4 the payment of expenses for forfeiture and sale authorized by
5 law.

6 “(4) Amounts in the fund which are not currently
7 needed for the purpose of this section shall be kept on deposit
8 or invested in obligations of, or guaranteed by, the United
9 States.

10 “(5) The Attorney General shall transmit to the Con-
11 gress, not later than four months after the end of each fiscal
12 year a detailed report on the amounts deposited in the fund
13 and a description of expenditures made under this subsection.

14 “(6) The provisions of this subsection relating to depos-
15 its in the fund shall apply to all property in the custody of the
16 Department of Justice on or after the effective date of the
17 Comprehensive Forfeiture Act of 1983.

18 “(7) For fiscal years 1984, 1985, 1986, and 1987, there
19 are authorized to be appropriated such sums as may be nec-
20 essary for the purposes described in paragraph (1). At the end
21 of each fiscal year, any amount in the fund in excess of the
22 amount appropriated shall be deposited in the general fund of
23 the Treasury of the United States, except that an amount not
24 to exceed \$5,000,000 may be carried forward and available
25 for appropriation in the next fiscal year.

1 the appropriate customs officer shall cause a notice of the
2 seizure of such articles and the intention to forfeit and sell or
3 otherwise dispose of the same according to law to be pub-
4 lished for at least three successive weeks in such manner as
5 the Secretary of the Treasury may direct. Written notice of
6 seizure together with information on the applicable proce-
7 dures shall be sent to each party who appears to have an
8 interest in the seized article.

9 “(b) As used in this section, the term ‘controlled sub-
10 stance’ has the meaning given that term in section 102 of the
11 Controlled Substances Act (21 U.S.C. 802).”

12 SEC. 312. Section 608 of the Tariff Act of 1930 (19
13 U.S.C. 1608) is amended in the second sentence by inserting
14 after “penal sum of” the following: “\$5,000 or 10 per
15 centum of the value of the claimed property, whichever is
16 lower, but not less than,”.

17 SEC. 313. Section 609 of the Tariff Act of 1930 (19
18 U.S.C. 1609) is amended by striking out “after deducting the
19 actual expenses of seizure, publication, and sale in the Treas-
20 ury of the United States.” and inserting in lieu thereof “after
21 deducting expenses enumerated in section 613 of this Act
22 into the Customs Forfeiture Fund.”.

23 SEC. 314. Section 610 of the Tariff Act of 1930 (19
24 U.S.C. 1610) is amended by striking out “If the value of any
25 vessel, vehicle, merchandise, or baggage so seized is greater

1 than \$10,000,” and substituting in lieu thereof the following:
2 “If any vessel, vehicle, aircraft, merchandise, or baggage is
3 not subject to the procedure set forth in section 607,”.

4 SEC. 315. Section 612 of the Tariff Act of 1930 (19
5 U.S.C. 1612) is amended by—

6 (1) inserting “aircraft,” immediately after “vehi-
7 cle,” wherever it appears in the section;

8 (2) striking out “and the value of such vessel, ve-
9 hicle, merchandise, or baggage as determined under
10 section 606 does not exceed \$10,000,” in the first sen-
11 tence and inserting in lieu thereof the following: “and
12 the article is subject to the provisions of section 607 of
13 this Act,”; and

14 (3) striking out “If such value of such vessel, ve-
15 hicle, merchandise, or baggage exceeds \$10,000,” in
16 the second sentence and inserting in lieu thereof the
17 following: “If the article is not subject to the provi-
18 sions of section 607 of this Act,”.

19 SEC. 316. Section 613(a)(3) of the Tariff Act of 1930
20 (19 U.S.C. 1613(a)(3)) is amended to read as follows:

21 “(3) The residue shall be deposited in the Cus-
22 toms Forfeiture Fund.”.

23 SEC. 317. The Tariff Act of 1930 is amended by adding
24 a new section immediately after section 613 (19 U.S.C.
25 1613) to read as follows:

1 **“§ 613a. Customs Forfeiture Fund**

2 “(a) There is hereby established in the Treasury of the
3 United States a special fund for the United States Customs
4 Service that shall be entitled the ‘Customs Forfeiture Fund’
5 (hereinafter referred to in this section as the ‘fund’). This
6 fund shall be available without fiscal year limitation in such
7 amounts as may be specified in appropriations Acts for the
8 following purposes of the United States Customs Service—

9 “(1) the payment of all proper expenses of the
10 seizure or detention or the proceedings of forfeiture and
11 sale (not otherwise recovered under section 613(a)) in-
12 cluding but not limited to, expenses of inventory, secu-
13 rity, maintaining the custody of the property, advertis-
14 ing and sale, and if condemned by the court and a
15 bond for such costs was not given, the costs as taxed
16 by the court; and

17 “(2) the payment of awards of compensation to in-
18 formers under section 619 of the Tariff Act of 1930, as
19 amended.

20 “(b) There shall be deposited in the fund all proceeds
21 from the sale or other disposition of property forfeited under,
22 and any currency or monetary instruments seized and forfeit-
23 ed under, the laws enforced or administered by the United
24 States Customs Service.

25 “(c) Amounts in the fund which are not currently
26 needed for the purposes of this section shall be kept on depos-

1 it or invested in obligations of, or guaranteed by, the United
2 States.

3 “(d) The Commissioner of Customs shall transmit to the
4 Congress, not later than four months after the end of each
5 fiscal year a detailed report on the amounts deposited in the
6 fund and a description of expenditures made under this sec-
7 tion.

8 “(e) The provisions of this section relating to deposits in
9 the fund shall apply to all property in the custody of the
10 United States Customs Service on or after the effective date
11 of the Comprehensive Forfeiture Act of 1983.

12 “(f) For the purposes described in subsection (a), there
13 are authorized to be appropriated from the fund for fiscal
14 year 1984 not more than \$10,000,000, for fiscal year 1985
15 not more than \$15,000,000, for fiscal year 1986 not more
16 than \$20,000,000, and for fiscal year 1987 not more than
17 \$20,000,000. Amounts in the fund in excess of the amounts
18 appropriated at the end of each fiscal year shall be deposited
19 in the General Fund of the Treasury of the United States. At
20 the end of the last fiscal year for which appropriations from
21 the fund are authorized by this Act, the fund shall cease to
22 exist and any amount then remaining in the fund shall be
23 deposited in the General Fund of the Treasury of the United
24 States.”.

1 SEC. 318. A new section 616 is added to the Tariff Act
2 of 1930 (19 U.S.C. 1616) to read as follows:

3 **“§ 616. Disposition of forfeited property**

4 “(a) Notwithstanding any other provision of the law, the
5 Commissioner is authorized to retain forfeited property, or to
6 transfer such property on such terms and conditions as he
7 may determine to—

8 “(1) any other Federal agency; or

9 “(2) any State or local law enforcement agency
10 which participated directly in any of the acts which led
11 to the seizure or forfeiture of the property.

12 The Secretary of the Treasury shall ensure the equitable
13 transfer pursuant to paragraph (2) of any forfeited property to
14 the appropriate State or local law enforcement agency so as
15 to reflect generally the contribution of any such agency par-
16 ticipating directly in any of the acts which led to the seizure
17 or forfeiture of such property. A decision by the Secretary
18 pursuant to paragraph (2) shall not be subject to review. The
19 United States shall not be liable in any action arising out of
20 the use of any property the custody of which was transferred
21 pursuant to this section to any non-Federal agency.

22 “(b) The Secretary of the Treasury may order the dis-
23 continuance of any forfeiture proceedings under this Act in
24 favor of the institution of forfeiture proceedings by State or
25 local authorities under an appropriate State or local statute.

1 After the filing of a complaint for forfeiture under this Act,
2 the Attorney General may seek dismissal of the complaint in
3 favor of forfeiture proceedings under State or local law.

4 “(c) Whenever forfeiture proceedings are discontinued
5 by the United States in favor of State or local proceedings,
6 the United States may transfer custody and possession of the
7 seized property to the appropriate State or local official im-
8 mediately upon the initiation of the proper actions by such
9 officials.

10 “(d) Whenever forfeiture proceedings are discontinued
11 by the United States in favor of State or local proceedings,
12 notice shall be sent to all known interested parties advising
13 them of the discontinuance or dismissal. The United States
14 shall not be liable in any action arising out of the seizure,
15 detention, and transfer of seized property to State or local
16 officials.”

17 SEC. 319. Section 619 of the Tariff Act of 1930 (19
18 U.S.C. 1619) is amended by—

19 (a) striking out “\$50,000” each time it appears
20 and inserting in lieu thereof “\$150,000”; and

21 (b) adding at the end thereof “In no event shall
22 the Secretary delegate the authority to pay an award
23 under this section in excess of \$10,000 to an official
24 below the level of the Commissioner of Customs.”

1 SEC. 320. The Tariff Act of 1930 is amended by adding
2 a new section 589, to read as follows:

3 “§ 589. Arrest authority of customs officers

4 “Subject to the direction of the Secretary of the Treas-
5 ury, an officer of the Customs Service as defined in section
6 401(i) of this Act, as amended, may—

7 “(1) carry a firearm;

8 “(2) execute and serve any order, warrant, sub-
9 pena, summons, or other process issued under the au-
10 thority of the United States;

11 “(3) make an arrest without a warrant for any of-
12 fense against the United States committed in the offi-
13 cer’s presence or for a felony, cognizable under the
14 laws of the United States committed outside the offi-
15 cer’s presence if the officer has reasonable grounds to
16 believe that the person to be arrested has committed or
17 is committing a felony; and

18 “(4) perform any other law enforcement duty that
19 the Secretary of the Treasury may designate.”.

20 (b) Section 7607 of the Internal Revenue Act of 1954
21 (26 U.S.C. 7607) is repealed.

22 SEC. 321. Sections 602, 605, 606, 608, 609, 611, 613,
23 614, 615, 618, and 619 (19 U.S.C. 1602, 1605, 1606, 1608,
24 1609, 1611, 1613, 1614, 1615, 1618, and 1619) of the
25 Tariff Act of 1930 are amended by inserting the word “air-

1 craft," immediately after the words "vehicle" or "vehicles,"
2 wherever they appear.

3 SEC. 322. Section 644 of the Tariff Act of 1930 (19
4 U.S.C. 1644) is amended to read as follows:

5 **"§ 644. Application of the Federal Aviation Act and sec-**
6 **tion 1518(d) of title 33**

7 "(a) The authority vested by section 1109 of the Feder-
8 al Aviation Act of 1958 (49 U.S.C. 1509) in the Secretary of
9 the Treasury, by regulation to provide for the application to
10 civil air navigation of the laws and regulations relating to the
11 administration of customs, and of the laws and regulations
12 relating to the entry and clearance of vessels, shall extend to
13 the application in like manner of any of the provisions of this
14 Act, or of the Anti-Smuggling Act of 1935, or of any regula-
15 tions promulgated hereunder.

16 "(b) For purposes of section 1518(d) of title 33, the term
17 'customs laws administered by the Secretary of the Treasury'
18 shall mean this chapter and any other provisions of law clas-
19 sified to this title."

20 SEC. 323. The Tariff Act of 1930 is amended by adding
21 a new section 600 to read as follows:

22 **"§ 600. Application of the customs laws to other seizures**
23 **by customs officers**

24 "The procedures set forth in sections 602 through 619
25 of this Act (19 U.S.C. 1602 through 1619) shall apply to

1 seizures of any property effected by customs officers under
2 any law enforced or administered by the Customs Service
3 unless such law specifies different procedures.”.

4 **TITLE IV—OFFENDERS WITH MENTAL DISEASE**
5 **OR DEFECT**

6 **SEC. 401.** This title may be sited as the “Insanity De-
7 fense Reform Act of 1984.”

8 **SEC. 402.** (a) Chapter 1 of title 18, United States Code,
9 is amended by adding at the end thereof the following new
10 section:

11 **“§ 20. Insanity defense**

12 **“(a) AFFIRMATIVE DEFENSE.—**It is an affirmative de-
13 fense to a prosecution under any Federal statute that, at the
14 time of the commission of the acts constituting the offense,
15 the defendant, as a result of a severe mental disease or
16 defect, was unable to appreciate the nature and quality or the
17 wrongfulness of his acts. Mental disease or defect does not
18 otherwise constitute a defense.

19 **“(b) BURDEN OF PROOF.—**The defendant has the
20 burden of proving the defense of insanity by clear and con-
21 vincing evidence.”.

22 **“(b) The sectional analysis of chapter 1 of title 18,**
23 **United States Code, is amended to add the following new**
24 **section 20:**

“20. Insanity defense.”.

1 SEC. 403. (a) Chapter 313 of title 18, United States
2 Code, is amended to read as follows:

3 **“CHAPTER 313—OFFENDERS WITH MENTAL**
4 **DISEASE OR DEFECT**

“Sec.

“4241. Determination of mental competency to stand trial.

“4242. Determination of the existence of insanity at the time of the offense.

“4243. Hospitalization of a person found not guilty only by reason of insanity.

“4244. Hospitalization of a convicted person suffering from mental disease or defect.

“4245. Hospitalization of an imprisoned person suffering from mental disease or defect.

“4246. Hospitalization of a person due for release but suffering from mental disease or defect.

“4247. General provisions for chapter.

5 **“§ 4241. Determination of mental competency to stand**
6 **trial**

7 “(a) MOTION TO DETERMINE COMPETENCY OF DE-
8 FENDANT.—At any time after the commencement of a pros-
9 ecution for an offense and prior to the sentencing of the de-
10 fendant, the defendant or the attorney for the Government
11 may file a motion for a hearing to determine the mental com-
12 petency of the defendant. The court shall grant the motion,
13 or shall order such a hearing on its own motion, if there is
14 reasonable cause to believe that the defendant may presently
15 be suffering from a mental disease or defect rendering him
16 mentally incompetent to the extent that he is unable to un-
17 derstand the nature and consequences of the proceedings
18 against him or to assist properly in his defense.

19 “(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION
20 AND REPORT.—Prior to the date of the hearing, the court

1 may order that a psychiatric or psychological examination of
2 the defendant be conducted, and that a psychiatric or psycho-
3 logical report be filed with the court, pursuant to the provi-
4 sions of section 4247 (b) and (c).

5 “(c) HEARING.—The hearing shall be conducted pursu-
6 ant to the provisions of section 4247(d).

7 “(d) DETERMINATION AND DISPOSITION.—If, after the
8 hearing, the court finds by a preponderance of the evidence
9 that the defendant is presently suffering from a mental dis-
10 ease or defect rendering him mentally incompetent to the
11 extent that he is unable to understand the nature and conse-
12 quences of the proceedings against him or to assist properly
13 in his defense, the court shall commit the defendant to the
14 custody of the Attorney General. The Attorney General shall
15 hospitalize the defendant for treatment in a suitable facility—

16 “(1) for such a reasonable period of time, not to
17 exceed four months, as is necessary to determine
18 whether there is a substantial probability that in the
19 foreseeable future he will attain the capacity to permit
20 the trial to proceed; and

21 “(2) for an additional reasonable period of time
22 until—

23 “(A) his mental condition is so improved that
24 trial may proceed, if the court finds that there is a
25 substantial probability that within such additional

1 period of time he will attain the capacity to
2 permit the trial to proceed; or

3 “(B) the pending charges against him are
4 disposed of according to law;

5 whichever is earlier.

6 If, at the end of the time period specified, it is determined
7 that the defendant’s mental condition has not so improved as
8 to permit the trial to proceed, the defendant is subject to the
9 provisions of section 4246.

10 “(e) DISCHARGE.—When the director of the facility in
11 which a defendant is hospitalized pursuant to subsection (d)
12 determines that the defendant has recovered to such an
13 extent that he is able to understand the nature and conse-
14 quences of the proceedings against him and to assist properly
15 in his defense, he shall promptly file a certificate to that
16 effect with the clerk of the court that ordered the commit-
17 ment. The clerk shall send a copy of the certificate to the
18 defendant’s counsel and to the attorney for the Government.
19 The court shall hold a hearing, conducted pursuant to the
20 provisions of section 4247(d), to determine the competency of
21 the defendant. If, after the hearing, the court finds by a pre-
22 ponderance of the evidence that the defendant has recovered
23 to such an extent that he is able to understand the nature and
24 consequences of the proceedings against him and to assist
25 properly in his defense, the court shall order his immediate

1 discharge from the facility in which he is hospitalized and
2 shall set the date for trial. Upon discharge, the defendant is
3 subject to the provisions of chapter 207.

4 “(f) **ADMISSIBILITY OF FINDING OF COMPETENCY.**—A
5 finding by the court that the defendant is mentally competent
6 to stand trial shall not prejudice the defendant in raising the
7 issue of his insanity as a defense to the offense charged, and
8 shall not be admissible as evidence in a trial for the offense
9 charged.

10 “§ 4242. **Determination of the existence of insanity at the**
11 **time of the offense**

12 “(a) **MOTION FOR PRETRIAL PSYCHIATRIC OR PSY-**
13 **CHOLOGICAL EXAMINATION.**—Upon the filing of a notice,
14 as provided in Rule 12.2 of the Federal Rules of Criminal
15 Procedure, that the defendant intends to rely on the defense
16 of insanity, the court, upon motion of the attorney for the
17 Government, shall order that a psychiatric or psychological
18 examination of the defendant be conducted, and that a psy-
19 chiatric or psychological report be filed with the court, pursu-
20 ant to the provisions of section 4247 (b) and (c).

21 “(b) **SPECIAL VERDICT.**—If the issue of insanity is
22 raised by notice as provided in Rule 12.2 of the Federal
23 Rules of Criminal Procedure on motion of the defendant or of
24 the attorney for the Government, or on the court's own

1 motion, the jury shall be instructed to find, or, in the event of
2 a nonjury trial, the court shall find the defendant—

3 “(1) guilty;

4 “(2) not guilty; or

5 “(3) not guilty only by reason of insanity.

6 **“§ 4243. Hospitalization of a person found not guilty only**
7 **by reason of insanity**

8 “(a) DETERMINATION OF PRESENT MENTAL CONDI-
9 TION OF ACQUITTED PERSON.—If a person is found not
10 guilty only by reason of insanity at the time of the offense
11 charged, he shall be committed to a suitable facility until
12 such time as he is eligible for release pursuant to subsection
13 (e).

14 “(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION
15 AND REPORT.—Prior to the date of the hearing, pursuant to
16 subsection (c), the court shall order that a psychiatric or psy-
17 chological examination of the defendant be conducted, and
18 that a psychiatric or psychological report be filed with the
19 court, pursuant to the provisions of section 4247 (b) and (c).

20 “(c) HEARING.—A hearing shall be conducted pursuant
21 to the provisions of section 4247(d) and shall take place not
22 later than forty days following the special verdict.

23 “(d) BURDEN OF PROOF.—In a hearing pursuant to
24 subsection (c) of this section, a person found not guilty only
25 by reason of insanity of an offense involving bodily injury to,

1 or serious damage to the property of, another person, or in-
2 volving a substantial risk of such injury or damage, has the
3 burden of proving by clear and convincing evidence that his
4 release would not create a substantial risk of bodily injury to
5 another person or serious damage of property of another due
6 to a present mental disease or defect. With respect to any
7 other offense, the person has the burden of such proof by a
8 preponderance of the evidence.

9 “(e) DETERMINATION AND DISPOSITION.—If, after the
10 hearing, the court fails to find by the standard specified in
11 subsection (d) of this section that the person’s release would
12 not create a substantial risk of bodily injury to another person
13 or serious damage of property of another due to a present
14 mental disease or defect, the court shall commit the person to
15 the custody of the Attorney General. The Attorney General
16 shall release the person to the appropriate official of the State
17 in which the person is domiciled or was tried if such State
18 will assume responsibility for his custody, care, and treat-
19 ment. The Attorney General shall make all reasonable efforts
20 to cause such a State to assume such responsibility. If, not-
21 withstanding such efforts, neither such State will assume
22 such responsibility, the Attorney General shall hospitalize the
23 person for treatment in a suitable facility until—

24 “(1) such a State will assume such responsibility;

25 or

1 “(2) the person’s mental condition is such that his
2 release, or his conditional release under a prescribed
3 regimen of medical, psychiatric, or psychological care
4 or treatment, would not create a substantial risk of
5 bodily injury to another person or serious damage to
6 property of another;
7 whichever is earlier. The Attorney General shall continue
8 periodically to exert all reasonable efforts to cause such a
9 State to assume such responsibility for the person’s custody,
10 care, and treatment.

11 “(f) DISCHARGE.—When the director of the facility in
12 which an acquitted person is hospitalized pursuant to subsec-
13 tion (e) determines that the person has recovered from his
14 mental disease or defect to such an extent that his release, or
15 his conditional release under a prescribed regimen of medical,
16 psychiatric, or psychological care or treatment, would no
17 longer create a substantial risk of bodily injury to another
18 person or serious damage to property of another, he shall
19 promptly file a certificate to that effect with the clerk of the
20 court that ordered the commitment. The clerk shall send a
21 copy of the certificate to the person’s counsel and to the at-
22 torney for the Government. The court shall order the dis-
23 charge of the acquitted person or, on the motion of the attor-
24 ney for the Government or on its own motion, shall hold a
25 hearing, conducted pursuant to the provisions of section

1 4247(d), to determine whether he should be released. If, after
2 the hearing, the court finds by the standard specified in sub-
3 section (d) that the person has recovered from his mental
4 disease or defect to such an extent that—

5 “(1) his release would no longer create a substan-
6 tial risk of bodily injury to another person or serious
7 damage to property of another, the court shall order
8 that he be immediately discharged; or

9 “(2) his conditional release under a prescribed
10 regimen of medical, psychiatric, or psychological care
11 or treatment would no longer create a substantial risk
12 of bodily injury to another person or serious damage to
13 property of another, the court shall—

14 “(A) order that he be conditionally dis-
15 charged under a prescribed regimen of medical,
16 psychiatric, or psychological care or treatment
17 that has been prepared for him, that has been cer-
18 tified to the court as appropriate by the director of
19 the facility in which he is committed, and that has
20 been found by the court to be appropriate; and

21 “(B) order, as an explicit condition of re-
22 lease, that he comply with the prescribed regimen
23 of medical, psychiatric, or psychological care or
24 treatment.

1 The court at any time may, after a hearing employing the
 2 same criteria, modify or eliminate the regimen of medical,
 3 psychiatric, or psychological care or treatment.

4 “(g) REVOCATION OF CONDITIONAL DISCHARGE.—

5 The director of a medical facility responsible for administer-
 6 ing a regimen imposed on an acquitted person conditionally
 7 discharged under subsection (f) shall notify the Attorney Gen-
 8 eral and the court having jurisdiction over the person of any
 9 failure of the person to comply with the regimen. Upon such
 10 notice, or upon other probable cause to believe that the
 11 person has failed to comply with the prescribed regimen of
 12 medical, psychiatric, or psychological care or treatment, the
 13 person may be arrested, and, upon arrest, shall be taken
 14 without unnecessary delay before the court having jurisdic-
 15 tion over him. The court shall, after a hearing, determine
 16 whether the person should be remanded to a suitable facility
 17 on the ground that, in light of his failure to comply with the
 18 prescribed regimen of medical, psychiatric, or psychological
 19 care or treatment, his continued release would create a sub-
 20 stantial risk of bodily injury to another person or serious
 21 damage to property of another.

22 **“§ 4244. Hospitalization of a convicted person suffering**

23 **from mental disease or defect**

24 “(a) MOTION TO DETERMINE PRESENT MENTAL CON-
 25 DITION OF CONVICTED DEFENDANT.—A defendant found

1 guilty of an offense, or the attorney for the Government,
2 may, within ten days after the defendant is found guilty, and
3 prior to the time the defendant is sentenced, file a motion for
4 a hearing on the present mental condition of the defendant if
5 the motion is supported by substantial information indicating
6 that the defendant may presently be suffering from a mental
7 disease or defect for the treatment of which he is in need of
8 custody for care or treatment in a suitable facility. The court
9 shall grant the motion, or at any time prior to the sentencing
10 of the defendant shall order such a hearing on its own
11 motion, if it is of the opinion that there is reasonable cause to
12 believe that the defendant may presently be suffering from a
13 mental disease or defect for the treatment of which he is in
14 need of custody for care or treatment in a suitable facility.

15 “(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION
16 AND REPORT.—Prior to the date of the hearing, the court
17 may order that a psychiatric or psychological examination of
18 the defendant be conducted, and that a psychiatric or psycho-
19 logical report be filed with the court, pursuant to the provi-
20 sions of section 4247 (b) and (c). In addition to the informa-
21 tion required to be included in the psychiatric or psychologi-
22 cal report pursuant to the provisions of section 4247(c), if the
23 report includes an opinion by the examiners that the defend-
24 ant is presently suffering from a mental disease or defect but
25 that it is not such as to require his custody for care or treat-

1 ment in a suitable facility, the report shall also include an
2 opinion by the examiner concerning the sentencing alterna-
3 tives that could best accord the defendant the kind of treat-
4 ment he does need.

5 “(c) HEARING.—The hearing shall be conducted pursu-
6 ant to the provisions of section 4247(d).

7 “(d) DETERMINATION AND DISPOSITION.—If, after the
8 hearing, the court finds by a preponderance of the evidence
9 that the defendant is presently suffering from a mental dis-
10 ease or defect and that he should, in lieu of being sentenced
11 to imprisonment, be committed to a suitable facility for care
12 or treatment, the court shall commit the defendant to the
13 custody of the Attorney General. The Attorney General shall
14 hospitalize the defendant for care or treatment in a suitable
15 facility. Such a commitment constitutes a provisional sen-
16 tence of imprisonment to the maximum term authorized by
17 law for the offense for which the defendant was found guilty.

18 “(e) DISCHARGE.—When the director of the facility in
19 which the defendant is hospitalized pursuant to subsection (d)
20 determines that the defendant has recovered from his mental
21 disease or defect to such an extent that he is no longer in
22 need of custody for care or treatment in such a facility, he
23 shall promptly file a certificate to that effect with the clerk of
24 the court that ordered the commitment. The clerk shall send
25 a copy of the certificate to the defendant’s counsel and to the

1 attorney for the Government. If, at the time of the filing of
2 the certificate, the provisional sentence imposed pursuant to
3 subsection (d) has not expired, the court shall proceed finally
4 to sentencing and may modify the provisional sentence.

5 **“§ 4245. Hospitalization of an imprisoned person suffering**
6 **from mental disease or defect**

7 **“(a) MOTION TO DETERMINE PRESENT MENTAL CON-**
8 **DITION OF IMPRISONED PERSON.**—If a person serving a
9 sentence of imprisonment objects either in writing or through
10 his attorney to being transferred to a suitable facility for care
11 or treatment, an attorney for the Government, at the request
12 of the director of the facility in which the person is impris-
13 oned, may file a motion with the court for the district in
14 which the facility is located for a hearing on the present
15 mental condition of the person. The court shall grant the
16 motion if there is reasonable cause to believe that the person
17 may presently be suffering from a mental disease or defect for
18 the treatment of which he is in need of custody for care or
19 treatment in a suitable facility. A motion filed under this sub-
20 section shall stay the transfer of the person pending comple-
21 tion of procedures contained in this section.

22 **“(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION**
23 **AND REPORT.**—Prior to the date of the hearing, the court
24 may order that a psychiatric or psychological examination of
25 the person may be conducted, and that a psychiatric or psy-

1 chological report be filed with the court, pursuant to the pro-
2 visions of section 4247 (b) and (c).

3 “(c) HEARING.—The hearing shall be conducted pursu-
4 ant to the provisions of section 4247(d).

5 “(d) DETERMINATION AND DISPOSITION.—If, after the
6 hearing, the court finds by a preponderance of the evidence
7 that the person is presently suffering from a mental disease
8 or defect for the treatment of which he is in need of custody
9 for care or treatment in a suitable facility, the court shall
10 commit the person to the custody of the Attorney General.
11 The Attorney General shall hospitalize the person for treat-
12 ment in a suitable facility until he is no longer in need of such
13 custody for care or treatment or until the expiration of the
14 sentence of imprisonment, whichever occurs earlier.

15 “(e) DISCHARGE.—When the director of the facility in
16 which the person is hospitalized pursuant to subsection (d)
17 determines that the person has recovered from his mental
18 disease or defect to such an extent that he is no longer in
19 need of custody for care or treatment in such a facility, he
20 shall promptly file a certificate to that effect with the clerk of
21 the court that ordered the commitment. The clerk shall send
22 a copy of the certificate to the person’s counsel and to the
23 attorney for the Government. If, at the time of the filing of
24 the certificate, the term of imprisonment imposed upon the
25 person has not expired, the court shall order that the person

1 be reimprisoned until the expiration of his sentence of impris-
2 onment.

3 **“§ 4246. Hospitalization of a person due for release but**
4 **suffering from mental disease or defect**

5 “(a) INSTITUTION OF PROCEEDING.—If the director of
6 a facility in which a person is hospitalized certifies that a
7 person whose sentence is about to expire, or who has been
8 committed to the custody of the Attorney General pursuant
9 to section 4241(d), or against whom all criminal charges have
10 been dismissed solely for reasons related to the mental condi-
11 tion of the person, is presently suffering from a mental dis-
12 ease or defect as a result of which his release would create a
13 substantial risk of bodily injury to another person or serious
14 damage to property of another, and that suitable arrange-
15 ments for State custody and care of the person are not avail-
16 able, he shall transmit the certificate to the clerk of the court
17 for the district in which the person is confined. The clerk
18 shall send a copy of the certificate to the person, and to the
19 attorney for the Government, and, if the person was commit-
20 ted pursuant to section 4241(d), to the clerk of the court that
21 ordered the commitment. The court shall order a hearing to
22 determine whether the person is presently suffering from a
23 mental disease or defect as a result of which his release
24 would create a substantial risk of bodily injury to another
25 person or serious damage to property of another. A certifi-

1 cate filed under this subsection shall stay the release of the
2 person pending completion of procedures contained in this
3 section.

4 “(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION
5 AND REPORT.—Prior to the date of the hearing, the court
6 may order that a psychiatric or psychological examination of
7 the defendant be conducted, and that a psychiatric or psycho-
8 logical report be filed with the court, pursuant to the provi-
9 sions of section 4247 (b) and (c).

10 “(c) HEARING.—The hearing shall be conducted pursu-
11 ant to the provisions of section 4247(d).

12 “(d) DETERMINATION AND DISPOSITION.—If, after the
13 hearing, the court finds by clear and convincing evidence that
14 the person is presently suffering from a mental disease or
15 defect as a result of which his release would create a substan-
16 tial risk of bodily injury to another person or serious damage
17 to property of another, the court shall commit the person to
18 the custody of the Attorney General. The Attorney General
19 shall release the person to the appropriate official of the State
20 in which the person is domiciled or was tried if such State
21 will assume responsibility for his custody, care, and treat-
22 ment. The Attorney General shall make all reasonable efforts
23 to cause such a State to assume such responsibility. If, not-
24 withstanding such efforts, neither such State will assume

1 such responsibility, the Attorney General shall hospitalize the
2 person for treatment in a suitable facility, until—

3 “(1) such a State will assume such responsibility;

4 or

5 “(2) the person’s mental condition is such that his
6 release, or his conditional release under a prescribed
7 regimen of medical, psychiatric, or psychological care
8 or treatment would not create a substantial risk of
9 bodily injury to another person or serious damage to
10 property of another;

11 whichever is earlier. The Attorney General shall continue
12 periodically to exert all reasonable efforts to cause such a
13 State to assume such responsibility for the person’s custody,
14 care, and treatment.

15 “(e) DISCHARGE.—When the director of the facility in
16 which a person is hospitalized pursuant to subsection (d) de-
17 termines that the person has recovered from his mental dis-
18 ease or defect to such an extent that his release would no
19 longer create a substantial risk of bodily injury to another
20 person or serious damage to property of another, he shall
21 promptly file a certificate to that effect with the clerk of the
22 court that ordered the commitment. The clerk shall send a
23 copy of the certificate to the person’s counsel and to the at-
24 torney for the Government. The court shall order the dis-
25 charge of the person or, on the motion of the attorney for the

1 Government or on its own motion, shall hold a hearing, con-
2 ducted pursuant to the provisions of section 4247(d), to deter-
3 mine whether he should be released. If, after the hearing, the
4 court finds by a preponderance of the evidence that the
5 person has recovered from his mental disease or defect to
6 such an extent that—

7 “(1) his release would no longer create a substan-
8 tial risk of bodily injury to another person or serious
9 damage to property of another, the court shall order
10 that he be immediately discharged; or

11 “(2) his conditional release under a prescribed
12 regimen of medical, psychiatric, or psychological care
13 or treatment would no longer create a substantial risk
14 of bodily injury to another person or serious damage to
15 property of another, the court shall—

16 “(A) order that he be conditionally dis-
17 charged under a prescribed regimen of medical,
18 psychiatric, or psychological care or treatment
19 that has been prepared for him, that has been cer-
20 tified to the court as appropriate by the director of
21 the facility in which he is committed, and that has
22 been found by the court to be appropriate; and

23 “(B) order, as an explicit condition of re-
24 lease, that he comply with the prescribed regimen

1 of medical, psychiatric, or psychological care or
2 treatment.

3 The court at any time may, after a hearing employing the
4 same criteria, modify or eliminate the regimen of medical,
5 psychiatric, or psychological care or treatment.

6 “(f) REVOCATION OF CONDITIONAL DISCHARGE.—

7 The director of a medical facility responsible for administer-
8 ing a regimen imposed on a person conditionally discharged
9 under subsection (e) shall notify the Attorney General and
10 the court having jurisdiction over the person of any failure of
11 the person to comply with the regimen. Upon such notice, or
12 upon other probable cause to believe that the person has
13 failed to comply with the prescribed regimen of medical, psy-
14 chiatric, or psychological care or treatment, the person may
15 be arrested, and, upon arrest, shall be taken without unneces-
16 sary delay before the court having jurisdiction over him. The
17 court shall, after a hearing, determine whether the person
18 should be remanded to a suitable facility on the ground that,
19 in light of his failure to comply with the prescribed regimen
20 of medical, psychiatric, or psychological care or treatment,
21 his continued release would create a substantial risk of bodily
22 injury to another person or serious damage to property of
23 another.

24 “(g) RELEASE TO STATE OF CERTAIN OTHER PER-
25 SONS.—If the director of a facility in which a person is hospi-

1 talized pursuant to this subchapter certifies to the Attorney
 2 General that a person, against whom all charges have been
 3 dismissed for reasons not related to the mental condition of
 4 the person, is presently suffering from a mental disease or
 5 defect as a result of which his release would create a substan-
 6 tial risk of bodily injury to another person or serious damage
 7 to property of another, the Attorney General shall release the
 8 person to the appropriate official of the State in which the
 9 person is domiciled or was tried for the purpose of institution
 10 of State proceedings for civil commitment. If neither such
 11 State will assume such responsibility, the Attorney General
 12 shall release the person upon receipt of notice from the State
 13 that it will not assume such responsibility, but not later than
 14 ten days after certification by the director of the facility.

15 **“§ 4247. General provisions for chapter—**

16 “(a) DEFINITIONS.—As used in this chapter—

17 “(1) ‘rehabilitation program’ includes—

18 “(A) basic educational training that will
 19 assist the individual in understanding the society
 20 to which he will return and that will assist him in
 21 understanding the magnitude of his offense and its
 22 impact on society;

23 “(B) vocational training that will assist the
 24 individual in contributing to, and in participating
 25 in, the society to which he will return;

1 “(C) drug, alcohol, and other treatment pro-
2 grams that will assist the individual in overcoming
3 his psychological or physical dependence; and

4 “(D) organized physical sports and recreation
5 programs; and

6 “(2) ‘suitable facility’ means a facility that is suit-
7 able to provide care or treatment given the nature of
8 the offense and the characteristics of the defendant.

9 “(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINA-
10 TION.—A psychiatric or psychological examination ordered
11 pursuant to this chapter shall be conducted by a licensed or
12 certified psychiatrist or clinical psychologist, or, if the court
13 finds it appropriate, by more than one such examiner. Each
14 examiner shall be designated by the court, except that if the
15 examination is ordered under section 4245 or 4246, upon the
16 request of the defendant an additional examiner may be se-
17 lected by the defendant. For the purposes of an examination
18 pursuant to an order under section 4241, 4244, or 4245, the
19 court may commit the person to be examined for a reasonable
20 period, but not to exceed thirty days, and under section 4242,
21 4243, or 4246, for a reasonable period, but not to exceed
22 forty-five days, to the custody of the Attorney General for
23 placement in a suitable facility. Unless impracticable, the
24 psychiatric or psychological examination shall be conducted
25 in the suitable facility closest to the court. The director of the

1 facility may apply for a reasonable extension, but not to
2 exceed fifteen days under section 4241, 4244, or 4245, and
3 not to exceed thirty days under section 4242, 4243, or 4246,
4 upon a showing of good cause that the additional time is
5 necessary to observe and evaluate the defendant.

6 “(c) PSYCHIATRIC OR PSYCHOLOGICAL REPORTS.—A
7 psychiatric or psychological report ordered pursuant to this
8 chapter shall be prepared by the examiner designated to con-
9 duct the psychiatric or psychological examination, shall be
10 filed with the court with copies provided to the counsel for
11 the person examined and to the attorney for the Government,
12 and shall include—

13 “(1) the person’s history and present symptoms;

14 “(2) a description of the psychiatric, psychologi-
15 cal, and medical tests that were employed and their re-
16 sults;

17 “(3) the examiner’s findings; and

18 “(4) the examiner’s opinions as to diagnosis, prog-
19 nosis, and—

20 “(A) if the examination is ordered under sec-
21 tion 4241, whether the person is suffering from a
22 mental disease or defect rendering him mentally
23 incompetent to the extent that he is unable to un-
24 derstand the nature and consequences of the pro-

1 ceedings against him or to assist properly in his
2 defense;

3 “(B) if the examination is ordered under sec-
4 tion 4242, whether the person was insane at the
5 time of the offense charged;

6 “(C) if the examination is ordered under sec-
7 tion 4243 or 4246, whether the person is suffer-
8 ing from a mental disease or defect as a result of
9 which his release would create a substantial risk
10 of bodily injury to another person or serious
11 damage to property of another;

12 “(D) if the examination is ordered under sec-
13 tion 4244 or 4245, whether the person is suffer-
14 ing from a mental disease or defect as a result of
15 which he is in need of custody for care or treat-
16 ment in a suitable facility; or

17 “(E) if the examination is ordered as a part
18 of a presentence investigation, any recommenda-
19 tion the examiner may have as to how the mental
20 condition of the defendant should affect the sen-
21 tence.

22 “(d) HEARING.—At a hearing ordered pursuant to this
23 chapter the person whose mental condition is the subject of
24 the hearing shall be represented by counsel and, if he is fi-
25 nancially unable to obtain adequate representation, counsel

1 shall be appointed for him pursuant to section 3006A. The
2 person shall be afforded an opportunity to testify, to present
3 evidence, to subpoena witnesses on his behalf, and to con-
4 front and cross-examine witnesses who appear at the hear-
5 ing.

6 “(e) PERIODIC REPORT AND INFORMATION REQUIRE-
7 MENTS.—(1) The director of the facility in which a person is
8 hospitalized pursuant to—

9 “(A) section 4241 shall prepare semiannual re-
10 ports; or

11 “(B) section 4243, 4244, 4245, or 4246 shall pre-
12 pare annual reports concerning the mental condition of
13 the person and containing recommendations concerning
14 the need for his continued hospitalization. The reports
15 shall be submitted to the court that ordered the per-
16 son’s commitment to the facility and copies of the re-
17 ports shall be submitted to such other persons as the
18 court may direct.

19 “(2) The director of the facility in which a person is
20 hospitalized pursuant to section 4241, 4243, 4244, 4245, or
21 4246 shall inform such person of any rehabilitation programs
22 that are available for persons hospitalized in that facility.

23 “(f) VIDEOTAPE RECORD.—Upon written request of
24 defense counsel, the court may order a videotape record
25 made of the defendant’s testimony or interview upon which

1 the periodic report is based pursuant to subsection (e). Such
2 videotape record shall be submitted to the court along with
3 the periodic report.

4 “(g) HABEAS CORPUS UNIMPAIRED.—Nothing con-
5 tained in section 4243 or 4246 precludes a person who is
6 committed under either of such sections from establishing by
7 writ of habeas corpus the illegality of his detention.

8 “(h) DISCHARGE.—Regardless of whether the director
9 of the facility in which a person is hospitalized has filed a
10 certificate pursuant to the provisions of subsection (e) of sec-
11 tion 4241, 4243, 4244, 4245, or 4246, counsel for the
12 person or his legal guardian may, at any time during such
13 person’s hospitalization, file with the court that ordered the
14 commitment a motion for a hearing to determine whether the
15 person should be discharged from such facility, but no such
16 motion may be filed within one hundred and eighty days of a
17 court determination that the person should continue to be
18 hospitalized. A copy of the motion shall be sent to the direc-
19 tor of the facility in which the person is hospitalized and to
20 the attorney for the Government.

21 “(i) AUTHORITY AND RESPONSIBILITY OF THE AT-
22 TORNEY GENERAL.—The Attorney General—

23 “(A) may contract with a State, a political subdi-
24 vision, a locality, or a private agency for the confine-
25 ment, hospitalization, care, or treatment of, or the pro-

1 vision of services to, a person committed to his custody
2 pursuant to this chapter;

3 “(B) may apply for the civil commitment, pursu-
4 ant to State law, of a person committed to his custody
5 pursuant to section 4243 or 4246;

6 “(C) shall, before placing a person in a facility
7 pursuant to the provisions of section 4241, 4243,
8 4244, 4245, or 4246, consider the suitability of the fa-
9 cility’s rehabilitation programs in meeting the needs of
10 the person; and

11 “(D) shall consult with the Secretary of the De-
12 partment of Health and Human Services in the general
13 implementation of the provisions of this chapter and in
14 the establishment of standards for facilities used in the
15 implementation of this chapter.

16 “(j) This chapter does not apply to a prosecution under
17 an Act of Congress applicable exclusively to the District of
18 Columbia or the Uniform Code of Military Justice.”

19 (b) The item relating to chapter 313 in the chapter anal-
20 ysis of part III of title 18, United States Code, is amended to
21 read as follows:

“313. Offenders with mental disease or defect.”

22 SEC. 404. Rule 12.2 of the Federal Rules of Criminal
23 Procedure is amended—

24 (a) by deleting “crime” in subdivision (a) and in-
25 serting in lieu thereof “offense”;

1 (b) by deleting “other condition bearing upon the
2 issue of whether he had the mental state required for
3 the offense charged” in subdivision (b) and inserting in
4 lieu thereof “any other mental condition bearing upon
5 the issue of guilt”;

6 (c) by deleting “to a psychiatric examination by a
7 psychiatrist designated for this purpose in the order of
8 the court” in subdivision (c) and inserting in lieu there-
9 of “to an examination pursuant to 18 U.S.C. 4242”;
10 and

11 (d) by deleting “mental state” in subdivision (d)
12 and inserting in lieu thereof “guilt”.

13 SEC. 405. Section 3006A of title 18, United States
14 Code, is amended—

15 (a) in subsection (a), by deleting “or, (4)” and
16 substituting “(4) whose mental condition is the subject
17 of a hearing pursuant to chapter 313 of this title, or
18 (5)”; and

19 (b) in subsection (g), by deleting “or section 4245
20 of title 18”.

21 SEC. 406. Rule 704 of the Federal Rules of Evidence is
22 amended to read as follows:

23 **“Rule 704. Opinion on ultimate issue**

24 “(a) Except as provided in subdivision (b), testimony in
25 the form of an opinion or inference otherwise admissible is

1 not objectionable because it embraces an ultimate issue to be
2 decided by the trier of fact.

3 “(b) No expert witness testifying with respect to the
4 mental state or condition of a defendant in a criminal case
5 may state an opinion or inference as to whether the defend-
6 ant did or did not have the mental state or condition consti-
7 tuting an element of the crime charged or of a defense there-
8 to. Such ultimate issues are matters for the trier of fact
9 alone.”.

10 TITLE V—DRUG ENFORCEMENT AMENDMENTS

11 PART A—CONTROLLED SUBSTANCES PENALTIES

12 SEC. 501. This title may be cited as the “Controlled
13 Substances Penalties Amendments Act of 1984”.

14 SEC. 502. Subsection (b) of section 401 of the Con-
15 trolled Substances Act (21 U.S.C. 841(b)) is amended—

16 (1) in paragraph (1), by—

17 (A) redesignating subparagraphs (A) and (B)
18 as subparagraphs (B) and (C), respectively, and
19 inserting after “(1)” a new subparagraph to read
20 as follows:

21 “(A) In the case of a violation of subsection (a) of this
22 section involving—

23 “(i) 100 grams or more of a controlled substance
24 in schedule I or II which is a mixture or substance

1 containing a detectable amount of a narcotic drug other
2 than a narcotic drug consisting of—

3 “(I) coca leaves;

4 “(II) a compound, manufacture, salt, deriva-
5 tive, or preparation of coca leaves; or

6 “(III) a substance chemically identical there-
7 to;

8 “(ii) a kilogram or more of any other controlled
9 substance in schedule I or II which is a narcotic drug;

10 “(iii) 500 grams or more of phencyclidine (PCP);

11 or

12 “(iv) 5 grams or more of lysergic acid diethyla-
13 mide (LSD);

14 such person shall be sentenced to a term of imprisonment of
15 not more than 20 years, a fine of not more than \$250,000, or
16 both. If any person commits such a violation after one or
17 more prior convictions of him for an offense punishable under
18 this paragraph, or for a felony under any other provision of
19 this title or title III or other law of a State, the United
20 States, or a foreign country relating to narcotic drugs, mari-
21 huana, or depressant or stimulant substances, have become
22 final, such person shall be sentenced to a term of imprison-
23 ment of not more than 40 years, a fine of not more than
24 \$500,000, or both”;

1 (B) in subparagraph (B), as redesignated
2 above, by—

3 (i) striking out “which is a narcotic
4 drug” in the first sentence and inserting in
5 lieu thereof “except as provided in subpara-
6 graphs (A) and (C),”

7 (ii) striking out “\$25,000” and
8 “\$50,000” and inserting in lieu thereof
9 “\$125,000” and “\$250,000”, respectively;
10 and

11 (iii) striking out “of the United States”
12 in the second sentence and inserting in lieu
13 thereof “of a State, the United States, or a
14 foreign country”; and

15 (C) in subparagraph (C), as redesignated
16 above, by—

17 (i) striking out “a controlled substance
18 in schedule I or II which is not a narcotic
19 drug” and “, (5), and (6)” and inserting in
20 lieu thereof “less than 50 kilograms of mari-
21 huana, 10 kilograms of hashish, or one kilo-
22 gram of hashish oil” and “and (5)”, respec-
23 tively;

24 (ii) striking out “\$15,000” and
25 “\$30,000” and inserting in lieu thereof

1 “\$50,000” and “\$100,000”, respectively;
2 and

3 (iii) striking out “of the United States”
4 in the second sentence and inserting in lieu
5 thereof “of a State, the United States, or a
6 foreign country”;

7 (2) in paragraph (2), by—

8 (A) striking out “\$10,000” and “\$20,000”
9 and inserting in lieu thereof “\$25,000” and
10 “\$50,000”, respectively; and

11 (B) striking out “of the United States” and
12 inserting in lieu thereof “of a State, the United
13 States, or a foreign country”;

14 (3) in paragraph (3), by—

15 (A) striking out “\$5,000” and “\$10,000”
16 and inserting in lieu thereof “\$10,000” and
17 “\$20,000”, respectively; and

18 (B) striking out “of the United States” and
19 inserting in lieu thereof “of a State, the United
20 States, or a foreign country”;

21 (4) in paragraph (4), by striking out “(1)(B)” and
22 inserting in lieu thereof “(1)(C)”;

23 (5) by striking out paragraphs (5) and (6);

24 (6) by adding at the end thereof the following:

1 “(5) Notwithstanding paragraph (1), any person
2 who violates subsection (a) by cultivating a controlled
3 substance on Federal property shall be fined not more
4 than—

5 “(A) \$500,000 if such person is an individu-
6 al; and

7 “(B) \$1,000,000 if such person is not an in-
8 dividual.”.

9 SEC. 503. (a) Part D of the Controlled Substances Act
10 is amended by adding after section 405 of the following new
11 section:

12 “DISTRIBUTION IN OR NEAR SCHOOLS

13 “SEC. 405A. (a) Any person who violates section
14 401(a)(1) by distributing a controlled substance in or on, or
15 within one thousand feet of, the real property comprising a
16 public or private elementary or secondary school is (except as
17 provided in subsection (b)) punishable (1) by a term of impris-
18 onment, or fine, or both up to twice that authorized by sec-
19 tion 841(b) of this title; and (2) at least twice any special
20 parole term authorized by section 401(b) for a first offense
21 involving the same controlled substance and schedule.

22 “(b) Any person who violates section 401(a)(1) by dis-
23 tributing a controlled substance in or on, or within one thou-
24 sand feet of, the real property comprising a public or private
25 elementary or secondary school after a prior conviction or

1 convictions under subsection (a) have become final is punish-
2 able (1) by a term of imprisonment of not less than three
3 years and not more than life imprisonment and (2) at least
4 three times any special term authorized by section 401(b) for
5 a second or subsequent offense involving the same controlled
6 substance and schedule.

7 “(c) In the case of any sentence imposed under subsec-
8 tion (b), imposition or execution of such sentence shall not be
9 suspended and probation shall not be granted. An individual
10 convicted under subsection (b) shall not be eligible for parole
11 under section 4202 of title 18 of the United States Code until
12 the individual has served the minimum sentence required by
13 such subsection.”.

14 (b)(1) Section 401(b) of such Act (21 U.S.C. 841(b)) is
15 amended by inserting “or 405A” after “405”.

16 (2) Section 401(c) of such Act is amended by inserting
17 “405A” after “405” each place it occurs.

18 (3) Section 405 of such Act (21 U.S.C. 845) is amended
19 by striking out “Any” in subsections (a) and (b) and inserting
20 in lieu thereof “Except as provided in section 405A, any”.

21 SEC. 504. Subsection (b) of section 1010 of the Con-
22 trolled Substances Import and Export Act (21 U.S.C. 960(b))
23 is amended—

1 (1) by redesignating paragraphs (1) and (2) as
2 paragraphs (2) and (3), respectively, and inserting after
3 “(b)” a new paragraph to read as follows:

4 “(1) In the case of a violation under subsection (a) of
5 this section involving—

6 “(A) 100 grams or more of a mixture or sub-
7 stance containing a detectable amount of a narcotic
8 drug in schedule I or II other than a narcotic drug
9 consisting of—

10 “(i) coca leaves;

11 “(ii) a compound, manufacture, salt, deriva-
12 tive, or preparation of coca leaves; or

13 “(iii) a substance chemically identical there-
14 to;

15 “(B) a kilogram or more of any other narcotic
16 drug in schedule I or II;

17 “(C) 500 grams or more of phencyclidine (PCP);

18 “(D) 5 grams or more of lysergic acid diethyla-
19 mide (LSD);

20 the person committing such violation shall be imprisoned for
21 not more than twenty years, or fined not more than
22 \$250,000, or both.”;

23 (2) in paragraph (2), as redesignated above, by—

24 (A) striking out “narcotic drug in schedule I
25 or II, the person committing such violation shall”

1 and inserting in lieu thereof "controlled substance
2 in schedule I or II, the person committing such
3 violation shall, except as provided in paragraphs
4 (1) and (3),"; and

5 (B) striking out "\$25,000" and inserting in
6 lieu thereof "\$125,000";

7 (3) in paragraph (3), as redesignated above, by—

8 (A) striking out "a controlled substance other
9 than a narcotic drug in schedule I or II, the
10 person committing such violation shall" and in-
11 sserting in lieu thereof "less than 50 kilograms of
12 marihuana, less than 10 kilograms of hashish, less
13 than one kilogram of hashish oil, or any quantity
14 of a controlled substance in schedule III, IV, or
15 V, the person committing such violation shall,
16 except as provided in paragraph (4)"; and

17 (B) striking out "\$15,000" and substituting
18 "\$50,000".

19 SEC. 505. Section 1012 of the Controlled Substances
20 Import and Export Act (21 U.S.C. 962) is amended by strik-
21 ing out "the United States" in subsection (b) and inserting in
22 lieu thereof "a State, the United States, or a foreign coun-
23 try".

1 PART B—DIVERSION CONTROL AMENDMENTS

2 SEC. 506. Section 102 of the Controlled Substances Act
3 (21 U.S.C. 802) is amended by adding the following new
4 paragraph (14):

5 “(14) The term ‘isomer’ means the optical isomer,
6 except as used in section 202(c) schedule I(c) and sec-
7 tion 202(c) schedule II(a)(4). As used in section 202(c)
8 schedule I(c), the term ‘isomer’ means the optical, po-
9 sitional or geometric isomer. As used in section 202(c)
10 schedule II(a)(4), the term ‘isomer’ means the optical
11 or geometric isomer.”

12 Section 102 is further amended by redesignating subse-
13 quent paragraphs accordingly and by amending redesignated
14 paragraph (17) to read as follows:

15 “(17) The term ‘narcotic drug’ means any of the
16 following whether produced directly or indirectly by
17 extraction from substances of vegetable origin, or inde-
18 pendently by means of chemical synthesis, or by a
19 combination of extraction and chemical synthesis:

20 “(A) Opium, opiates, derivatives of opium
21 and opiates, including their isomers, esters,
22 ethers, salts, and salts of isomers, esters, and
23 ethers, whenever the existence of such isomers,
24 esters, ethers, and salts is possible within the spe-

1 cific chemical designation. Such term does not in-
2 clude the isoquinoline alkaloids of opium.

3 “(B) Poppy straw and concentrate of poppy
4 straw.

5 “(C) Coca leaves. Such term does not in-
6 clude coca leaves and extracts of coca leaves from
7 which cocaine, ecgonine and derivatives of ecgon-
8 ine of their salts have been removed.

9 “(D) Cocaine, its salts, optical and geometric
10 isomers, and salts of isomers.

11 “(E) Ecgonine, its derivatives, their salts,
12 isomers, and salts of isomers.

13 “(F) Any compound, mixture or preparation
14 which contains any quantity of any of the sub-
15 stances referred to in clauses (A) through (E).”.

16 SEC. 507. Section 202(c) schedule II(a)(4) of the Con-
17 trolled Substances Act (21 U.S.C. 812(c) schedule II(a)(4)) is
18 amended by adding the following sentence at the end thereof:
19 “The substances described in this paragraph shall include co-
20 caine, ecgonine, their salts, isomers, derivatives, and salts of
21 isomers and derivatives.”.

22 SEC. 508. Section 201 of the Controlled Substances Act
23 (21 U.S.C. 811) is amended by adding a new subsection (h)
24 as follows:

1 “(h) If the Attorney General finds that such action is
2 necessary to avoid an imminent hazard to the public safety,
3 he may, by temporary rule without prior notice or hearing,
4 and without regard to the requirements of subsection (b) re-
5 lating to the Secretary of Health and Human Services, con-
6 trol any drug or other substance. A finding that the issuance
7 of a temporary rule under this subsection is necessary to
8 avoid an imminent hazard to the public safety shall be good
9 cause for and, unless otherwise provided by the Attorney
10 General, shall constitute a finding for the purpose of section
11 553(b) of title 5, United States Code, that notice and public
12 procedure on making such a temporary rule are impractical,
13 unnecessary, and contrary to the public interest.

14 “(1) When issuing a temporary rule under this subsec-
15 tion, the Attorney General shall be required to consider, with
16 respect to this finding of an imminent hazard to the public
17 safety, only those factors set forth in section 201(c) (4), (5)
18 and (6), including, but not limited to, actual abuse, diversion
19 from legitimate channels, and clandestine importation, manu-
20 facture or marketing.

21 “(2) The Attorney General shall transmit notice of the
22 temporary scheduling of any drug or substance to the Secre-
23 tary of Health and Human Services who, within thirty days
24 from the date of such notice, may object to the temporary
25 placement. Unless the Secretary has currently available evi-

1 dence relating to the lack of abuse potential of the drug or
2 substance, his consideration shall be limited to the factors set
3 forth in subsection (1) of this section. The Secretary's objec-
4 tion to temporary control shall be binding upon the Attorney
5 General but shall be considered as affecting the temporary
6 scheduling only and shall in no way reflect upon any subse-
7 quent proceedings under section 201(a) to permanently con-
8 trol or reschedule the same drug or substance.

9 “(3) The temporary scheduling of any drug or substance
10 shall expire at the end of one year from the date of the tem-
11 porary scheduling thereof, except that the Attorney General
12 may, during the pendency of proceedings under section
13 201(a)(1), extend the temporary placement for periods of six
14 months.

15 “(4) A temporary rule issued under this subsection shall
16 be vacated upon the conclusion of a subsequent rulemaking
17 proceeding initiated under section 201(a) and no such tempo-
18 rary rule may be issued subsequent to the initiation of formal
19 rulemaking proceedings as to the same drug or substance.

20 “(5) Notwithstanding the schedule in which a drug is
21 placed pursuant to this subsection, the penalty for the illegal
22 manufacture, distribution, dispensing or possession with
23 intent to manufacture, distribute or dispense, shall be that
24 provided by section 401(b)(1)(c) for schedule III controlled
25 substances.

1 “(6) With respect to the requirements of title II, part C,
2 only the requirements of section 302 (registration) and sec-
3 tion 307 (recordkeeping and reporting) shall apply to a drug
4 for as long as it is temporarily scheduled.

5 “(7) The issuance of a temporary rule under this subsec-
6 tion shall not constitute a final determination for purposes of
7 review under section 507 of this title, nor shall such tempo-
8 rary rule be otherwise reviewable.”.

9 SEC. 509. Section 201(g) of the Controlled Substances
10 Act (21 U.S.C. 811(g)) is amended to add the following new
11 paragraph:

12 “(3) The Attorney General may, by regulation, exempt
13 any compound, mixture, or preparation containing a con-
14 trolled substance from the application of all or any part of
15 this title if he finds such compound, mixture, or preparation
16 meets the requirements of one of the following categories:

17 “(A) EXEMPT PRESCRIPTION PREPARATIONS.—
18 A compound, mixture or preparation containing a non-
19 narcotic controlled substance and which is approved for
20 prescription use and which contains one or more other
21 active ingredients which are not listed in any schedule.
22 In addition, such other ingredients are included therein
23 in such combinations, quantity, proportion, or concen-
24 tration as to vitiate the potential for abuse.

1 “(B) EXEMPT CHEMICAL PREPARATIONS.—A
2 compound, mixture or preparation which contains any
3 controlled substance and which is not for administra-
4 tion to a human being or animal, and is packaged in
5 such form or concentration, or with adulterants or de-
6 naturants, so that the packaged quantities do not
7 present any significant potential for abuse.”.

8 SEC. 510. Section 202(d) of the Controlled Substances
9 Act (21 U.S.C. 812(d)) is deleted.

10 SEC. 511. Section 302(a) of the Controlled Substances
11 Act (21 U.S.C. 822(a)) is amended to read as follows:

12 “(a)(1) Every person who manufactures or distributes
13 any controlled substance, or who proposes to engage in the
14 manufacture or distribution of any controlled substance, shall
15 obtain annually a registration issued by the Attorney General
16 in accordance with the rules and regulations promulgated by
17 him.

18 “(2) Every person who dispenses, or who proposes to
19 dispense, any controlled substance, shall obtain from the At-
20 torney General a registration issued in accordance with the
21 rules and regulations promulgated by him. The Attorney
22 General shall, by regulation, determine the period of such
23 registrations. In no event, however, shall such registrations
24 be issued for less than one year nor for more than three
25 years.”.

1 SEC. 512. Section 303(f) of the Controlled Substances
2 Act (21 U.S.C. 823(f)) is amended to read as follows:

3 “(f) The Attorney General shall register practitioners
4 (including pharmacies, as distinguished from—pharmacists)
5 to dispense, or conduct research with, controlled substances
6 in schedule II, III, IV, or V, if the applicant is authorized to
7 dispense, or conduct research with respect to, controlled sub-
8 stances under the laws of the State in which he practices:
9 *Provided, however,* That the Attorney General may deny an
10 application for such registration if he determines that the is-
11 suance of such registration would be inconsistent with the
12 public interest. In determining the public interest, the follow-
13 ing factors shall be considered:

14 “(1) the recommendation of the appropriate State
15 licensing board or professional disciplinary authority;

16 “(2) the applicant’s past experience in dispensing,
17 or conducting research with respect to controlled sub-
18 stances;

19 “(3) the applicant’s prior conviction record under
20 Federal, State or local laws relating to the manufac-
21 ture, distribution, or dispensing of controlled sub-
22 stances;

23 “(4) compliance with applicable State, Federal or
24 local laws relating to controlled substances; and

1 “(5) such other factors as may be relevant to and
2 consistent with the public health and safety.

3 “Separate registration under this part for practitioners
4 engaging in research with controlled substances in schedule
5 II, III, IV, or V, who are already registered under this part
6 in another capacity, shall not be required. Registration appli-
7 cations by practitioners wishing to conduct research with
8 controlled substances in schedule I shall be referred to the
9 Secretary, who shall determine the qualifications and compe-
10 tency of each practitioner requesting registration, as well as
11 the merits of the research protocol. The Secretary, in deter-
12 mining the merits of each research protocol, shall consult
13 with the Attorney General as to effective procedures to ade-
14 quately safeguard against diversion of such controlled sub-
15 stances from legitimate medical or scientific use. Registration
16 for the purpose of bona fide research with controlled sub-
17 stances in schedule I by a practitioner deemed qualified by
18 the Secretary may be denied by the Attorney General only
19 on a ground specified in section 304(a). Article 7 of the Con-
20 vention on Psychotropic Substances shall not be construed to
21 prohibit, or impose additional restrictions upon, research in-
22 volving drugs or other substances scheduled under the Con-
23 vention which is conducted in conformity with this subsection
24 and other applicable provisions of this subchapter.”.

1 SEC. 513. Section 304(a) of the Controlled Substances
2 Act (21 U.S.C. 824(a)) is amended by deleting "or" at the
3 end of subsection (2), by the addition of the word "or" to the
4 end of subsection (3) thereof, and by the addition of a new
5 subsection (4) as follows:

6 “(4) has committed such acts as would render his
7 registration under section 303 inconsistent with the
8 public interest as defined therein.”.

9 SEC. 514. Section 304(f) of the Controlled Substances
10 Act (21 U.S.C. 824(f)) is redesignated section 304(f)(1) and
11 the following new section 304(f) is added:

12 “(2) The Attorney General may, in his discretion, place
13 under seal any controlled substances owned or possessed by a
14 registrant whose registration has expired, or who has ceased
15 to practice or do business in the manner contemplated by his
16 registration. Such controlled substances shall be held for the
17 benefit of the registrant, or his successor in interest, for a
18 period of ninety days, following which the Attorney General
19 may dispose of such controlled substances in accordance with
20 section 511(e).”.

21 SEC. 515. Section 307(c)(1)(A) of the Controlled Sub-
22 stances Act (21 U.S.C. 827(c)(1)(A)) is amended to read:

23 “(A) to the prescribing of controlled substances in
24 schedule II, III, IV, or V by practitioners acting in
25 the lawful course of their professional practice”;

1 SEC. 516. Section 307(c)(1)(B) of the Controlled Sub-
2 stances Act (21 U.S.C. 827(c)(1)(B)) is amended to read:

3 “(B) to the administering of a controlled substance
4 in schedule II, III, IV, or V unless the practitioner
5 regularly engages in the dispensing or administering of
6 controlled substances and charges his patients, either
7 separately or together with charges for other profes-
8 sional services, for substances so administered.”.

9 SEC. 517. Section 307 of the Controlled Substances Act
10 (21 U.S.C. 827) is further amended by adding thereto a new
11 subsection (g) as follows:

12 “(g) Every registrant under this title shall be required to
13 report any change of professional or business address in such
14 manner as the Attorney General shall by regulation re-
15 quire.”.

16 SEC. 518. Section 403(a)(2) of the Controlled Sub-
17 stances Act (21 U.S.C. 843(a)(2)) is amended to read as fol-
18 lows:

19 “(2) to use in the course of the manufacture, dis-
20 tribution, or dispensing of a controlled substance, or to
21 use for the purpose of acquiring or obtaining a con-
22 trolled substance, a registration number which is ficti-
23 tious, revoked, suspended, expired, or issued to another
24 person.”.

1 SEC. 519. Section 503(a) of the Controlled Substances
2 Act (21 U.S.C. 873(a)) is amended by deleting "and" after
3 paragraph (4), deleting the period and substituting "; and"
4 after paragraph (5), and adding thereto a new paragraph (6)
5 as follows:

6 "(6) enter into grant-in-aid programs with State
7 and local governments to assist them to suppress the
8 diversion of controlled substances from legitimate medi-
9 cal, scientific, and commercial channels. Funds annual-
10 ly appropriated for this purpose shall remain available
11 until expended."

12 SEC. 520. Section 511(a)(1) of the Controlled Sub-
13 stances Act (21 U.S.C. 881(a)(1)) is amended to read as fol-
14 lows:

15 "(1) All controlled substances which have been
16 manufactured, distributed, dispensed, acquired, or pos-
17 sessed in violation of this title."

18 SEC. 521. Section 1002(a)(2) of the Controlled Sub-
19 stances Import and Export Act (21 U.S.C. 952(a)(2)) is
20 amended by deleting "or" at the end of subpart (A), by
21 adding the word "or," at the end of subpart (B) thereof, and
22 by adding the following new subpart (C):

23 "(C) in limited quantities for ultimate scien-
24 tific, analytical or research uses exclusively,"

1 SEC. 522. Section 1002(b)(2) of the Controlled Sub-
2 stances Import and Export Act (21 U.S.C. 952(b)(2)) is
3 amended to read as follows:

4 “(2) is imported pursuant to such notification, or
5 declaration, or in the case of any nonnarcotic con-
6 trolled substance in schedule III, such import permit,
7 notification or declaration, as the Attorney General
8 may by regulation prescribe, except that if a nonnar-
9 cotic controlled substance in schedule IV or V is also
10 listed in schedule I or II of the Convention on Psycho-
11 tropic Substances it shall be imported pursuant to such
12 import permit requirements, prescribed by regulation of
13 the Attorney General, as are required by the Conven-
14 tion.”.

15 SEC. 523. Section 1003(e) of the Controlled Substances
16 Import and Export Act (21 U.S.C. 953(e)) is amended to
17 read as follows:

18 “(e) It shall be unlawful to export from the United
19 States to any other country any nonnarcotic controlled sub-
20 stance in schedule III or IV or any controlled substances in
21 schedule V unless—

22 “(1) there is furnished (before export) to the At-
23 torney General documentary proof that importation is
24 not contrary to the laws or regulations of the country

1 of destination for consumption for medical, scientific or
2 other legitimate purposes;

3 “(2) it is exported pursuant to such notification, or
4 declaration, or in the case of any nonnarcotic con-
5 trolled substance in schedule III, such import permit,
6 notification or declaration, as the Attorney General
7 may by regulation prescribe; and

8 “(3) in any case when a nonnarcotic controlled
9 substance in schedule IV or V is also listed in schedule
10 I or II of the Convention on Psychotropic Substances,
11 it is exported pursuant to such export permit require-
12 ments, prescribed by regulation of the Attorney Gener-
13 al, as are required by the Convention, instead of any
14 notification or declaration required by paragraph (2) of
15 this subsection.”.

16 SEC. 524. Section 1007(a)(2) of the Controlled Sub-
17 stances Import and Export Act (21 U.S.C. 957(a)(2)) is
18 amended to read as follows:

19 “(2) export from the United States any controlled
20 substance in schedule I, II, III, IV, or V,”.

21 SEC. 525. Section 1008(a) of the Controlled Substances
22 Import and Export Act (21 U.S.C. 958(a)) is amended to
23 read as follows:

24 “(a) The Attorney General shall register an applicant to
25 import or export a controlled substance in schedule I or II if

1 he determines that such registration is consistent with the
2 public interest and with United States obligations under in-
3 ternational treaties, conventions, or protocols in effect on the
4 effective date of this section. In determining the public inter-
5 est, the following factors shall be considered:

6 “(1) maintenance of effective controls against the
7 diversion of any controlled substances both within the
8 United States and international commerce;

9 “(2) compliance with applicable State and local
10 laws;

11 “(3) prior conviction record of the applicant under
12 Federal and State laws relating to controlled sub-
13 stances;

14 “(4) past experience in the handling of controlled
15 substances; and

16 “(5) such other factors as may be relevant to and
17 consistent with the public health and safety.”.

18 SEC. 526. Section 1008(b) of the Controlled Substances
19 Import and Export Act (21 U.S.C. 958(b)) is amended to
20 read as follows:

21 “(b) Registration granted under this section shall not
22 entitle a registrant to import or export controlled substances
23 other than those specified in the registration.”.

1 SEC. 527. Section 1008(c) of the Controlled Substances
2 Import and Export Act (21 U.S.C. 958(c)) is amended to
3 read as follows:

4 “(c) The Attorney General shall register an applicant to
5 import or to export a controlled substance in schedule III,
6 IV, or V, unless he determines that the issuance of such
7 registration is inconsistent with the public interest. In deter-
8 mining the public interest, the following factors shall be con-
9 sidered:

10 “(1) maintenance of effective controls against the
11 diversion of any controlled substances;

12 “(2) compliance with applicable State and local
13 laws;

14 “(3) prior conviction record of the applicant under
15 Federal and State laws relating to controlled sub-
16 stances;

17 “(4) past experience in the handling of controlled
18 substances; and

19 “(5) such other factors as may be relevant to and
20 consistent with the public health and safety.”.

21 SEC. 528. Section 1008 of the Controlled Substances
22 Import and Export Act (21 U.S.C. 958), is further amended
23 by redesignating subsections (d), (e), (f), (g), and (h), as sub-
24 sections (e), (f), (g), (h), and (i), respectively, and—

25 (1) by inserting the following new subsection (d):

1 “(d) Actions to deny an application for registration or to
2 revoke or suspend a registration under this section.

3 “(1) The Attorney General may deny an applica-
4 tion for registration or revoke or suspend a registration
5 under subsection (a) if he is unable to determine that
6 such registration is consistent with the public interest
7 (as defined in subsection (a)) and with the United
8 States obligations under international treaties, conven-
9 tions, or protocols in effect on the effective date of this
10 part.

11 “(2) The Attorney General may deny an applica-
12 tion for registration or revoke or suspend a registration
13 under subsection (c), if he determines that such regis-
14 tration is inconsistent with the public interest (as de-
15 fined in subsection (c)) or with United States obliga-
16 tions under international treaties, conventions, or pro-
17 tocols in effect on the effective date of this part.

18 “(3) The Attorney General may limit the revoca-
19 tion or suspension of a registration to the particular
20 controlled substance, or substances, with respect to
21 which grounds for revocation or suspension exist.

22 “(4) Before taking action pursuant to this section,
23 the Attorney General shall serve upon the applicant or
24 registrant an order to show cause as to why the regis-
25 tration should not be denied, revoked or suspended.

1 The order to show cause shall contain a statement of
2 the basis thereof and shall call upon the applicant or
3 registrant to appear before the Attorney General, or
4 his designee, at a time and place stated in the order,
5 but in no event less than thirty days after the date of
6 receipt of the order. Proceedings to deny, revoke, or
7 suspend shall be conducted pursuant to this section in
8 accordance with subchapter II of chapter 5 of title 5 of
9 the United States Code. Such proceeding shall be inde-
10 pendent of, and not in lieu of, criminal prosecutions or
11 other proceedings under this title or any other law of
12 the United States.

13 “(5) The Attorney General may, in his discretion,
14 suspend any registration simultaneously with the insti-
15 tution of proceedings under this section, in cases where
16 he finds that there is an imminent danger to the public
17 health and safety. Such suspension shall continue in
18 effect until the conclusion of such proceedings, includ-
19 ing judicial review thereof, unless sooner withdrawn by
20 the Attorney General or dissolved by a court of compe-
21 tent jurisdiction.

22 “(6) The suspension or revocation of a registration
23 under this section shall operate to suspend or revoke
24 any quota applicable under section 306 of the Con-
25 trolled Substances Act.

1 “(7) In the event that the Attorney General sus-
2 pends or revokes a registration granted under this sec-
3 tion, all controlled substances owned or possessed by
4 the registrant pursuant to such registration at the time
5 of suspension or the effective date of the revocation
6 order, as the case may be, may, in the discretion of the
7 Attorney General, be placed under seal. No disposition
8 may be made of any controlled substances under seal
9 until the time for taking an appeal has elapsed or until
10 all appeals have been concluded, except that a court,
11 upon application therefor, may at any time order the
12 sale of perishable controlled substances. Any such
13 order shall require the deposit of the proceeds of the
14 sale with the court. Upon a revocation order becoming
15 final, all such controlled substances (or proceeds of the
16 sale thereof which have been deposited with the court)
17 shall be forfeited to the United States; and the Attor-
18 ney General shall dispose of such controlled substances
19 in accordance with section 511(e) of the Controlled
20 Substances Act.”.

21 (2) by deleting “304” in the second sentence of
22 redesignated subsection (e); and

23 (3) by amending redesignated subsection (i) to
24 read as follows:

1 “(i) prior to issuing a registration under section
2 1002(a)(2)(B), the Attorney General shall give manu-
3 facturers holding registrations for the bulk manufacture
4 of such controlled substance an opportunity to com-
5 ment upon the adequacy of existing competition among
6 domestic manufacturers.”.

7 SEC. 529. Section 1002(a)(1) of the Controlled Sub-
8 stances Import and Export Act (21 U.S.C. 952(a)(1)) is
9 amended to read as follows:

10 “(1) such amounts of crude opium, poppy straw,
11 concentrate of poppy straw and coca leaves as the At-
12 torney General finds to be necessary to provide for
13 medical, scientific, or other legitimate purposes, and”.

14 SEC. 530. (a) Section 508 of the Controlled Substances
15 Act (21 U.S.C. 878) is amended by—

16 (1) inserting “(a)” before “Any officer or em-
17 ployee”;

18 (2) inserting after “Drug Enforcement Adminis-
19 tration” the following: “or any State or local law en-
20 forcement officer”; and

21 (3) inserting at the end thereof the following new
22 subsection:

23 “(b) State and local law enforcement officers performing
24 functions under this section shall not be deemed Federal em-
25 ployees and shall not be subject to provisions of law relating

1 to Federal employees, except that such officers shall be sub-
2 ject to section 3374(c) of title 5, United States Code.”.

3 (b) Section 503(a) of the Controlled Substances Act (21
4 U.S.C. 873(a)) as amended by this Act is further amended
5 by—

6 (1) striking out “and” at the end of clause (5);

7 (2) striking out the period at the end of clause (6)
8 and inserting in lieu thereof “; and”; and

9 (3) adding at the end thereof the following:

10 “(7) notwithstanding any other provision of law,
11 enter into contractual agreements with State and local
12 law enforcement agencies to provide for cooperative
13 enforcement and regulatory activities under this Act.”.

14 TITLE VI—JUSTICE ASSISTANCE

15 SEC. 601. Title I of the Omnibus Crime Control and
16 Safe Streets Act of 1968 is amended to read as follows:

“TITLE I—JUSTICE ASSISTANCE

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“PART A—OFFICE OF JUSTICE ASSISTANCE

- “Sec. 101. Establishment of Office of Justice Assistance.
- “Sec. 102. Duties and functions of Assistant Attorney General.
- “Sec. 103. Advisory Board.

“PART B—BUREAU OF JUSTICE PROGRAMS

- “Sec. 201. Establishment of Bureau of Justice Programs.
- “Sec. 202. Duties and functions of Director.

“PART C—NATIONAL INSTITUTE OF JUSTICE

- “Sec. 301. National Institute of Justice.
- “Sec. 302. Establishment, duties, and functions.
- “Sec. 303. Authority for 100 per centum grants.

"PART D—BUREAU OF JUSTICE STATISTICS

- "Sec. 401. Bureau of Justice Statistics.
- "Sec. 402. Establishment, duties, and functions.
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"PART E—STATE AND LOCAL ALLOCATIONS

- "Sec. 501. Description of program.
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- "Sec. 504. Review of applications.
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- "Sec. 506. State Office.

"PART F—DISCRETIONARY GRANTS

- "Sec. 601. Purpose.
- "Sec. 602. Procedure for establishing funding and selection criteria.
- "Sec. 603. Application requirements.
- "Sec. 604. Period for award.

"PART G—CRIMINAL JUSTICE FACILITIES

- "Sec. 701. Establishment of the Bureau of Criminal Justice Facilities.
- "Sec. 702. Functions of the Bureau.
- "Sec. 703. Grants authorized for the renovation and construction of criminal justice facilities.
- "Sec. 704. Allotment.
- "Sec. 705. State plans.
- "Sec. 706. Basic criteria.
- "Sec. 707. Clearinghouse on the construction and modernization of criminal justice facilities.
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"PART H—ADMINISTRATIVE PROVISIONS

- "Sec. 801. Establishment of rules and delegation of functions.
- "Sec. 802. Notice and hearing on denial or termination of grant.
- "Sec. 803. Finality of determinations.
- "Sec. 804. Subpoena power; authority to hold hearings.
- "Sec. 805. Personnel and administrative authority.
- "Sec. 806. Title to personal property.
- "Sec. 807. Prohibition of Federal control over State and local criminal justice agencies.
- "Sec. 808. Nondiscrimination.
- "Sec. 809. Recordkeeping requirement.
- "Sec. 810. Confidentiality of information.

"PART I—DEFINITIONS

- "Sec. 901. Definitions.

"PART J—FUNDING

- "Sec. 1001. Authorization of appropriations.

"PART K—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

- "Sec. 1101. Payments.
- "Sec. 1102. Limitations.
- "Sec. 1103. Definitions.
- "Sec. 1104. Administrative provisions.
- "Sec. 1105. Judicial review.

"PART L—FBI TRAINING OF STATE AND LOCAL CRIMINAL JUSTICE
PERSONNEL

- "Sec. 1201. Authority for FBI to train State and local criminal justice personnel.

"PART M—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

- "Sec. 1301. Application requirements.
- "Sec. 1302. Assistance provided.
- "Sec. 1303. Definitions.
- "Sec. 1304. Administrative requirement.

"PART N—TRANSITION

- "Sec. 1401. Continuation of rules, authorities, and proceedings.

1 "ESTABLISHMENT OF OFFICE OF JUSTICE ASSISTANCE

2 "SEC. 101. There is hereby established an Office of Jus-
3 tice Assistance within the Department of Justice under the
4 general authority of the Attorney General. The Office of
5 Justice Assistance (hereafter referred to in this title as the
6 'Office') shall be headed by an Assistant Attorney General
7 appointed by the President, by and with the consent of the
8 Senate. The Assistant Attorney General shall have authority
9 to award all grants, cooperative agreements, and contracts
10 authorized under this title.

11 "DUTIES AND FUNCTIONS OF ASSISTANT ATTORNEY

12 GENERAL

13 "SEC. 102. (a) The Assistant Attorney General shall—

14 "(1) publish and disseminate information on the
15 conditions and progress of the criminal justice systems;

1 “(2) maintain liaison with the executive and judi-
2 cial branches of the Federal and State governments in
3 matters relating to justice research and statistics, and
4 cooperate in assuring as much uniformity as feasible in
5 statistical systems of the executive and judicial
6 branches;

7 “(3) provide information to the President, the
8 Congress, the judiciary, State and local governments,
9 and the general public on justice research and statis-
10 tics;

11 “(4) maintain liaison with public and private edu-
12 cational and research institutions, State and local gov-
13 ernments, and governments of other nations concerning
14 justice research and statistics;

15 “(5) cooperate in and participate with national
16 and international organizations in the development of
17 uniform justice statistics;

18 “(6) insure conformance with security and privacy
19 regulations issued pursuant to section 810 and, identi-
20 fy, analyze and participate in the development and im-
21 plementation of privacy, security and information poli-
22 cies which impact on Federal and State criminal justice
23 operations and related statistical activities;

24 “(7) directly provide staff support to, supervise
25 and coordinate the activities of the Bureau of Justice

1 Programs, the Bureau of Criminal Justice Facilities,
2 the National Institute of Justice, the Bureau of Justice
3 Statistics and the Office of Juvenile Justice and Delin-
4 quency Prevention;

5 “(8) exercise the powers and functions set out in
6 part G; and

7 “(9) exercise such other powers and functions as
8 may be vested in the Assistant Attorney General pur-
9 suant to this title or by delegation of the Attorney
10 General.

11 “(b) The Attorney General shall submit an annual
12 report to the President and to the Congress not later than
13 March 31 of each year. Each annual report shall describe the
14 activities carried out under the provisions of this title and
15 shall contain such findings and recommendations as the At-
16 torney General considers necessary or appropriate after con-
17 sultation with the Assistant Attorney General and the Advi-
18 sory Board.

19 “ADVISORY BOARD

20 “SEC. 103. (a) There is hereby established a Justice
21 Assistance Board (hereinafter referred to as the ‘Board’). The
22 Board shall consist of not more than twenty-one members
23 who shall be appointed by the President. The members shall
24 include representatives of the public, various components of
25 the criminal justice system at all levels of government, and

1 persons experienced in the criminal justice system, including
2 the design, operation and management of programs at the
3 State and local level. The Board shall include at least one
4 member who is experienced in addressing the unique problem
5 of crime committed against the elderly. The President shall
6 designate from among its members a Chairman and Vice
7 Chairman. The Vice Chairman is authorized to sit and act in
8 the place of the Chairman in the absence of the Chairman.
9 The Assistant Attorney General shall be a nonvoting member
10 of the Board and shall not serve as Chairman or Vice Chair-
11 man. Vacancies in the membership of the Board shall not
12 affect the power of the remaining members to execute the
13 functions of the Board and shall be filled in the same manner
14 as in the case of an original appointment.

15 “(b) The Board may make such rules respecting organi-
16 zation and procedures as it deems necessary, except that no
17 recommendation shall be reported from the Board unless a
18 majority of the full Board assents.

19 “(c) The members of the Board shall serve at the pleas-
20 ure of the President and shall have no fixed term. The mem-
21 bers of the Board shall receive compensation for each day
22 engaged in the actual performance of duties vested in the
23 Board at rates of pay not in excess of the daily equivalent of
24 the highest rate of basic pay then payable in the General
25 Schedule of section 5332(a) of title 5, United States Code,

1 and in addition shall be reimbursed for travel, subsistence,
2 and other necessary expenses.

3 “(d) The Board shall—

4 “(1) advise and make recommendations to the As-
5 sistant Attorney General on the policies and priorities
6 of the Bureau of Justice Programs, the Bureau of
7 Criminal Justice Facilities, the National Institute of
8 Justice and the Bureau of Justice Statistics in re-
9 search, statistics and program priorities;

10 “(2) review demonstration programs funded under
11 part B, and evaluations thereof, and advise the Assist-
12 ant Attorney General of the results of such review and
13 evaluations; and

14 “(3) undertake such additional related tasks as the
15 Board may deem necessary.

16 “(e) In addition to the powers and duties set forth else-
17 where in this title, the Assistant Attorney General shall exer-
18 cise such powers and duties of the Board as may be delegated
19 to the Assistant Attorney General by the Board.

20 “(f) The Assistant Attorney General shall provide staff
21 support to assist the Board in carrying out its activities.

1 “PART B—BUREAU OF JUSTICE PROGRAMS

2 “ESTABLISHMENT OF BUREAU OF JUSTICE PROGRAMS

3 “SEC. 201. (a) There is established within the Office of
4 Justice Assistance a Bureau of Justice Programs (hereinafter
5 referred to in this part as the ‘Bureau’).

6 “(b) The Bureau shall be headed by a Director who
7 shall be appointed by the Attorney General. The Director
8 shall not engage in any employment other than that of serv-
9 ing as the Director, nor shall the Director hold any office in,
10 or act in any capacity for, any organization, agency, or insti-
11 tution with which the Bureau makes any contract or other
12 arrangement under this title.

13 “DUTIES AND FUNCTIONS OF DIRECTOR

14 “SEC. 202. The Director shall—

15 “(1) provide funds to eligible States, units of local
16 government and private nonprofit organizations pursu-
17 ant to part E and part F;

18 “(2) establish priorities for programs in accord-
19 ance with part E and, following public announcement
20 of such priorities, award and allocate funds and techni-
21 cal assistance in accordance with the criteria of part F
22 and on terms and conditions determined by the Direc-
23 tor to be consistent with part F;

24 “(3) cooperate with and provide technical assist-
25 ance to States, units of local government, and other

1 public and private organizations or international agen-
2 cies involved in criminal justice activities;

3 “(4) provide for the development of technical as-
4 sistance and training programs for State and local
5 criminal justice agencies and foster local participation
6 in such activities;

7 “(5) encourage the targeting of State and local re-
8 sources on efforts to reduce the incidence of violent
9 crime and on programs relating to the apprehension
10 and prosecution of repeat offenders;

11 “(6) advise and make recommendations to the As-
12 sistant Attorney General on the policies and priorities
13 of the Office relating to the Bureau; and

14 “(7) exercise such other powers and functions as
15 may be vested in the Director pursuant to this title.

16 “PART C—NATIONAL INSTITUTE OF JUSTICE

17 “NATIONAL INSTITUTE OF JUSTICE

18 “SEC. 301. It is the purpose of this part to establish a
19 National Institute of Justice, which shall provide for and en-
20 courage research and demonstration efforts for the purpose
21 of—

22 “(1) improving Federal, State and local criminal
23 justice systems and related aspects of the civil justice
24 system;

25 “(2) preventing and reducing crimes;

1 “(3) insuring citizen access to appropriate dispute-
2 resolution forums;

3 “(4) improving efforts to detect, investigate, pros-
4 ecute, and otherwise combat and prevent white-collar
5 crime and public corruption;

6 “(5) addressing the unique problem of crime com-
7 mitted against the elderly;

8 “(6) identifying programs of proven and demon-
9 strated success or programs which are likely to be suc-
10 cessful; and

11 “(7) developing improved strategies for rural areas
12 to better utilize their dispersed resources in combating
13 crime, with particular emphasis on violent crime, juve-
14 nile delinquency, and crime prevention.

15 The Institute shall have authority to engage in and encour-
16 age research and development to improve and strengthen the
17 criminal justice system and related aspects of the civil justice
18 system and to disseminate the results of such efforts to units
19 of Federal, State, and local governments, to develop alterna-
20 tives to judicial resolution of disputes, to evaluate the effec-
21 tiveness of programs funded under this title, to develop and
22 demonstrate new or improved approaches and techniques, to
23 improve and strengthen the administration of justice, and to
24 identify programs or projects carried out under this title
25 which have demonstrated success in improving the quality of

1 justice systems and which offer the likelihood of success if
2 continued or repeated. In carrying out the provisions of this
3 part the Institute shall give primary emphasis to the prob-
4 lems of State and local justice systems.

5 "ESTABLISHMENT, DUTIES, AND FUNCTIONS

6 "SEC. 302. (a) There is established within the Office of
7 Justice Assistance a National Institute of Justice (hereinafter
8 referred to in this title as the 'Institute').

9 "(b) The Institute shall be headed by a Director ap-
10 pointed by the Attorney General. The Director shall have
11 had experience in justice research. The Director shall have
12 such authority as delegated by the Assistant Attorney Gener-
13 al to make grants, cooperative agreements, and contracts
14 awarded by the Institute. The Director shall not engage in
15 any other employment than that of serving as Director; nor
16 shall the Director hold any office in, or act in any capacity
17 for, any organization, agency, or institution with which the
18 Institute makes any contract or other arrangements under
19 this title.

20 "(c) The Institute is authorized to—

21 "(1) make grants to, or enter into cooperative
22 agreements or contracts with, States, units of local
23 government or combinations thereof, public agencies,
24 institutions of higher education, private organizations,
25 or individuals to conduct research, demonstration or

1 special projects pertaining to the purposes described in
2 this part, and provide technical assistance and training
3 in support of tests, demonstrations, and special proj-
4 ects;

5 “(2) conduct or authorize multiyear and short-
6 term research and development concerning the criminal
7 and civil justice systems in an effort—

8 “(A) to identify alternative programs for
9 achieving system goals;

10 “(B) to provide more accurate information on
11 the causes and correlates of crime;

12 “(C) to analyze the correlates of crime and
13 juvenile delinquency and provide more accurate
14 information on the causes and correlates of crime
15 and juvenile delinquency;

16 “(D) to improve the functioning of the crimi-
17 nal justice system;

18 “(E) to develop new methods for the preven-
19 tion and reduction of crime, including but not lim-
20 ited to the development of programs to facilitate
21 cooperation among the States and units of local
22 government, the detection and apprehension of
23 criminals, the expeditious, efficient, and fair dispo-
24 sition of criminal and juvenile delinquency cases,
25 the improvement of police and minority relations,

1 the conduct of research into the problems of vic-
2 tims and witnesses of crime, the feasibility and
3 consequences of allowing victims to participate in
4 criminal justice decisionmaking, the feasibility and
5 desirability of adopting procedures and programs
6 which increase the victim's participation in the
7 criminal justice process, the reduction in the need
8 to seek court resolution of civil disputes, and the
9 development of adequate corrections facilities and
10 effective programs of correction; and

11 “(F) to develop programs and projects to im-
12 prove and expand the capacity of States and units
13 of local government and combinations of such
14 units, to detect, investigate, prosecute, and other-
15 wise combat and prevent white-collar crime and
16 public corruption, to improve and expand coopera-
17 tion among the Federal Government, States, and
18 units of local government in order to enhance the
19 overall criminal justice system response to white-
20 collar crime and public corruption, and to foster
21 the creation and implementation of a comprehen-
22 sive national strategy to prevent and combat
23 white-collar crime and public corruption.

1 In carrying out the provisions of this subsection, the
2 Institute may request the assistance of both public and
3 private research agencies;

4 “(3) evaluate the effectiveness of projects or pro-
5 grams carried out under this title;

6 “(4) make recommendations to the Assistant At-
7 torney General for action which can be taken by units
8 of Federal, State, and local governments and by pri-
9 vate persons and organizations to improve and
10 strengthen criminal and civil justice systems;

11 “(5) provide research fellowships and clinical in-
12 ternships and carry out programs of training and spe-
13 cial workshops for the presentation and dissemination
14 of information resulting from research, demonstrations,
15 and special projects including those authorized by this
16 part;

17 “(6) collect and disseminate information obtained
18 by the Institute or other Federal agencies, public agen-
19 cies, institutions of higher education, and private orga-
20 nizations relating to the purposes of this part;

21 “(7) serve as a national and international clearing-
22 house for the exchange of information with respect to
23 the purposes of this part;

24 “(8) encourage, assist, and serve in a consulting
25 capacity to Federal, State, and local justice system

1 agencies in the development, maintenance, and coordi-
2 nation of criminal and civil justice programs and serv-
3 ices;

4 “(9) advise and make recommendations to the As-
5 sistant Attorney General on the policies and priorities
6 of the Office relating to the Institute; and

7 “(10) exercise such administrative functions under
8 part H as may be delegated by the Assistant Attorney
9 General.

10 “(d) To insure that all criminal and civil justice research
11 is carried out in a coordinated manner, the Institute is au-
12 thorized to—

13 “(1) utilize, with their consent, the services,
14 equipment, personnel, information, and facilities of
15 other Federal, State, local, and private agencies and
16 instrumentalities with or without reimbursement there-
17 fore;

18 “(2) confer with and avail itself of the coopera-
19 tion, services, records, and facilities of State or of mu-
20 nicipal or other local agencies;

21 “(3) request such information, data, and reports
22 from any Federal agency as may be required to carry
23 out the purposes of this section, and the agencies shall
24 provide such information to the Institute as required to
25 carry out the purposes of this part;

1 “(4) seek the cooperation of the judicial branches
2 of Federal and State governments in coordinating civil
3 and criminal justice research and development.

4 “AUTHORITY FOR 100 PER CENTUM GRANTS

5 “SEC. 303. A grant authorized under this part may be
6 up to 100 per centum of the total cost of each project for
7 which such grant is made. The Institute shall require, when-
8 ever feasible, as a condition of approval of a grant under this
9 part, that the recipient contribute money, facilities, or serv-
10 ices to carry out the purposes for which the grant is sought.

11 “PART D—BUREAU OF JUSTICE STATISTICS

12 “BUREAU OF JUSTICE STATISTICS

13 “SEC. 401. It is the purpose of this part to provide for
14 and encourage the collection and analysis of statistical infor-
15 mation concerning crime, juvenile delinquency, and the oper-
16 ation of the criminal justice system and related aspects of the
17 civil justice system and to encourage the development of in-
18 formation and statistical systems at the Federal, State, and
19 local levels to improve the efforts of these levels of govern-
20 ment to measure and understand the levels of crime, juvenile
21 delinquency, and the operation of the criminal justice system
22 and related aspects of the civil justice system. The Bureau
23 shall give primary emphasis to the needs of State and local
24 justice systems, both individually and as a whole.

1 “ESTABLISHMENT, DUTIES, AND FUNCTIONS

2 “SEC. 402. (a) There is established within the Office of
3 Justice Assistance a Bureau of Justice Statistics (hereinafter
4 referred to in this part as the ‘Bureau’).

5 “(b) The Bureau shall be headed by a Director appoint-
6 ed by the Attorney General. The Director shall have had
7 experience in statistical programs. The Director shall have
8 such authority as delegated by the Assistant Attorney Gener-
9 al to make grants, cooperative agreements, and contracts
10 awarded by the Bureau. The Director shall not engage in any
11 other employment than that of serving as Director; nor shall
12 the Director hold any office in, or act in any capacity for, any
13 organization, agency, or institution with which the Bureau
14 makes any contract or other arrangement under this Act.

15 “(c) The Bureau is authorized to—

16 “(1) make grants to, or enter into cooperative
17 agreements or contracts with public agencies, institu-
18 tions of higher education, private organizations, or pri-
19 vate individuals for purposes related to this part;
20 grants shall be made subject to continuing compliance
21 with standards for gathering justice statistics set forth
22 in rules and regulations promulgated by the Director;

23 “(2) collect and analyze information concerning
24 criminal victimization, including crimes against the el-
25 derly, and civil disputes;

1 “(3) collect and analyze data that will serve as a
2 continuous and comparable national social indication of
3 the prevalence, incidence, rates, extent, distribution,
4 and attributes of crime, juvenile delinquency, civil dis-
5 putes, and other statistical factors related to crime,
6 civil disputes, and juvenile delinquency, in support of
7 National, State, and local justice policy and decision-
8 making;

9 “(4) collect and analyze statistical information
10 concerning the operations of the criminal justice system
11 at the Federal, State, and local levels;

12 “(5) collect and analyze statistical information
13 concerning the prevalence, incidence, rates, extent, dis-
14 tribution, and attributes of crime, and juvenile delin-
15 quency, at the Federal, State, and local levels.

16 “(6) analyze the correlates of crime, civil disputes
17 and juvenile delinquency, by the use of statistical infor-
18 mation, about criminal and civil justice systems at the
19 Federal, State, and local levels, and about the extent,
20 distribution and attributes of crime, and juvenile delin-
21 quency, in the Nation and at the Federal, State, and
22 local levels;

23 “(7) compile, collate, analyze, publish, and dis-
24 seminate uniform national statistics concerning all as-
25 pects of criminal justice and related aspects of civil jus-

1 tice, crime, including crimes against the elderly, juve-
2 nile delinquency, criminal offenders, juvenile delin-
3 quents, rural crime, and civil disputes in the various
4 States;

5 “(8) recommend to the Assistant Attorney Gener-
6 al national standards for justice statistics and for insur-
7 ing the reliability and validity of justice statistics sup-
8 plied pursuant to this title;

9 “(9) establish or assist in the establishment of a
10 system to provide State and local governments with
11 access to Federal informational resources useful in the
12 planning, implementation, and evaluation of programs
13 under this Act;

14 “(10) conduct or support research relating to
15 methods of gathering or analyzing justice statistics;

16 “(11) provide for the development of justice infor-
17 mation systems programs and assistance to the States
18 and units of local government relating to collection,
19 analysis, or dissemination of justice statistics;

20 “(12) develop and maintain a data processing ca-
21 pability to support the collection, aggregation, analysis
22 and dissemination of information on the incidence of
23 crime and the operation of the criminal justice system;

24 “(13) collect, analyze and disseminate comprehen-
25 sive Federal justice transaction statistics (including sta-

1 tistics on issues of Federal justice interest such as
2 public fraud and high technology crime) and to provide
3 assistance to and work jointly with other Federal agen-
4 cies to improve the availability and quality of Federal
5 justice data and other justice information;

6 “(14) insure conformance with security and priva-
7 cy requirements of section 810 and regulations issued
8 pursuant thereto;

9 “(15) advise and make recommendations to the
10 Assistant Attorney General on the policies and prior-
11 ities of the Office relating to the Bureau; and

12 “(16) exercise such administrative functions under
13 part H as may be delegated by the Assistant Attorney
14 General.

15 “(d) To insure that all justice statistical collection, anal-
16 ysis, and dissemination is carried out in a coordinated
17 manner, the Bureau is authorized to—

18 “(1) utilize, with their consent, the services,
19 equipment, records, personnel, information, and facili-
20 ties of other Federal, State, local and private agencies
21 and instrumentalities with or without reimbursement
22 therefore, and to enter into agreements with the afore-
23 mentioned agencies and instrumentalities for purposes
24 of data collection and analysis;

1 “(2) confer and cooperate with State, municipal,
2 and other local agencies;

3 “(3) request such information, data, and reports
4 from any Federal agency as may be required to carry
5 out the purposes of this title;

6 “(4) seek the cooperation of the judicial branch of
7 the Federal Government in gathering data from crimi-
8 nal justice records; and

9 “(5) encourage replication, coordination and shar-
10 ing among justice agencies regarding information sys-
11 tems, information policy, and data.

12 “(e) Federal agencies requested to furnish information,
13 data, or reports pursuant to subsection (d)(3) shall provide
14 such information to the Bureau as is required to carry out the
15 purposes of this section.

16 “(f) In recommending standards for gathering justice
17 statistics under this section, the Bureau shall consult with
18 representatives of State and local government, including,
19 where appropriate, representatives of the judiciary.

20 “AUTHORITY FOR 100 PER CENTUM GRANTS

21 “SEC. 403. A grant authorized under this part may be
22 up to 100 per centum of the total cost of each project for
23 which such grant is made. The Bureau shall require, when-
24 ever feasible as a condition of approval of a grant under this

1 part, that the recipient contribute money, facilities, or serv-
2 ices to carry out the purposes for which the grant is sought.

3 "USE OF DATA

4 "SEC. 404. Data collected by the Bureau shall be used
5 only for statistical or research purposes, and shall be gath-
6 ered in a manner that precludes their use for law enforcement
7 or any purpose relating to a particular individual other than
8 statistical or research purposes.

9 "PART E—STATE AND LOCAL ALLOCATIONS

10 "DESCRIPTION OF PROGRAM

11 "SEC. 501. (a) It is the purpose of this part to assist
12 States and units of local government in carrying out specific
13 programs of proven effectiveness or which offer a high prob-
14 ability of improving the functions of the criminal justice sys-
15 tems and which focus primarily on violent crime and serious
16 offenders. The Bureau of Justice Programs (hereinafter re-
17 ferred to in this part as the 'Bureau') is authorized, pursuant
18 to authority delegated by the Assistant Attorney General, to
19 establish criteria and make grants under this part to States
20 for the purpose of funding specific programs and projects
21 that—

22 "(1) increase the conviction rate of repeat or vio-
23 lent offenders through focused enforcement and pros-
24 ecution units which target serious offenders for special
25 prosecution action;

1 “(2) address the problem of serious and violent of-
2 fenses committed by juveniles;

3 “(3) combat arson;

4 “(4) disrupt illicit commerce in stolen goods and
5 property;

6 “(5) improve assistance (other than compensation)
7 to crime victims and witnesses;

8 “(6) improve the operational effectiveness of law
9 enforcement by integrating and maximizing the effec-
10 tiveness of police field operations and the use of crime
11 analysis techniques;

12 “(7) encourage citizen action in crime prevention
13 and cooperation with law enforcement;

14 “(8) reduce recidivism among drug or alcohol
15 abusing offenders;

16 “(9) improve workload management systems for
17 prosecutors and expedite felony case processing by the
18 courts;

19 “(10) provide training and technical assistance to
20 justice personnel;

21 “(11) provide programs which alleviate prison and
22 jail overcrowding, including alternatives to pretrial de-
23 tention and alternative programs for nonviolent offend-
24 ers;

1 “(12) with respect to cases involving career crimi-
2 nals and violent crime, expedite the disposition of
3 criminal cases, reform sentencing practices and proce-
4 dures, and improve court system management;

5 “(13) provide training, technical assistance, and
6 programs to assist State and local law enforcement au-
7 thorities in rural areas in combating crime, with partic-
8 ular emphasis on violent crime, juvenile delinquency,
9 and crime prevention;

10 “(14) address the unique problem of crime com-
11 mitted against the elderly; and

12 “(15) implement programs that address critical
13 problems of crime, such as drug trafficking, which have
14 been certified by the Director, after consultation with
15 the Directors of National Institute of Justice, Bureau
16 of Justice Statistics and the Office of Juvenile Justice
17 and Delinquency Prevention, as having proved success-
18 ful or which are innovative and have been deemed by
19 the Director likely to prove successful.

20 “FEDERAL SHARE

21 “SEC. 502. (a) The Federal portion of any grant to a
22 State made under this part shall be 50 per centum of the
23 aggregate cost of programs and projects specified in the ap-
24 plication for such grant.

1 “(b) The non-Federal portion of the cost of such pro-
2 grams or project shall be in cash.

3 “(c) In the case of a grant to an Indian tribe or other
4 aboriginal group, the Bureau may increase the Federal por-
5 tion of the cost of such program to the extent the Bureau
6 deems necessary if the Bureau determines that the tribe or
7 group does not have sufficient funds available to meet the
8 non-Federal portion of such cost.

9 “(d) The Bureau may provide financial aid and assist-
10 ance to programs or projects under this part for a period not
11 to exceed three years.

12 “APPLICATIONS

13 “SEC. 503. (a) No grant may be made by the Bureau to
14 a State, or by a State to an eligible recipient pursuant to part
15 E, unless the application sets forth criminal justice programs
16 covering a two-year period which meet the objectives of sec-
17 tion 501, designates which objective specified in section
18 501(a) each such program is intended to achieve, and identi-
19 fies the State agency or unit of local government which will
20 implement each such program. This application must be
21 amended annually if new programs are to be added to the
22 application or if the programs contained in the original appli-
23 cation are not implemented. The application must include—

24 “(1) an assurance that following the first fiscal
25 year covered by an application and each fiscal year

1 thereafter, the applicant shall submit to the Bureau,
2 where the applicant is a State:

3 “(A) a performance report concerning the ac-
4 tivities carried out pursuant to this title; and

5 “(B) an assessment by the applicant of the
6 impact of those activities on the objectives of this
7 title and the needs and objectives identified in the
8 applicant’s statement;

9 “(2) a certification that Federal funds made avail-
10 able under this title will not be used to supplant State
11 or local funds, but will be used to increase the amounts
12 of such funds that would, in the absence of Federal
13 funds, be made available for criminal justice activities;


14 “(3) fund accounting, auditing, monitoring, and
15 such evaluation procedures as may be necessary to
16 keep such records as the Bureau shall prescribe will be
17 provided to assure fiscal control, proper management,
18 and efficient disbursement of funds received under this
19 title;

20 “(4) an assurance that the State will maintain
21 such data and information and submit such reports in
22 such form, at such times and containing such data and
23 information as the Bureau may reasonably require to
24 administer other provisions of this title;

1 “(5) a certification that its programs meet all the
2 requirements of this section, that all the information
3 contained in the application is correct, that there has
4 been appropriate coordination with affected agencies,
5 and that the applicant will comply with all provisions
6 of this title and all other applicable Federal laws. Such
7 certification shall be made in a form acceptable to the
8 Bureau and shall be executed by the chief executive or
9 other officer of the applicant qualified under regulations
10 promulgated by the Bureau;

11 “(6) satisfactory assurances that equipment,
12 whose purchase was previously made in connection
13 with a program or project in such State assisted under
14 this title and whose cost in the aggregate was
15 \$100,000 or more, has been put into use not later than
16 one year after the date set at the time of purchase for
17 the commencement of such use and has continued in
18 use during its useful life; and

19 “(7) an assurance that the State will take into ac-
20 count the needs and requests of units of general local
21 government in the State and encourage local initiative
22 in the development of programs which meet the objec-
23 tives of section 501.



1 "REVIEW OF APPLICATIONS

2 "SEC. 504. (a) The Bureau shall provide financial as-
3 sistance to each State applicant under this part to carry out
4 the programs or projects submitted by such applicant upon
5 determining that the application or amendment thereof is
6 consistent with requirements of this title and with the prior-
7 ities and criteria established by the Bureau under section
8 501. Each application or amendment made and submitted for
9 approval to the Bureau pursuant to section 503 of this title
10 shall be deemed approved, in whole or in part, by the Bureau
11 within sixty days after first received unless the Bureau in-
12 forms the applicant of specific reasons for disapproval.

13 "(b) The Bureau shall suspend funding for an approved
14 application in whole or in part if such application contains a
15 program or project which has failed to conform to the re-
16 quirements or statutory objectives of this Act. The Bureau
17 may make appropriate adjustments in the amounts of grants
18 in accordance with its findings pursuant to this subsection.

19 "(c) Grant funds awarded under this part and part F
20 shall not be used for—

21 "(1) the purchase of equipment or hardware, or
22 the payment of personnel costs, unless the cost of such
23 purchases and payments is incurred as an incidental
24 and necessary part of a program under section 501(a);

1 “(2) programs which have as their primary pur-
2 pose general salary payments for employees or classes
3 of employees within an eligible jurisdiction, except for
4 the compensation of personnel for time engaged in con-
5 ducting or undergoing training programs or the com-
6 pensation of personnel engaged in research, develop-
7 ment, demonstration, or short-term programs;

8 “(3) construction projects; or

9 “(4) programs or projects which, based upon eval-
10 uations by the Bureau, the National Institute of Jus-
11 tice, Bureau of Justice Statistics, State or local agen-
12 cies, and other public or private organizations, have
13 been demonstrated to offer a low probability of improv-
14 ing the functioning of the criminal justice system. Such
15 programs must be formally identified by a notice in the
16 Federal Register after opportunity for comment.

17 “(d) The Bureau shall not finally disapprove any appli-
18 cation submitted to the Director under this part, or any
19 amendments thereof, without first affording the applicant rea-
20 sonable notice and opportunity for reconsideration.

21 “DISTRIBUTION OF FUNDS

22 “SEC. 505. (a) Of the total amount appropriated for this
23 part and part F in any fiscal year, 80 per centum shall be set
24 aside for this part and 20 per centum shall be set aside for

1 part F. Funds set aside for this part shall be allocated to
2 States as follows:

3 “(1) \$250,000 shall be allocated to each of the
4 participating States.

5 “(2) Of the total funds remaining for this part
6 after the allocation under paragraph (1) there shall be
7 allocated to each State an amount which bears the
8 same ratio to the amount of remaining funds described
9 in this subparagraph as the population of such State
10 bears to the population of all the States.

11 “(b) Notwithstanding the requirements of section 505(a),
12 if the total amount appropriated for this part and part F is
13 less than \$80,000,000 in any fiscal year, then the entire
14 amount shall be set aside and reserved for allocation to the
15 States according to the criteria established by the Director to
16 provide for equitable distribution among the States.

17 “(c)(1) Each State which receives funds under this part
18 in a fiscal year shall distribute among units of local govern-
19 ment, or combinations of units of local government, in such
20 State for the purposes specified in section 501(a) not less
21 than that portion of such funds which bears the same ratio to
22 the aggregate amount of such funds as the amount of funds
23 expended by all units of local government for criminal justice
24 in the preceding fiscal year bears to the aggregate amount of
25 funds expended by the State and all units of local government

1 in such State for criminal justice in such preceding fiscal
2 year.

3 “(2) In distributing funds received under this part
4 among urban, rural and suburban units of local government
5 and combinations thereof, the State shall give priority to
6 those jurisdictions with the greatest need.

7 “(3) Any funds not distributed to units of local govern-
8 ment under paragraphs (1) and (2) shall be available for ex-
9 penditure by the State involved.

10 “(4) For purposes of determining the distribution of
11 funds under paragraphs (1) and (2), the most accurate and
12 complete data available for the fiscal year involved shall be
13 used. If data for such fiscal year are not available, then the
14 most accurate and complete data available for the most
15 recent fiscal year preceding such fiscal year shall be used.

16 “(5) In distributing funds received under this part the
17 State shall make every effort to distribute to units of local
18 government and combinations thereof, the maximum amount
19 of such available funds.

20 “(d) No funds allocated to a State under subsection (a)
21 or (b) or received by a State for distribution under subsection
22 (c) may be distributed by the Director or by the State in-
23 volved for any program other than a program contained in an
24 approved application.

1 “(e) If the Bureau determines, on the basis of informa-
2 tion available to it during any fiscal year, that a portion of
3 the funds allocated to a State for that fiscal year will not be
4 required or that a State will be unable to qualify or receive
5 funds under this part, or that a State chooses not to partici-
6 pate in the program established by this part, then such por-
7 tion shall be awarded by the Director to urban, rural and
8 suburban units of local government or combinations thereof
9 within such State giving priority to those jurisdictions with
10 greatest need.

11 “(f) Any funds not distributed under subsections (d) and
12 (e) shall be available for obligation under part F.

13 “STATE OFFICE

14 “SEC. 506. (a) The chief executive of each participating
15 State shall designate a State office for purposes of—

16 “(1) preparing an application to obtain funds
17 under this part; and

18 “(2) administering funds received from the Bureau
19 of Justice Programs, including receipt, review, process-
20 ing, monitoring, progress and financial report review,
21 technical assistance, grant adjustments, accounting, au-
22 diting, and fund disbursements.

23 “(b) An office or agency performing other functions
24 within the executive branch of a State may be designated to
25 carry out the functions specified in subsection (a).

1 “PART F—DISCRETIONARY GRANTS

2 “PURPOSE

3 “SEC. 601. (a) The purpose of this part is to provide
4 additional Federal financial assistance to States, units of local
5 government, combinations of such units, and private nonprof-
6 it organizations for purposes of—

7 “(1) educational and training programs for crimi-
8 nal justice personnel;

9 “(2) providing technical assistance to States and
10 local units of governments;

11 “(3) projects which are national or multi-State in
12 scope and which address the purposes specified in sec-
13 tion 501, and programs to improve the professionalism
14 and performance of criminal justice agencies through
15 the development of standards and voluntary accredita-
16 tion processes; and

17 “(4) providing financial assistance to States, units
18 of local government and private nonprofit organizations
19 for demonstration programs which, in view of previous
20 research or experience, are likely to be a success in
21 more than one jurisdiction and are not likely to be
22 funded with moneys from other sources.

23 “(b) The Director is authorized, pursuant to such au-
24 thority as delegated by the Assistant Attorney General, to
25 make grants, enter into cooperative agreements, and con-

1 tracts with, States, units of local governments or combina-
2 tions thereof, public agencies, institutions of higher education
3 or private organizations.

4 “(c) The Federal portion of any grants made under this
5 part may be made in amounts up to 100 per centum of the
6 costs of the program or project.

7 “PROCEDURE FOR ESTABLISHING FUNDING AND
8 SELECTION CRITERIA

9 “SEC. 602. The Bureau shall annually establish funding
10 priorities and selection criteria for assistance after first pro-
11 viding notice and an opportunity for public comment.

12 “APPLICATION REQUIREMENTS

13 “SEC. 603. (a) No grant may be made pursuant to this
14 part unless an application has been submitted to the Bureau
15 in which the applicant—

16 “(1) sets forth a program or project which is eligi-
17 ble for funding pursuant to this part;

18 “(2) describes the services to be provided, per-
19 formance goals and the manner in which the program
20 is to be carried out;

21 “(3) describes the method to be used to evaluate
22 the program or project in order to determine its impact
23 and effectiveness in achieving the stated goals and
24 agrees to conduct such evaluation according to the pro-
25 cedures and terms established by the Bureau;

1 “(4) indicates, if it is a private nonprofit organiza-
2 tion, that it has consulted with appropriate agencies
3 and officials of the State and units of local government
4 to be affected by the program or project.

5 “(b) Each applicant for funds under this part shall certi-
6 fy that its program or project meets all the requirements of
7 this section, that all the information contained in the applica-
8 tion is correct, and that the applicant will comply with all the
9 provisions of this title and all other applicable Federal laws.
10 Such certification shall be made in a form acceptable to the
11 Bureau.

12 “PERIOD FOR AWARD

13 “SEC. 604. The Bureau may provide financial aid and
14 assistance to programs or projects under this part for a period
15 not to exceed three years. Grants made pursuant to this part
16 may be extended or renewed by the Bureau for an additional
17 period of up to two years if—

18 “(1) an evaluation of the program or project indi-
19 cates that it has been effective in achieving the stated
20 goals or offers the potential for improving the function-
21 ing of the criminal justice system; and

22 “(2) the State, unit of local government, or combi-
23 nation thereof and private nonprofit organizations
24 within which the program or project has been conduct-
25 ed agrees to provide at least one-half of the total cost

1 of such program or project from part E funds or from
2 any other source of funds, including other Federal
3 grants, available to the eligible jurisdiction. Funding
4 for the management and the administration of national
5 nonprofit organizations under section 601(c) of this part
6 is not subject to the funding limitations of this section.

7 "PART G—CRIMINAL JUSTICE FACILITIES

8 "ESTABLISHMENT OF THE BUREAU OF CRIMINAL JUSTICE
9 FACILITIES

10 "SEC. 701. (a) There is established within the Office of
11 Justice Assistance a Bureau of Criminal Justice Facilities
12 (hereinafter referred to in this part as the 'Bureau').

13 "(b) The Bureau shall be headed by a Director who
14 shall be appointed by the Attorney General. The Director
15 shall not engage in any employment other than that of serv-
16 ing as the Director, nor shall the Director hold any office in,
17 or act in any capacity for, any organization, agency, or insti-
18 tution with which the Bureau makes any contract or other
19 arrangement under this title.

20 "FUNCTIONS OF THE BUREAU

21 "SEC. 702. In order to carry out the purposes of this
22 part, the Bureau shall—

23 "(1) make grants to States for the construction
24 and modernization of correctional facilities in accord-
25 ance with sections 703, 704, 705, 706, and 708; and

1 “(2) provide for the widest practical and appropri-
2 ate dissemination of information obtained from the pro-
3 grams and projects assisted under this part.

4 “GRANTS AUTHORIZED FOR THE RENOVATION AND
5 CONSTRUCTION OF CRIMINAL JUSTICE FACILITIES

6 “SEC. 703. The Director of the Bureau of Criminal Jus-
7 tice Facilities is authorized to make grants to States in ac-
8 cordance with the provisions of this part for the renovation
9 and construction of correctional facilities beginning October
10 1, 1984, and ending September 30, 1987.

11 “ALLOTMENT

12 “SEC. 704. (a) From the sums appropriated for each
13 fiscal year, the Director shall allot not more than 1½ per
14 centum thereof among Guam, American Samoa, the Virgin
15 Islands, the Trust Territory of the Pacific Islands, and the
16 Northern Mariana Islands according to their respective
17 needs.

18 “(b)(1) From the remaining 98½ per centum of such
19 funds the Director—

20 “(A) shall allot to each State with a plan ap-
21 proved pursuant to section 705 an amount which bears
22 the same ratio to 50 per centum of the remaining funds
23 as the population in such State bears to the population
24 in all States; and

1 “(B) from the remaining 50 per centum of the re-
2 remainder from this paragraph, States submitting a State
3 plan approved by the Director shall be awarded assist-
4 ance under this part based on the relative needs of
5 each State relating to correctional facilities. In deter-
6 mining the relative needs of each State the Director
7 shall consider—

8 “(i) whether population levels or conditions
9 of confinement in State or local facilities are in
10 violation of the Federal Constitution or State stat-
11 utes, codes, or standards and the amount and type
12 of assistance required to bring such facilities into
13 compliance with the law;

14 “(ii) the numbers and general characteristics
15 of the inmate population, to include factors such
16 as offender ages, offenses, average term of incar-
17 ceration, and custody status; and

18 “(iii) other relevant criteria.

19 In allocating assistance under this part, the Director shall
20 give primary consideration to the needs of States which have
21 made satisfactory assurances that they have implemented, or
22 are in the process of implementing, significant measures to
23 reduce overcrowding and improve conditions of confinement
24 in State and local correctional facilities, through legislative,
25 executive, or judicial initiatives.

1 “(2) Notwithstanding the provisions of subsection (b),
2 during the period within which funds are available under this
3 part, each State with an approved plan shall be entitled to
4 grant or bond interest subsidy assistance totaling no less than
5 one-half of 1 per centum of available funds.

6 “(3) For the purpose of this section, the term ‘State’
7 does not include Guam, American Samoa, the Virgin Islands,
8 the Trust Territory of the Pacific Islands, and the Northern
9 Mariana Islands.

10 “STATE PLANS

11 “SEC. 705. (a) Any State desiring to receive its allot-
12 ment of Federal funds under this part shall, within 180 days
13 following the promulgation of rules implementing this sub-
14 part, submit a State-needs assessment and action plan for a
15 three-year period, supplemented by such annual revisions as
16 may be necessary, which is consistent with such basic criteria
17 as the Director may prescribe under section 706. Each such
18 plan shall—

19 “(1) provide for the administration of the plan by
20 a State agency designated by the chief executive of
21 such State;

22 “(2) set forth a comprehensive statewide program
23 assessing needs and establishing priorities and action
24 plans which involve both construction and nonconstruc-

1 tion initiatives to relieve overcrowding and improve
2 conditions of confinement in correctional facilities;

3 “(3) provide satisfactory assurance that the con-
4 trol of funds granted under this part and title to prop-
5 erty derived therefrom shall be in a public agency for
6 the uses and purposes provided in this part and that a
7 public agency will administer such funds and property
8 for such purposes;

9 “(4) provide assurances that the State agency or
10 local government will, after a reasonable period of
11 Federal assistance, pay from non-Federal sources any
12 remaining or continuing construction or nonconstruc-
13 tion costs of the program for which application is made
14 including the cost of programs to be carried out in the
15 facilities for which assistance is sought under this part;

16 “(5) provide assurances that, to the extent practi-
17 cal, correctional facilities will be used for other crimi-
18 nal justice purposes if they are no longer used for the
19 specific purpose for which they were built;

20 “(6) provide assurances that the State will take
21 into account the needs and requests of units of general
22 local government in the State and encourage local ini-
23 tiative in the development of projects reducing over-
24 crowding and improving conditions of confinement in
25 corrections facilities not assisted under this part;

1 “(7) provide, based on requests and relative need,
2 for appropriately balanced allocation of funds between
3 the State and units of general local government within
4 the State and among such units for projects for the
5 construction and modernization of correctional facili-
6 ties;

7 “(8) provide for appropriate executive and judicial
8 review of any actions taken by the State agency disap-
9 proving an application for which funds are available or
10 terminating or refusing to continue financial assistance
11 to units of general local government or any combina-
12 tion of such units for assistance under this part;

13 “(9) set forth policies and procedures designed to
14 assure that Federal funds made available under this
15 part will be so used as not to supplant State or local
16 funds, but to increase the amounts of such funds that
17 would in the absence of such Federal funds be made
18 available for the construction and renovation of correc-
19 tions facilities in the State;

20 “(10) provide assurances that the State is making
21 diligent efforts, consistent with public safety, to reduce
22 overcrowding and improve programs and conditions of
23 confinement in its correction facilities through legisla-
24 tive, executive, and judicial advanced practice initia-
25 tives such as incentives, for greater use of community

1 corrections facilities, development of State corrections
2 standards, more effective use of prisoner classification
3 methods and overcrowding contingency plans, as well
4 as prison industry, education, and work-release pro-
5 grams;

6 “(11) provide assurances that all projects under
7 this part utilize advanced practices in the design and
8 construction of corrections facilities.

9 “(b) The Director shall approve a State plan and any
10 revision thereof only if the State plan complies with the re-
11 quirements set forth in subsection (a).

12 “BASIC CRITERIA

13 “SEC. 706. As soon as practicable after enactment of
14 this part, the Director shall by regulation prescribe basic cri-
15 teria to be applied by the State agency under section 705. In
16 addition to other matters, such basic criteria shall provide the
17 general manner in which the State agency will determine
18 priority of projects based upon—

19 “(1) the relative needs of the area within such
20 State for correctional facility assistance, particularly
21 where such assistance is necessary to bring existing
22 facilities into compliance with Federal or State law;

23 “(2) the relative ability of the particular public
24 agency in the area to support a program of construc-
25 tion or modernization; and

1 “(3) the extent to which the project contributes to
2 an equitable distribution of assistance under this part
3 within the State.

4 “CLEARINGHOUSE ON THE CONSTRUCTION AND
5 MODERNIZATION OF CRIMINAL JUSTICE FACILITIES

6 “SEC. 707. The Director shall establish and operate a
7 clearinghouse on the construction and modernization of cor-
8 rectional facilities, which shall collect and disseminate to the
9 public information pertaining to the construction and modern-
10 ization of correctional facilities, including information con-
11 cerning ways in which a construction program may be used
12 to improve the administration of the criminal justice system
13 within each State and concerning the provision of inmate
14 health care and other services and programs. The Director is
15 authorized to enter into contracts with public agencies or pri-
16 vate organizations to operate the clearinghouse established or
17 designated under this section.

18 “INTEREST SUBSIDY FOR CRIMINAL JUSTICE FACILITY

19 CONSTRUCTION BONDS

20 “SEC. 708. (a) The Secretary of the Treasury is author-
21 ized to pay to any State or political subdivision thereof which
22 issues obligations described in section 103(a) of the Internal
23 Revenue Code of 1954 which are issued as part of an issue
24 substantially all of the proceeds of which are to be used to
25 finance correctional facilities such amounts as may be neces-

1 sary to reduce the cost to the issuer of such bonds to a rate of
2 interest not in excess of 5 per centum per annum. Such pay-
3 ments shall be made only upon application of the issuer made
4 in such form, in such manner, and at such times as the Direc-
5 tor shall require consistent with the criteria established for
6 allocating funds under section 705 and 706.

7 “(b) Payments under subsection (a) may be made in ad-
8 vance, by installment, or in any other manner determined by
9 the Secretary, in consultation with the Director, to be appro-
10 priate under the circumstances, and may be made on the
11 basis of estimates, if necessary, with corrections in later pay-
12 ments to the extent necessary to compensate for overpay-
13 ments or underpayments arising out of errors of estimate or
14 otherwise.

15 “(c) No State may receive a combination of bond subsi-
16 dies under this section grant under this part in excess of such
17 State’s allocation formula.

18 “(d) The payment, by the Secretary of any amount
19 under subsection (a) to a State or a political subdivision
20 thereof, shall not affect the status of any such obligation
21 under section 103 of such Code, nor shall it cause the inter-
22 est thereon to be excludable only in part under such section.

23 “DEFINITIONS

24 “SEC. 709. As used in this part—

1 “(1) The term ‘correctional facility’ means any
2 prison, jail, reformatory, work farm, detention center,
3 pretrial detention facility, community-based correctional
4 facility, halfway house, or other institution designed for
5 the confinement or rehabilitation of individuals charged
6 with or convicted of any criminal offense, including ju-
7 venile offenders.

8 “(2) The term ‘construction’ includes the prepara-
9 tion of drawings and specifications for facilities; erect-
10 ing, building, acquiring, altering, remodeling, renovat-
11 ing, improving, or extending such facilities; and the in-
12 spection and supervision of the construction of such
13 facilities. The term does not include interest in land or
14 offsite improvements.

15 “PART H—ADMINISTRATIVE PROVISIONS

16 “ESTABLISHMENT OF RULES AND DELEGATION OF
17 FUNCTIONS

18 “SEC. 801. (a) The Attorney General is authorized,
19 after appropriate consultation with representatives of States
20 and units of local government, to establish such rules, regula-
21 tions, and procedures as are necessary to the exercise of the
22 functions of the Office, the Bureau of Justice Programs, the
23 Bureau of Criminal Justice Facilities, the Institute and the
24 Bureau of Justice Statistics, and as are consistent with the
25 stated purpose of this title.

1 “(b) The Attorney General may delegate to any of his
2 respective officers or employees such functions as the Attor-
3 ney General deems appropriate.

4 “NOTICE AND HEARING ON DENIAL OR TERMINATION OF
5 GRANT

6 “SEC. 802. (a) Whenever, after reasonable notice and
7 opportunity for a hearing on the record in accordance with
8 section 554 of title 5, United States Code, the Office finds
9 that a recipient of assistance under this title has failed to
10 comply substantially with—

11 “(1) any provisions of this title;

12 “(2) any regulations or guidelines promulgated
13 under this title; or

14 “(3) any application submitted in accordance with
15 the provisions of this title, or the provisions of any
16 other applicable Federal Act;

17 the Assistant Attorney General, until satisfied that there is
18 no longer any such failure to comply, shall terminate pay-
19 ments to the recipient under this title, reduce payments to
20 the recipient under this title by an amount equal to the
21 amount of such payments which were not expended in ac-
22 cordance with this title, or limit the availability of payments
23 under this title to programs, projects, or activities not affect-
24 ed by such failure to comply.

1 “(b) If any grant under this title has been terminated,
2 the Bureau of Justice Programs, the Bureau of Criminal Jus-
3 tice Facilities, the National Institute of Justice or the Bureau
4 of Justice Statistics, as appropriate, shall notify the grantee
5 of its action and set forth the reason for the action taken.
6 Whenever such a grantee requests a hearing, the Office, or
7 any authorized officer thereof, is authorized and directed to
8 hold such hearings or investigations, including hearings on
9 the record in accordance with section 554 of title 5, United
10 States Code, at such times and places as necessary, following
11 appropriate and adequate notice to such grantee; and the
12 findings of fact and determinations made with respect thereto
13 shall be final and conclusive, except as otherwise provided
14 herein. The Office is authorized to take final action without a
15 hearing if after an administrative review of the termination it
16 is determined that the basis for the appeal, if substantiated,
17 would not establish a basis for continuation of the grant.
18 Under such circumstances, a more detailed statement of rea-
19 sons for the agency action should be made available, upon
20 request, to the grantee.

21 “(c) If such recipient is dissatisfied with the findings and
22 determinations of the Office, following notice and hearing
23 provided for in subsection (a) of this section, a request may be
24 made for rehearing, under such regulations and procedure as
25 the Office may establish, and such recipient shall be afforded

1 an opportunity to present such additional information as may
2 be deemed appropriate and pertinent to the matter involved.

3 "FINALITY OF DETERMINATIONS

4 "SEC. 803. In carrying out the functions vested by this
5 title in the Office, its determinations, findings, and conclu-
6 sions shall, after reasonable notice and opportunity for a
7 hearing, be final and conclusive upon all grants.

8 "SUBPOENA POWER; AUTHORITY TO HOLD HEARINGS

9 "SEC. 804. The Office may appoint such hearing exam-
10 iners or administrative law judges or request the use of such
11 administrative law judges selected by the Office of Personnel
12 Management pursuant to section 3344 of title 5, United
13 States Code, as shall be necessary to carry out the powers
14 and duties under this title. The Office, or upon authorization,
15 any member thereof or any hearing examiner or administra-
16 tive law judge assigned to or employed thereby shall have the
17 power to hold hearings and issue subpoenas, administer
18 oaths, examine witnesses, and receive evidence at any place
19 in the United States it may designate.

20 "PERSONNEL AND ADMINISTRATIVE AUTHORITY

21 "SEC. 805. (a) The Office is authorized to select, ap-
22 point, employ and fix compensation of such officers and em-
23 ployees as shall be necessary to carry out the powers and
24 duties of the Office, the Bureau of Justice Programs, the In-

1 stitute, the Bureau of Criminal Justice Facilities, and the
2 Bureau of Justice Statistics under this title.

3 “(b) The Office, the Bureau of Justice Programs, the
4 Institute, the Bureau of Criminal Justice Facilities, and the
5 Bureau of Justice Statistics are authorized, on a reimbursable
6 basis when appropriate, to use the available services, equip-
7 ment, personnel, and facilities of Federal, State, and local
8 agencies to the extent deemed appropriate after giving due
9 consideration to the effectiveness of such existing services,
10 equipment, personnel, and facilities.

11 “(c) The Office may arrange with and reimburse the
12 heads of other Federal departments and agencies for the per-
13 formance of any of the functions under this title.

14 “(d) The Office, the Bureau of Justice Programs, the
15 Institute, the Bureau of Criminal Justice Facilities, and the
16 Bureau of Justice Statistics in carrying out their respective
17 functions may use grants, contracts or cooperative agree-
18 ments in accordance with the standards established in the
19 Federal Grant and Cooperative Agreement Act of 1977 (41
20 U.S.C. 501 et seq.).

21 “(e) The Office may procure the services of experts and
22 consultants in accordance with section 3109 of title 5, United
23 States Code, relating to appointments in the Federal service,
24 at rates of compensation for individuals not to exceed the

1 daily equivalent of the rate authorized for GS-18 by section
2 5332 of title 5, United States Code.

3 “(f) The Office is authorized to appoint pursuant to the
4 Advisory Committee Management Act, but without regard to
5 the remaining provisions of title 5, United States Code, tech-
6 nical or other advisory committees to advise it with respect
7 to the administration of this title as it deems necessary. Mem-
8 bers of those committees not otherwise in the employ of the
9 United States, while engaged in advising or attending meet-
10 ings of the committees shall be compensated at rates to be
11 fixed by the Office but not exceed the daily equivalent of the
12 rate authorized for GS-18 by section 5332 of title 5 of the
13 United States Code, and while away from home or regular
14 place of business they may be allowed travel expenses, in-
15 cluding per diem in lieu of subsistence, as authorized by sec-
16 tion 5703 of such title 5 for persons in the Government serv-
17 ice employed intermittently.

18 “(g) Payments under this title may be made in install-
19 ments, and in advance or by way of reimbursement, as may
20 be determined by the Office, and may be used to pay the
21 transportation and subsistence expenses of persons attending
22 conferences or other assemblages notwithstanding the provi-
23 sions of 31 U.S.C. 1345.

24 “(h) The Office is authorized to accept and employ, in
25 carrying out the provisions of this title, voluntary and uncom-

1 pensated services notwithstanding the provisions of 31
2 U.S.C. 1342. Such individuals shall not be considered Feder-
3 al employees except for purposes of chapter 81 of title 5,
4 United States Code, with respect to job-incurred disability
5 and title 28, United States Code, with respect to tort claims.

6 "TITLE TO PERSONAL PROPERTY

7 "SEC. 806. Notwithstanding any other provision of law,
8 title to all expendable and nonexpendable personal property
9 purchased with funds made available under this title, includ-
10 ing such property purchased with funds made available under
11 this Act as in effect before the date of the enactment of the
12 Justice Assistance Act of 1983, shall vest in the criminal
13 justice agency or nonprofit organization that purchased the
14 property if it certifies to the State office described in section
15 506 that it will use the property for criminal justice purposes.
16 If such certification is not made, title to the property shall
17 vest in the State office, which shall seek to have the property
18 used for criminal justice purposes elsewhere in the State prior
19 to using it or disposing of it in any other manner.

20 "PROHIBITION OF FEDERAL CONTROL OVER STATE AND
21 LOCAL CRIMINAL JUSTICE AGENCIES

22 "SEC. 807. Nothing in this title or any other Act shall
23 be construed to authorize any department, agency, officer, or
24 employee of the United States to exercise any direction, su-
25 pervision, or control over any police force or any other crimi-

1 nal justice agency of any State or any political subdivision
2 thereof.

3 "NONDISCRIMINATION

4 "SEC. 808. (a) No person in any State shall on the
5 ground of race, color, religion, national origin, or sex be ex-
6 cluded from participation in, be denied the benefits of or be
7 subjected to discrimination under or denied employment in
8 connection with any programs or activity funded in whole or
9 in part with funds made available under this title.

10 "(b) Notwithstanding any other provision of law, noth-
11 ing contained in this title shall be construed to authorize the
12 Office of Justice Assistance—

13 "(1) to require, or condition the availability or
14 amount of a grant upon the adoption by an applicant
15 or grantee under this title of a percentage ratio, quota
16 system, or other program to achieve racial balance in
17 any criminal justice agency; or

18 "(2) to deny or discontinue a grant because of the
19 refusal of an applicant or grantee under this title to
20 adopt such a ratio, system or other program.

21 "(c) Whenever the Attorney General has reason to be-
22 lieve that a State government or unit of local government has
23 engaged in or is engaging in a pattern or practice in violation
24 of the provisions of this section, the Attorney General may
25 bring a civil action in an appropriate United States district

1 court. Such a court may grant as relief any temporary re-
2 straining order, preliminary or permanent injunction, or other
3 order, as necessary or appropriate to insure the full enjoy-
4 ment of the rights described in this section, including the sus-
5 pension, termination, or repayment of such funds made avail-
6 able under this title as the court may deem appropriate, or
7 placing any further such funds in escrow pending the out-
8 come of the litigation.

9 “(d) Whenever the Attorney General files a civil action
10 alleging a pattern or practice of discriminatory conduct on
11 the basis of race, color, religion, national origin, or sex in any
12 program or activity of State government or unit of local gov-
13 ernment which State government or unit of local government
14 receives funds made available under this title, and the con-
15 duct allegedly violates the provisions of this section and nei-
16 ther party within forty-five days after filing has been granted
17 such preliminary relief with regard to the suspension or re-
18 payment of funds as may be otherwise available by law, the
19 Office of Justice Assistance shall cause to have suspended
20 further payment of any funds under this title to that specific
21 program or activity alleged by the Attorney General to be in
22 violation of the provisions of this subsection until such time
23 as the court orders resumption of payment.

1 “RECORDKEEPING REQUIREMENT

2 “SEC. 809. (a) Each recipient of funds under this title
3 shall keep such records as the Office shall prescribe, includ-
4 ing records which fully disclose the amount and disposition by
5 such recipient of the funds, the total cost of the project or
6 undertaking for which such funds are used, and the amount of
7 that portion of the cost of the project or undertaking supplied
8 by other sources, and such other records as will facilitate an
9 effective audit.

10 “(b) The Office or any of its duly authorized representa-
11 tives, shall have access for purpose of audit and examination
12 of any books, documents, papers, and records of the recipi-
13 ents of funds under this title which in the opinion of the
14 Office may be related or pertinent to the grants, contracts,
15 subcontracts, subgrants, or other arrangements referred to
16 under this title.

17 “(c) The Comptroller General of the United States or
18 any of his duly authorized representatives, shall, until the
19 expiration of three years after the completion of the program
20 or project with which the assistance is used, have access for
21 the purpose of audit and examination to any books, docu-
22 ments, papers, and records of recipients of Federal funds
23 under this title which in the opinion of the Comptroller Gen-
24 eral may be related or pertinent to the grants, contracts, sub-

1 contracts, subgrants, or other arrangements referred to under
2 this title.

3 “(d) The provisions of this section shall apply to all re-
4 cipients of assistance under this title, whether by direct
5 grant, cooperative agreement, or contract under this title or
6 by subgrant or subcontract from primary grantees or contrac-
7 tors under this title.

8 “CONFIDENTIALITY OF INFORMATION

9 “SEC. 810. (a) Except as provided by Federal law other
10 than this title, no officer or employee of the Federal Govern-
11 ment, and no recipient of assistance under the provisions of
12 this title shall use or reveal any research or statistical infor-
13 mation furnished under this title by any person and indentifia-
14 ble to any specific private person for any purpose other than
15 the purpose for which it was obtained in accordance with this
16 title. Such information and copies thereof shall be immune
17 from legal process, and shall not, without the consent of the
18 person furnishing such information, be admitted as evidence
19 or used for any purpose in any action, suit, or other judicial,
20 legislative, or administrative proceedings.

21 “(b) All criminal history information collected, stored, or
22 disseminated through support under this title shall contain, to
23 the maximum extent feasible, disposition as well as arrest
24 data where arrest data is included therein. The collection,
25 storage and dissemination of such information shall take

1 place under procedures reasonably designed to ensure that all
2 such information is kept current therein; the Office shall
3 assure that the security and privacy of all information is ade-
4 quately provided for and that information shall only be used
5 for law enforcement and criminal justice and other lawful
6 purposes. In addition, an individual who believes that crimi-
7 nal history information concerning him contained in an auto-
8 mated system is inaccurate, incomplete, or maintained in vio-
9 lation of this title, shall, upon satisfactory verification of his
10 identity, be entitled to review such information and to obtain
11 a copy of it for the purpose of challenge or correction.

12 “(c) All criminal intelligence systems operating through
13 support under this title shall collect, maintain, and dissemi-
14 nate criminal intelligence information in conformance with
15 policy standards which are prescribed by the Office and
16 which are written to assure that the funding and operation of
17 these systems furthers the purpose of this title and to assure
18 that such systems are not utilized in violation of the privacy
19 and constitutional rights of individuals.

20 “(d) any person violating the provisions of this section,
21 or of any rule, regulation, or order issued thereunder, shall be
22 fined not to exceed \$10,000 in addition to any other penalty
23 imposed by law.

"PART I—DEFINITIONS

"DEFINITIONS

"SEC. 901. As used in this title—

"(1) 'criminal justice' means activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pre-trial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency;

"(2) 'State' means any State of the United States, the District of Columbia and the Commonwealth of Puerto Rico;

"(3) 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior,

1 any agency of the District of Columbia government or
2 the United States performing law enforcement func-
3 tions in and for the District of Columbia, and the
4 Virgin Islands, Guam, American Samoa, the Trust
5 Territory of the Pacific Islands, and the Common-
6 wealth of the Northern Mariana Islands;

7 “(4) ‘public agency’ means any State, unit of local
8 government, combination of such States or units, or
9 any department, agency, or instrumentality of any of
10 the foregoing;

11 “(5) ‘criminal history information’ includes records
12 and related data, contained in an automated or manual
13 criminal justice information system, compiled by law
14 enforcement agencies for the purpose of identifying
15 criminal offenders and alleged offenders and maintain-
16 ing as to such persons records of arrests, the nature
17 and disposition of criminal charges, sentencing, confine-
18 ment, rehabilitation, and release;

19 “(6) ‘evaluation’ means the administration and
20 conduct of studies and analyses to determine the
21 impact and value of a project or program in accom-
22 plishing the statutory objectives of this title;

23 “(7) ‘Attorney General’ means the Attorney Gen-
24 eral of the United States or his designee;

1 “(8) ‘Assistant Attorney General’ means the As-
2 sistant Attorney General for Justice Assistance.

3 “PART J—FUNDING

4 “AUTHORIZATION OF APPROPRIATIONS

5 “SEC. 1001. There is authorized to be appropriated to
6 carry out the functions of the Bureau of Justice Statistics
7 such sums as are necessary for the fiscal years ending Sep-
8 tember 30, 1984, September 30, 1985, September 30, 1986,
9 and September 30, 1987. There is authorized to be appropri-
10 ated to carry out the functions of the National Institute of
11 Justice such sums as are necessary for the fiscal years ending
12 September 30, 1984, September 30, 1985, September 30,
13 1986, and September 30, 1987. There is authorized to be
14 appropriated for parts A, B, E, F, G, and H, and for the
15 purposes of carrying out the remaining function of the Office
16 of Justice Assistance other than parts K and M, such sums as
17 are necessary for the fiscal years ending September 30,
18 1984, September 30, 1985, September 30, 1986, and Sep-
19 tember 30, 1987. The appropriation authorized for the
20 Bureau of Criminal Justice Facilities or for any function or
21 activity authorized for part G shall not exceed in total
22 \$25,000,000 for any fiscal year ending September 30, 1984,
23 September 30, 1985, September 30, 1986, and September
24 30, 1987. Funds appropriated for any fiscal year may remain
25 available for obligation until expended. There is authorized to

1 be appropriated in each fiscal year such sums as may be nec-
2 essary to carry out the purposes of part K and part M.

3 "PART K—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

4 "PAYMENTS

5 "SEC. 1101. (a) In any case in which the Office deter-
6 mines, under regulations issued pursuant to this part, that a
7 public safety officer has died as the direct and proximate
8 result of a personal injury sustained in the line of duty, the
9 Office shall pay a benefit of \$50,000 as follows:

10 "(1) if there is no surviving child of such officer,
11 to the surviving spouse of such officer;

12 "(2) if there is a surviving child or children and a
13 surviving spouse, one-half to the surviving child or
14 children of such officer in equal shares and one-half to
15 the surviving spouse;

16 "(3) if there is no surviving spouse, to the child or
17 children of such officer in equal shares; or

18 "(4) if none of the above, to the dependent parent
19 or parents of such officer in equal shares.

20 "(b) Whenever the Office determines upon showing of
21 need and prior to final action that the death of a public safety
22 officer is one with respect to which a benefit will probably be
23 paid, the Office may make an interim benefit payment not
24 exceeding \$3,000 to the person entitled to receive a benefit
25 under subsection (a) of this section.

1 “(c) The amount of an interim payment under subsec-
2 tion (b) shall be deducted from the amount of any final benefit
3 paid to such person.

4 “(d) Where there is no final benefit paid, the recipient of
5 any interim payment under subsection (b) shall be liable for
6 repayment of such amount. The Office may waive all or part
7 of such repayment, considering for this purpose the hardship
8 which would result from such repayment.

9 “(e) The benefit payable under this part shall be in addi-
10 tion to any other benefit that may be due from any other
11 source, except—

12 “(1) payments authorized by section 12(k) of the
13 Act of September 1, 1916, as amended (D.C. Code,
14 sec. 4-531(1)); or

15 “(2) benefits authorized by section 8191 of title 5,
16 United States Code; such beneficiaries shall only re-
17 ceive benefits under that section that are in excess of
18 the benefits received under this part.

19 “(f) No benefit paid under this part shall be subject to
20 execution or attachment.

21 “LIMITATIONS

22 “SEC. 1102. No benefit shall be paid under this part—

23 “(1) if the death was caused by the intentional
24 misconduct of the public safety officer or by such offi-
25 cer's intention to bring about his death;

1 “(2) if the public safety officer was voluntarily in-
2 toxicated at the time of his death;

3 “(3) if the public safety officer was performing his
4 duties in a grossly negligent manner at the time of his
5 death; or

6 “(4) to any person who would otherwise be enti-
7 tled to a benefit under this part if such person’s actions
8 were a substantial contributing factor to the death of
9 the public safety officer.

10 “DEFINITIONS

11 “SEC. 1103. As used in this part—

12 “(1) ‘child’ means any natural, illegitimate, adopt-
13 ed, or posthumous child or stepchild of a deceased
14 public safety officer who, at the time of the public
15 safety officer’s death, is—

16 “(i) eighteen years of age or under;

17 “(ii) over eighteen years of age and a student
18 as defined in section 8101 of title 5, United
19 States Code; or

20 “(iii) over eighteen years of age and incapa-
21 ble of self-support because of physical or mental
22 disability;

23 “(2) ‘dependent’ means a person who was sub-
24 stantially reliant for support upon the income of the de-
25 ceased public safety officer;

1 “(3) ‘fireman’ includes a person serving as an offi-
2 cially recognized or designated member of a legally or-
3 ganized volunteer fire department and an officially rec-
4 ognized or designated public employee member of a
5 rescue squad or ambulance crew who was responding
6 to a fire or police emergency;

7 “(4) ‘intoxication’ means a disturbance of mental
8 or physical faculties resulting from the introduction of
9 alcohol into the body as evidenced by—

10 “(i) a postmortem blood alcohol level of 0.20
11 per centum or greater;

12 “(ii) a postmortem blood alcohol level of at
13 least 0.10 per centum but less than 0.20 per
14 centum, unless the Office receives convincing evi-
15 dence that the public safety officer was not acting
16 in an intoxicated manner immediately prior to his
17 death;

18 or resulting from drugs or other substances in the
19 body;

20 “(5) ‘law enforcement officer’ means a person in-
21 volved in crime and juvenile delinquency control or re-
22 duction, or enforcement of the laws, including, but not
23 limited to, police, corrections, probation, parole, and ju-
24 dicial officers;

1 “(6) ‘public agency’ means any State of the
2 United States, the District of Columbia, the Common-
3 wealth of Puerto Rico, the Virgin Islands, Guam,
4 American Samoa, the Trust Territory of the Pacific Is-
5 lands, the Commonwealth of the Northern Mariana Is-
6 lands, and any territory or possession of the United
7 States, or any unit of local government, department,
8 agency, or instrumentality of any of the foregoing; and

9 “(7) ‘public safety officer’ means a person serving
10 a public agency in an official capacity, with or without
11 compensation, as a law enforcement officer or a fire-
12 man.

13 “ADMINISTRATIVE PROVISIONS

14 “SEC. 1104. (a) The Office is authorized to establish
15 such rules, regulations, and procedures as may be necessary
16 to carry out the purposes of this part. Such rules, regulations,
17 and procedures will be determinative of conflict of laws issues
18 arising under this part. Rules, regulations, and procedures
19 issued under this part may include regulations governing the
20 recognition of agents or other persons representing claimants
21 under this part before the Office. The Office may prescribe
22 the maximum fees which may be charged for services per-
23 formed in connection with any claim under this part before
24 the Office, and any agreement in violation of such rules and
25 regulations shall be void.

1 “(b) In making determinations under section 1101, the
 2 Office may utilize such administrative and investigative as-
 3 sistance as may be available from State and local agencies.
 4 Responsibility for making final determinations shall rest with
 5 the Office.

6 “JUDICIAL REVIEW

7 “SEC. 1105. The United States Claims Court shall have
 8 exclusive jurisdiction over all actions seeking review of the
 9 final decisions of the Office under this part.

10 “PART L—FBI TRAINING OF STATE AND LOCAL
 11 CRIMINAL JUSTICE PERSONNEL

12 “AUTHORITY FOR FBI TO TRAIN STATE AND LOCAL
 13 CRIMINAL JUSTICE PERSONNEL

14 “SEC. 1201. (a) The Director of the Federal Bureau of
 15 Investigation is authorized to—

16 “(1) establish and conduct training programs at
 17 the Federal Bureau of Investigation National Academy
 18 at Quantico, Virginia, to provide, at the request of a
 19 State or unit of local government, training for State
 20 and local criminal justice personnel;

21 “(2) develop new or improved approaches, tech-
 22 niques, systems, equipment, and devices to improve
 23 and strengthen criminal justice; and

24 “(3) assist in conducting, at the request of a State
 25 or unit of local government, local and regional training

1 programs for the training of State and local criminal
2 justice personnel engaged in the investigation of crime
3 and the apprehension of criminals. In rural areas such
4 training shall emphasize effective use of regional re-
5 sources and improving coordination among criminal
6 justice personnel in different areas and in different
7 levels of government. Such training shall be provided
8 only for persons actually employed as State police or
9 highway patrol, police of a unit of local government,
10 sheriffs, and their deputies, and other persons as the
11 State or unit may nominate for police training while
12 such persons are actually employed as officers of such
13 State or unit.

14 “(b) In the exercise of the functions, powers, and duties
15 established under this section the Director of the Federal
16 Bureau of Investigation shall be under the general authority
17 of the Attorney General.

18 “(c) Notwithstanding the provisions of subsection (a),
19 the Secretary of the Treasury is authorized to fund and con-
20 tinue to develop, establish and conduct training programs at
21 the Federal Law Enforcement Training Center at Glynco,
22 Georgia, to provide, at the request of a State or unit of local
23 government, training for State and local criminal justice per-
24 sonnel so long as that training does not interfere with the
25 Center’s mission to train Federal law enforcement personnel.

1 "PART M—EMERGENCY FEDERAL LAW ENFORCEMENT

2 ASSISTANCE

3 "APPLICATION REQUIREMENTS

4 "SEC. 1301. (a) The Attorney General is authorized to
5 receive from the chief executive of any State a request for
6 designation of a State or local jurisdiction as a law enforce-
7 ment emergency jurisdiction. Such application shall be sub-
8 mitted in such manner and containing or accompanied by
9 such information as the Attorney General may prescribe.
10 Such application for designation as a law enforcement emer-
11 gency jurisdiction shall be evaluated by the Attorney General
12 according to such criteria, and on such terms and conditions
13 as he shall establish and shall publish in the Federal Register
14 prior to the beginning of fiscal year 1984 and each fiscal year
15 thereafter for which appropriations will be available to carry
16 out the program.

17 "(b) The Attorney General shall, in accordance with the
18 criteria established, approve or disapprove such application
19 not later than ten days after receiving such application.

20 "ASSISTANCE PROVIDED

21 "SEC. 1302. (a) Upon a finding by the Attorney Gener-
22 al that a law enforcement emergency exists in accordance
23 with the provisions of section 1301 of this title, the Federal
24 law enforcement community is authorized to provide emer-
25 gency assistance for the duration of the emergency. The cost

1 “(B) the Internal Revenue Service;

2 “(C) the Customs Service;

3 “(D) the National Park Service;

4 “(E) the Secret Service;

5 “(F) the Coast Guard;

6 “(G) the Bureau of Alcohol, Tobacco and
7 Firearms; and

8 “(H) other Federal agencies with specific
9 statutory authority to investigate violations of
10 Federal criminal laws;

11 “(3) the term ‘State’ means any State of the
12 United States, the District of Columbia, the Common-
13 wealth of Puerto Rico, the Virgin Islands, Guam,
14 American Samoa, the Trust Territory of the Pacific Is-
15 lands, and the Commonwealth of the Northern Mariana
16 Islands;

17 “(4) the term ‘law enforcement emergency’ means
18 an uncommon situation in which State and local re-
19 sources are inadequate to protect the lives and proper-
20 ty of citizens or enforce the criminal law.

21 “ADMINISTRATIVE REQUIREMENT

22 “SEC. 1304. The recordkeeping and administrative re-
23 quirements of section 809 and section 810 shall apply to
24 funds provided under this part.

1 "PART N—TRANSITION

2 "CONTINUATION OF RULES, AUTHORITIES, AND

3 PROCEEDINGS

4 "SEC. 1401. (a) All orders, determinations, rules, regu-
5 lations, and instructions of the Office of Justice Assistance,
6 Research, and Statistics which are in effect on the date of the
7 enactment of this Act shall continue in effect according to
8 their terms until modified, terminated, superseded, set aside,
9 or revoked by the President or the Attorney General, or his
10 designee, or by operation of law.

11 "(b) The amendments made to this title by the Justice
12 Assistance Act of 1983 shall not affect any suit, action, or
13 other proceeding commenced by or against the Government
14 before the date of the enactment of such Act.

15 "(c) Nothing in this title prevents the utilization of funds
16 appropriated for purposes of this title for all activities neces-
17 sary or appropriate for the review, audit, investigation, and
18 judicial or administrative resolution of audit matters for those
19 grants or contracts that were awarded under this title. The
20 final disposition and dissemination of program and project ac-
21 complishments with respect to programs and projects ap-
22 proved in accordance with this title, as in effect before the
23 date of the enactment of the Justice Assistance Act of 1983,
24 may be carried out with funds appropriated for purposes of
25 this title.

1 “(d) The Assistant Attorney General may award new
2 grants, enter into new contracts or cooperative agreements
3 and otherwise obligate unused or reversionary funds previ-
4 ously appropriated for the purposes of parts D, E and F of
5 this title as in effect on the day before the date of enactment
6 of the Justice Assistance Act of 1983, or for purposes con-
7 sistent with this title.

8 “(e) Notwithstanding any other provisions of law, the
9 Assistant Attorney General shall have all the authority previ-
10 ously vested in the Director of the Office of Justice Assist-
11 ance, Research, and Statistics and the Administrator of the
12 Law Enforcement Assistance Administration necessary to
13 terminate the activities of the Law Enforcement Assistance
14 Administration and the Office of Justice Assistance, Re-
15 search, and Statistics, and all provisions of this title, as in
16 effect on the day before the enactment of the Justice Assist-
17 ance Act of 1983, which are necessary for this purpose
18 remain in effect for the sole purpose of carrying out the ter-
19 mination of these activities.”.

20 REFERENCES IN OTHER LAWS

21 SEC. 602. Any reference to the Office of Justice Assist-
22 ance, Research, and Statistics or the Law Enforcement As-
23 sistance Administration in any law other than this Act and
24 the Omnibus Crime Control and Safe Streets Act of 1968,
25 applicable to activities, functions, powers, and duties that

1 after the date of the enactment of this Act are carried out by
2 the Office of Justice Assistance shall be deemed to be a refer-
3 ence to the Office of Justice Assistance or to the Assistant
4 Attorney General, Office of Justice Assistance, as the case
5 may be.

6 COMPENSATION OF FEDERAL OFFICERS

7 SEC. 603. (a) Section 5314 of title 5, United States
8 Code is amended by striking out "Director, Office of Justice
9 Assistance, Research, and Statistics."

10 (b) Section 5315 of title 5, United States Code is
11 amended by striking out "Administrator of Law Enforcement
12 Assistance.", "Director of the National Institute of Justice.",
13 and "Director of the Bureau of Justice Statistics."

14 (c) Section 5316 of title 5, United States Code is
15 amended by adding "Director of the National Institute of
16 Justice, Director of the Bureau of Justice Statistics, the Di-
17 rector of the Bureau of Criminal Justice Facilities, and Di-
18 rector of the Bureau of Justice Programs."

19 PRISON INDUSTRY ENHANCEMENT

20 SEC. 604. (a) Section 1761, subsection (c), of title 18,
21 United States Code, is amended to read as follows—

22 “(c) In addition to the exceptions set forth in subsection
23 (b) of this section, this chapter shall also not apply to goods,
24 wares, services or merchandise manufactured, produced, pro-
25 vided or mined by convicts or prisoners participating in a

1 program of not more than twenty projects designated by the
2 Director of the Bureau of Criminal Justice Facilities, who—

3 “(1) have, in connection with such work, received
4 wages at a rate which is not less than that paid for
5 work of a similar nature in the locality in which the
6 work was performed, except that such wages may be
7 subject to deductions which shall not, in the aggregate,
8 exceed 80 per centum of gross wages, and shall be
9 limited as follows—

10 “(A) taxes (Federal, State, local);

11 “(B) reasonable charges for room and board
12 as determined by regulations which shall be issued
13 by the Chief correctional officer of the jurisdiction;

14 “(C) allocations for support of family pursu-
15 ant to State statute, court order, or agreement by
16 the offender;

17 “(D) contributions to any fund established by
18 law to compensate the victims of crime of not
19 more than 20 per centum but not less than 5 per
20 centum of gross wages;

21 “(2) are entitled to compensation for injury sus-
22 tained in the course of participation in these projects;

23 “(3) have participated in such employment volun-
24 tarily and have agreed in advance to the specific de-
25 ductions made from gross wages pursuant to this sec-

1 tion, and all other financial arrangements as a result of
2 participation in such employment.”.

3 (b)(1) Section 1761 of title 18, United States Code, is
4 amended by adding thereto a new subsection (d) as follows:

5 “(d) The provisions of subsection (c) shall not apply
6 unless—

7 “(1) representatives of local union central bodies
8 or similar labor union organizations have been consult-
9 ed prior to the initiation of any project otherwise quali-
10 fying for any exception created by subsection (c); and

11 “(2) such paid inmate employment will not result
12 in the displacement of employed workers, or be applied
13 in skills, crafts, or trades in which there is a surplus of
14 available gainful labor in the locality, or impair existing
15 contracts for services.”.

16 (2) The second sentence of section 11507 of title 49,
17 United States Code, is amended by adding after “use” the
18 following: “, or to commodities produced by a project desig-
19 nated by the Director of the Bureau of Criminal Justice
20 Facilities under section 1761(c) of title 18, United States
21 Code”.

22 (c) The first section of the Act entitled “An Act to pro-
23 vide conditions for the purchase of supplies and the making of
24 contracts by the United States, and for other purposes”, ap-
25 proved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35), com-

1 monly known as the Walsh-Healey Act, is amended by
2 adding to the end of subsection (d) thereof, before “; and”,
3 the following: “except that this section, or any other law or
4 Executive order containing similar prohibitions against pur-
5 chase of goods by the Federal Government, shall not apply to
6 convict labor which satisfies the conditions of sections
7 1761(c) and 1761(d) of title 18, United States Code”.

8 SEC. 605. (a) Section 1028 of title 18, United States
9 Code, is amended by adding at the end thereof the following:

10 “(f) To the maximum extent feasible, personal descrip-
11 tors or identifiers utilized in identification documents, as de-
12 fined in this section, shall utilize common descriptive terms
13 and formats designed to—

14 “(1) reduce the redundancy and duplication of
15 identification systems by providing information which
16 can be utilized by the maximum number of authorities;
17 and

18 “(2) facilitate positive identification of bona fide
19 holders of identification documents.”.

20 (b) The President shall, no later than three years after
21 the date of enactment of this Act, and after consultation with
22 Federal, State, local, and international issuing authorities,
23 and concerned groups, make recommendations to the Con-
24 gress for the enactment of comprehensive legislation on Fed-
25 eral identification systems. Such legislation shall—

1 (1) give due consideration to protecting the priva-
2 cy of persons who are the subject of any identification
3 system;

4 (2) recommend appropriate civil and criminal
5 sanctions for the misuse or unauthorized disclosure of
6 personal identification information; and

7 (3) make recommendations providing for the ex-
8 change of personal identification information as author-
9 ized by Federal or State law or Executive order of the
10 President or the chief executive officer of any of the
11 several States.

12 TITLE VII—SURPLUS FEDERAL PROPERTY

13 AMENDMENTS

14 SEC. 701. Section 203 of the Federal Property and Ad-
15 ministrative Services Act of 1949 as amended (40 U.S.C.
16 484), is further amended by adding at the end thereof the
17 following new subsection:

18 “(p)(1) Under such regulations as he may prescribe, the
19 Administrator is authorized in his discretion to transfer or
20 convey to the several States, the District of Columbia, the
21 Commonwealth of Puerto Rico, Guam, American Samoa, the
22 Virgin Islands, the Trust Territory of the Pacific Islands, the
23 Commonwealth of the Northern Mariana Islands, or any po-
24 litical subdivision or instrumentality thereof, surplus real and
25 related personal property determined by the Attorney Gener-

1 al to be required for correctional facility use by the author-
2 ized transferee or grantee under an appropriate program or
3 project for the care or rehabilitation of criminal offenders as
4 approved by the Attorney General. Transfers or conveyance
5 under this authority shall be made by the Administrator with-
6 out monetary consideration to the United States. If the At-
7 torney General determines that any surplus property trans-
8 ferred or conveyed pursuant to an agreement entered into
9 between March 1, 1982, and the enactment of this subsection
10 was suitable for transfer or conveyance under this subsection,
11 the Administrator shall reimburse the transferee for any mon-
12 etary consideration paid to the United States for such trans-
13 fer or conveyance.

14 “(2) The deed of conveyance of any surplus real and
15 related personal property disposed of under the provisions of
16 this subsection—

17 “(A) shall provide that all such property shall be
18 used and maintained for the purpose for which it was
19 conveyed in perpetuity, and that in the event the prop-
20 erty ceases to be used or maintained for that purpose,
21 all or any portion of the property shall, in its then ex-
22 isting condition, at the option of the United States,
23 revert to the United States; and

24 “(B) may contain such additional terms, reserva-
25 tions, restrictions, and conditions as may be determined

1 by the Administrator to be necessary to safeguard the
2 interests of the United States.

3 “(3) With respect to surplus real and related personal
4 property conveyed pursuant to this subsection, the Adminis-
5 trator is authorized and directed—

6 “(A) to determine and enforce compliance with
7 the terms, conditions, reservations, and restrictions
8 contained in any instrument by which such transfer
9 was made;

10 “(B) to reform, correct, or amend any such instru-
11 ment by the execution of a corrective reformatory or
12 amendatory instrument where necessary to correct
13 such instrument or to conform such transfer to the re-
14 quirements of applicable law; and

15 “(C) to (i) grant releases from any of the terms,
16 conditions, reservations, and restrictions contained in,
17 and (ii) convey, quitclaim, or release to the transferee
18 or other eligible user any right or interest reserved to
19 the United States by any instrument by which such
20 transfer was made, if he determines that the property
21 so transferred no longer serves the purpose for which it
22 was transferred, or that such release, conveyance, or
23 quitclaim deed will not prevent accomplishment of the
24 purpose for which such property was so transferred:
25 *Provided*, That any such release, conveyance, or quit-

1 claim deed may be granted on, or made subject to,
2 such terms and conditions as he or she shall deem nec-
3 essary to protect or advance the interests of the United
4 States.”.

5 SEC. 702. The first sentence of subsection (o) of section
6 203 of the Federal Property and Administrative Services Act
7 of 1949, as amended (40 U.S.C. 484(o)), is further amended
8 by revising the first sentence of such subsection to read as
9 follows:

10 “(o) The Administrator with respect to personal proper-
11 ty donated under subsection (j) of this section and with re-
12 spect to real and related personal property transferred or
13 conveyanced under subsection (p) of this section, and the
14 head of each executive agency disposing of real property
15 under subsection (k) of this section, shall submit during the
16 calendar quarter following the close of each fiscal year a
17 report to the Senate (or to the Secretary of the Senate if the
18 Senate is not in session) and to the House of Representatives
19 (or to the Clerk of the House if the House is not in session)
20 showing the acquisition cost of all personal property so do-
21 nated and of all real property so disposed of during the pre-
22 ceding fiscal year.”.

1 **TITLE VIII—LABOR RACKETEERING**
2 **AMENDMENTS**

3 **SEC. 801.** (a) Subsection (d) of section 302 of the Labor
4 Management Relations Act, 1947 (29 U.S.C. 186), is amend-
5 ed to read as follows:

6 “(d)(1) Any person who participates in a transaction in-
7 volving a payment, loan, or delivery of money or other thing
8 of value to a labor organization in payment of membership
9 dues or to a joint labor-management trust fund as defined by
10 clause (B) of the proviso to clause (5) of subsection (c) of this
11 section or to a plant, area, or industry-wide labor-manage-
12 ment committee that is received and used by such labor orga-
13 nization, trust fund, or committee, which transaction does not
14 satisfy all the applicable requirements of subsections (c)(4)
15 through (c)(9) of this section, and willfully and with intent to
16 benefit himself or to benefit other persons he knows are not
17 permitted to receive a payment, loan, money, or other thing
18 of value under subsections (c)(4) through (c)(9) violates this
19 subsection, shall, upon conviction thereof, be guilty of a
20 felony and be subject to a fine of not more than \$15,000, or
21 imprisoned for not more than five years, or both; but if the
22 value of the amount of money or thing of value involved in
23 any violation of the provisions of this section does not exceed
24 \$1,000, such person shall be guilty of a misdemeanor and be

1 subject to a fine of not more than \$10,000, or imprisoned for
2 not more than one year, or both.

3 “(2) Except for violations involving transactions covered
4 by subsection (d)(1) of this section, any person who willfully
5 violates this section shall, upon conviction thereof, be guilty
6 of a felony and be subject to a fine of not more than \$15,000,
7 or imprisoned for not more than five years, or both; but if the
8 value of the amount of money or thing of value involved in
9 any violation of the provisions of this section does not exceed
10 \$1,000, such person shall be guilty of a misdemeanor and be
11 subject to a fine of not more than \$10,000, or imprisoned for
12 not more than one year, or both.”.

13 (b) Subsection (e) of such section is amended to read as
14 follows:

15 “(e) The district courts of the United States and the
16 United States courts of the territories and possessions shall
17 have jurisdiction, for cause shown, and subject to the provi-
18 sions of Rule 65 of the Federal Rules of Civil Procedure
19 (relating to notice to opposite party), over—

20 “(1) suits alleging a violation of this section
21 brought by any person directly affected by the alleged
22 violation, and

23 “(2) suits brought by the United States alleging
24 that a transaction involving a payment, loan, or deliv-
25 ery of money or other thing of value to a labor organi-

1 zation in payment of membership dues or a joint labor-
2 management trust fund as provided for in clause (B) of
3 the proviso to clause (5) of subsection (c) of this section
4 or to a plant, area, or industry-wide labor-management
5 committee violates this section,
6 to restrain such violations without regard to the provisions of
7 section 6 of the Clayton Act (15 U.S.C. 17), section 20 of
8 such Act (29 U.S.C. 52), and sections 1 through 15 of the
9 Act entitled 'An Act to amend the Judicial Code to define
10 and limit the jurisdiction of courts sitting in equity, and for
11 other purposes', approved March 23, 1932 (29 U.S.C. 101-
12 115).”.

13 SEC. 802. (a) So much of subsection (a) of section 411 of
14 title I of the Employee Retirement Income Security Act of
15 1974 (29 U.S.C. 1111) as follows “the Labor-Management
16 Reporting and Disclosure Act of 1959 (29 U.S.C. 401),” is
17 amended to read as follows: “any felony involving abuse or
18 misuse of such person’s labor organization or employee bene-
19 fit plan position or employment, or conspiracy to commit any
20 such crimes or attempt to commit any such crimes, or a
21 crime in which any of the foregoing crimes is an element,
22 shall serve or be permitted to serve—

23 “(1) as an administrator, fiduciary, officer, trustee,
24 custodian, counsel, agent, employee, or representative
25 in any capacity of any employee benefit plan,

1 “(2) as a consultant or adviser to an employee
2 benefit plan, including but not limited to any entity
3 whose activities are in whole or substantial part devot-
4 ed to providing goods or services to any employee
5 benefit plan, or

6 “(3) in any capacity that involves decisionmaking
7 authority or custody or control of the moneys, funds,
8 assets, or property of any employee benefit plan,
9 during or for the period of ten years after such conviction or
10 after the end of such imprisonment, whichever is later, unless
11 the sentencing court on the motion of the person convicted
12 sets a lesser period of at least five years after such conviction
13 or after the end of such imprisonment, whichever is later, or
14 unless prior to the end of such period, in the case of a person
15 so convicted or imprisoned (A) his citizenship rights, having
16 been revoked as a result of such conviction, have been fully
17 restored, or (B) the United States Parole Commission deter-
18 mines that such person’s service in any capacity referred to
19 in paragraphs (1) through (3) would not be contrary to the
20 purposes of this title. Prior to making any such determination
21 the Commission shall hold an administrative hearing and
22 shall give notice to such proceeding by certified mail to the
23 Secretary of Labor and to State, county, and Federal pros-
24 ecuting officials in the jurisdiction or jurisdictions in which
25 such person was convicted. The Commission’s determination

1 in any such proceeding shall be final. No person shall know-
2 ingly hire, retain, employ, or otherwise place any other
3 person to serve in any capacity in violation of this subsection.
4 Notwithstanding the preceding provisions of this subsection,
5 no corporation or partnership will be precluded from acting
6 as an administrator, fiduciary, officer, trustee, custodian,
7 counsel, agent, or employee of any employee benefit plan or
8 as a consultant to any employee benefit plan without a
9 notice, hearing, and determination by such Parole Commis-
10 sion that such service would be inconsistent with the inten-
11 tion of this section.”.

12 (b) Subsection (b) of such section is amended to read as
13 follows:

14 “(b) Any person who intentionally violates this section
15 shall be fined not more than \$10,000 or imprisoned for not
16 more than five years, or both.”.

17 (c) Subsection (c) of such section is amended to read as
18 follows:

19 “(c) For the purpose of this section—

20 “(1) A person shall be deemed to have been ‘con-
21 victed’ and under the disability of ‘conviction’ from the
22 date of the judgment of the trial court, regardless of
23 whether that judgment remains under appeal.

24 “(2) The term ‘consultant’ means any person who,
25 for compensation, advises, or represents an employee

1 benefit plan or who provides other assistance to such
2 plan, concerning the establishment or operation of such
3 plan.

4 “(3) A period of parole shall not be considered as
5 part of a period of imprisonment.”

6 (d) Such section is amended by adding at the end thereof
7 the following:

8 “(d) Whenever any person—

9 “(1) by operation of this section, has been barred
10 from office or other position in an employee benefit
11 plan as a result of a conviction, and

12 “(2) has filed an appeal of that conviction,
13 any salary which would be otherwise due such person by
14 virtue of such office or position, shall be placed in escrow by
15 the individual or organization responsible for payment of such
16 salary. Payment of such salary into escrow shall continue for
17 the duration of the appeal or for the period of time during
18 which such salary would be otherwise due, whichever period
19 is shorter. Upon the final reversal of such person’s conviction
20 on appeal, the amounts in escrow shall be paid to such
21 person. Upon the final sustaining of that person’s conviction
22 on appeal, the amounts in escrow shall be returned to the
23 individual or organization responsible for payments of those
24 amounts. Upon final reversal of such person’s conviction,
25 such person shall no longer be barred by this statute from

1 assuming any position from which such person was previous-
2 ly barred.”.

3 SEC. 803. (a) So much of subsection (a) of section 504 of
4 the Labor-Management Reporting and Disclosure Act of
5 1959 (29 U.S.C. 504) as follows “or a violation of title II or
6 III of this Act” is amended to read as follows: “any felony
7 involving abuse or misuse of such person’s labor organization
8 or employee benefit plan position or employment, or conspir-
9 acy to commit any such crimes, shall serve or be permitted to
10 serve—

11 “(1) as a consultant or adviser to any labor orga-
12 nization,

13 “(2) as an officer, director, trustee, member of any
14 executive board or similar governing body, business
15 agent, manager, organizer, employee, or representative
16 in any capacity of any labor organization,

17 “(3) as a labor relations consultant or adviser to a
18 person engaged in an industry or activity affecting
19 commerce, or as an officer, director, agent, or employ-
20 ee of any group or association of employers dealing
21 with any labor organization, or in a position having
22 specific collective bargaining authority or direct respon-
23 sibility in the area of labor-management relations in
24 any corporation or association engaged in an industry
25 or activity affecting commerce, or

1 “(4) in a position which entitles its occupant to a
2 share of the proceeds of, or as an officer or executive
3 or administrative employee of, any entity whose activi-
4 ties are in whole or substantial part devoted to provid-
5 ing goods or services to any labor organization, or

6 “(5) in any capacity, other than in his capacity as
7 a member of such labor organization, that involves
8 decisionmaking authority concerning, or decisionmaking
9 authority over, or custody of, or control of the moneys,
10 funds, assets, or property of any labor organization,

11 during or for the period of ten years after such conviction or
12 after the end of such imprisonment, whichever is later, unless
13 the sentencing court on the motion of the person convicted
14 sets a lesser period of at least five years after such conviction
15 or after the end of such imprisonment, whichever is later, or
16 unless prior to the end of such period, in the case of a person
17 so convicted or imprisoned, (A) his citizenship rights, having
18 been revoked as a result of such conviction, have been fully
19 restored, or (B) the United States Parole Commission deter-
20 mines that such person's service in any capacity referred to
21 in clauses (1) through (5) would not be contrary to the pur-
22 poses of this Act. Prior to making any such determination the
23 Commission shall hold an administrative hearing and shall
24 give notice of such proceeding by certified mail to the Secre-
25 tary of Labor and to State, county, and Federal prosecuting

1 officials in the jurisdiction or jurisdictions in which such
2 person was convicted. The Commission's determination in
3 any such proceeding shall be final. No person shall knowingly
4 hire, retain, employ, or otherwise place any other person to
5 serve in any capacity in violation of this subsection."

6 (b) Subsection (b) of such section is amended to read as
7 follows:

8 "(b) Any person who willfully violates this section shall
9 be fined not more than \$10,000 or imprisoned for not more
10 than five years, or both."

11 (c) Subsection (c) of such section is amended to read as
12 follows:

13 "(c) For the purpose of this section—

14 "(1) A person shall be deemed to have been 'con-
15 victed' and under the disability of 'conviction' from the
16 date of the judgment of the trial court, regardless of
17 whether that judgment remains under appeal.

18 "(2) A period of parole shall not be considered as
19 part of a period of imprisonment."

20 (d) Such section 504 is amended by adding at the end
21 thereof the following:

22 "(d) Whenever any person—

23 "(1) by operation of this section, has been barred
24 from office or other position in a labor organization as
25 a result of a conviction, and

1 “(2) has filed an appeal of that conviction,
2 any salary which would be otherwise due such person by
3 virtue of such office or position, shall be placed in escrow by
4 the individual employer or organization responsible for pay-
5 ment of such salary. Payment of such salary into escrow shall
6 continue for the duration of the appeal or for the period of
7 time during which such salary would be otherwise due,
8 whichever period is shorter. Upon the final reversal of such
9 person’s conviction on appeal, the amounts in escrow shall be
10 paid to such person. Upon the final sustaining of such per-
11 son’s conviction on appeal, the amounts in escrow shall be
12 returned to the individual employer or organization responsi-
13 ble for payments of those amounts. Upon final reversal of
14 such person’s conviction, such person shall no longer be
15 barred by this statute from assuming any position from which
16 such person was previously barred.”.

17 SEC. 804. (a) The amendments made by section 802
18 and section 803 of this title shall take effect with respect to
19 any judgment of conviction entered by the trial court after
20 the date of enactment of this title, except that that portion of
21 such amendments relating to the commencement of the
22 period of disability shall apply to any judgment of conviction
23 entered prior to the date of enactment of this title if a right of
24 appeal or an appeal from such judgment is pending on the
25 date of enactment of this title.

1 (b) Subject to subsection (a) the amendments made by
2 sections 803 and 804 shall not affect any disability under
3 section 411 of the Employee Retirement Income Security
4 Act of 1974 or under section 504 of the Labor-Management
5 Reporting and Disclosure Act of 1959 in effect on the date of
6 enactment of this title.

7 SEC. 805. (a) The first paragraph of section 506 of
8 title I of the Employee Retirement Income Security Act of
9 1974 (29 U.S.C. 1136) is amended by striking out "In
10 order" and inserting in lieu thereof the following:

11 "(a) COORDINATION WITH OTHER AGENCIES AND
12 DEPARTMENTS.—In order".

13 (b) Such section is amended by adding at the end thereof
14 the following new subsection:

15 "(b) RESPONSIBILITY FOR DETECTING AND INVESTI-
16 GATING CIVIL AND CRIMINAL VIOLATIONS OF EMPLOYEE
17 RETIREMENT INCOME SECURITY ACT AND RELATED FED-
18 ERAL LAWS.—The Secretary shall have the responsibility
19 and authority to detect and investigate and refer, where ap-
20 propriate, civil and criminal violations related to the provi-
21 sions of this title and other related Federal laws, including
22 the detection, investigation, and appropriate referrals of re-
23 lated violations of title 18 of the United States Code. Nothing
24 in this subsection shall be construed to preclude other appro-
25 priate Federal agencies from detecting and investigating civil

1 and criminal violations of this title and other related Federal
2 laws.”.

3 (c) The title of such section is amended to read as
4 follows:

5 “COORDINATION AND RESPONSIBILITY OF AGENCIES EN-
6 FORCING EMPLOYEE RETIREMENT INCOME SECURITY
7 ACT AND RELATED FEDERAL LAWS”.

8 TITLE IX—CURRENCY AND FOREIGN TRANSAC-
9 TIONS REPORTING ACT AMENDMENTS

10 SEC. 901. (a) Section 5321(a)(1) of title 31, United
11 States Code, is amended by striking out “a civil penalty of
12 not more than \$1,000” and inserting in lieu thereof “a civil
13 penalty of not more than \$10,000”.

14 (b) Subsection (a) of section 5322 of title 31, United
15 States Code, is amended by striking out “\$1,000, or impris-
16 onment not more than one year, or both” and inserting in
17 lieu thereof “\$250,000, or imprisonment not more than five
18 years, or both”.

19 (c) Subsection (a) of section 5316 of title 31, United
20 States Code, is amended—

21 (1) by inserting “, or attempts to transport or
22 have transported,” after “transports or has trans-
23 ported” in paragraph (1); and

1 (2) by striking out “more than \$5,000” and in-
2 serting in lieu thereof “more than \$10,000” in para-
3 graph (1).

4 (d) Section 5317 of title 31, United States Code, is
5 amended—

6 (1) by redesignating subsection (b) as subsection
7 (c); and

8 (2) by inserting the following new subsection after
9 subsection (a):

10 “(b) A customs officer may stop and search, without a
11 search warrant, a vehicle, vessel, aircraft, or other convey-
12 ance, envelope or other container, or person entering or de-
13 parting from the United States with respect to which or
14 whom the officer has reasonable cause to believe there is a
15 monetary instrument being transported in violation of section
16 5316 of this title.”.

17 (e) Chapter 53 of title 31 of the United States Code is
18 amended by adding a new section 5323 at the end thereof as
19 follows:

20 “§ 5323. Rewards for informants

21 “(a) The Secretary may pay a reward to an individual
22 who provides original information which leads to a recovery
23 of a criminal fine, civil penalty, or forfeiture, which exceeds
24 \$50,000, for a violation of this chapter.

1 “(b) The Secretary shall determine the amount of a
2 reward under this section. The Secretary may not award
3 more than 25 per centum of the net amount of the fine, pen-
4 alty, or forfeiture collected or \$150,000, whichever is less.

5 “(c) An officer or employee of the United States, a
6 State, or a local government who provides information de-
7 scribed in subsection (a) in the performance of official duties
8 is not eligible for a reward under this section.

9 “(d) There are authorized to be appropriated such sums
10 as may be necessary to carry out the provisions of this sec-
11 tion.”.

12 (f) The table of contents of chapter 53 of title 31 is
13 amended by adding the following new item after the item
14 relating to section 5322:

“5323. Rewards for informants.”.

15 (g) Section 1961(1) of title 18, United States Code, is
16 amended—

17 (1) by striking out “or” after “(relating to embez-
18 zlement from union funds),”; and

19 (2) by inserting before the semicolon at the end
20 thereof the following: “, or (E) any act which is indict-
21 able under the Currency and Foreign Transactions Re-
22 porting Act”.

1 TITLE X—MISCELLANEOUS VIOLENT CRIME

2 AMENDMENTS

3 PART A—MURDER-FOR-HIRE AND VIOLENT CRIMES IN

4 AID OF RACKETEERING ACTIVITY

5 SEC. 1001. (a) Chapter 1 of title 18 of the United States
6 Code is amended by adding a new section 16 as follows:

7 **“§ 16. Crime of violence defined**

8 “The term ‘crime of violence’ means—

9 “(a) an offense that has as an element the use, at-
10 tempted use, or threatened use of physical force
11 against the person or property of another, or

12 “(b) any other offense that is a felony and that, by
13 its nature, involves a substantial risk that physical
14 force against the person or property of another may be
15 used in the course of committing the offense.”.

16 (b) The analysis for chapter 1 of title 18 of the United
17 States Code is amended by adding at the end thereof the
18 following:

“16. Crime of violence defined.”.

19 SEC. 1002. (a) Chapter 95 of title 18, United States
20 Code, is amended by adding new sections 1952A and 1952B,
21 following section 1952, as follows:

22 **“§ 1952A. Use of interstate commerce facilities in the com-
23 mission of murder-for-hire**

24 “(a) Whoever travels in or causes another (including the
25 intended victim) to travel in interstate or foreign commerce,

1 or uses or causes another (including the intended victim) to
2 use the mail or any facility in interstate or foreign commerce,
3 with intent that a murder be committed in violation of the
4 laws of any State or the United States as consideration for
5 the receipt of, or as consideration for a promise or agreement
6 to pay, anything of pecuniary value, shall be fined not more
7 than \$10,000 or imprisoned for not more than five years, or
8 both; and if personal injury results, shall be fined not more
9 than \$20,000 and imprisoned for not more than twenty
10 years, or both; and if death results, shall be subject to impris-
11 onment for any term of years or for life, or shall be fined not
12 more than \$50,000, or both.

13 “(b) As used in this section and section 1952B—

14 “(1) ‘anything of pecuniary value’ means anything
15 of value in the form of money, a negotiable instrument,
16 a commercial interest, or anything else the primary
17 significance of which is economic advantage; and

18 “(2) ‘facility of interstate commerce’ includes
19 means of transportation and communication.

20 **“§ 1952B. Violent crimes in aid of racketeering activity**

21 “(a) Whoever, as consideration for the receipt of, or as
22 consideration for a promise or agreement to pay, anything of
23 pecuniary value from an enterprise engaged in racketeering
24 activity, or for the purpose of gaining entrance to or main-
25 taining or increasing position in an enterprise engaged in

1 racketeering activity, murders, kidnaps, maims, assaults with
2 a dangerous weapon, commits assault resulting in serious
3 bodily injury upon, or threatens to commit a crime of violence
4 against any individual in violation of the laws of any State or
5 the United States, or attempts or conspires so to do, shall be
6 punished—

7 “(1) for murder or kidnaping, by imprisonment for
8 any term of years or for life or a fine of not more than
9 \$50,000, or both;

10 “(2) for maiming, by imprisonment for not more
11 than thirty years or a fine of not more than \$30,000,
12 or both;

13 “(3) for assault with a dangerous weapon or as-
14 sault resulting in serious bodily injury, by imprisonment
15 for not more than twenty years or a fine of not more
16 than \$20,000, or both;

17 “(4) for threatening to commit a crime of vio-
18 lence, by imprisonment for not more than five years or
19 a fine of not more than \$5,000, or both;

20 “(5) for attempting or conspiring to commit
21 murder or kidnaping, by imprisonment for not more
22 than ten years or a fine of not more than \$10,000, or
23 both; and

24 “(6) for attempting or conspiring to commit a
25 crime involving maiming, assault with a dangerous

1 weapon, or assault resulting in serious bodily injury, by
2 imprisonment for not more than three years or a fine of
3 not more than \$3,000, or both.

4 “(b) As used in this section—

5 “(1) ‘racketeering activity’ has the meaning set
6 forth in section 1961 of this title; and

7 “(2) ‘enterprise’ includes any partnership, corpora-
8 tion, association, or other legal entity, and any union
9 or group of individuals associated in fact although not
10 a legal entity, which is engaged in, or the activities of
11 which affect, interstate or foreign commerce.”.

12 (b) The analysis at the beginning of chapter 95 of title
13 18 is amended by adding after the item relating to section
14 1952 the following:

“1952A. Use of interstate commerce facilities in the commission of murder-for-hire.
“1952B. Violent crimes in aid of racketeering activity.”.

15 PART B—SOLICITATION TO COMMIT A CRIME OF
16 VIOLENCE

17 SEC. 1003. (a) Chapter 19 of title 18 of the United
18 States Code is amended by adding at the end thereof the
19 following new section:

20 “§ 373. Solicitation to commit a crime of violence

21 “(a) Whoever, with intent that another person engage in
22 conduct constituting a felony that has as an element the use,
23 attempted use, or threatened use of physical force against the
24 person or property of another in violation of the laws of the

1 United States, and under circumstances strongly corroborated
2 tive of that intent, solicits, commands, induces, or otherwise
3 endeavors to persuade such other person to engage in such
4 conduct, shall be imprisoned not more than one-half the
5 maximum term of imprisonment or fined not more than one-
6 half of the maximum fine prescribed for the punishment of the
7 crime solicited, or both; or if the crime solicited is punishable
8 by death, shall be imprisoned for not more than twenty years.

9 “(b) It is an affirmative defense to a prosecution under
10 this section that, under circumstances manifesting a volun-
11 tary and complete renunciation of his criminal intent, the de-
12 fendant prevented the commission of the crime solicited. A
13 renunciation is not ‘voluntary and complete’ if it is motivated
14 in whole or in part by a decision to postpone the commission
15 of the crime until another time or to substitute another victim
16 or another but similar objective. If the defendant raises the
17 affirmative defense at trial, the defendant has the burden of
18 proving the defense by a preponderance of the evidence.

19 “(c) It is not a defense to a prosecution under this sec-
20 tion that the person solicited could not be convicted of the
21 crime because he lacked the state of mind required for its
22 commission, because he was incompetent or irresponsible, or
23 because he is immune from prosecution or is not subject to
24 prosecution.”.

1 (b) The analysis at the beginning of chapter 19 of title
2 18 is amended by adding after the item relating to section
3 372 the following:

"373. Solicitation to commit a crime of violence."

4 PART C—FELONY-MURDER RULE

5 SEC. 1004. Section 1111 of title 18 of the United States
6 Code is amended by adding after the word "arson" the words
7 "escape, murder, kidnaping, treason, espionage, sabotage,".

8 PART D—MANDATORY PENALTY FOR USE OF A FIREARM

9 DURING A FEDERAL CRIME OF VIOLENCE

10 SEC. 1005. (a) Subsection (c) of section 924 of title 18 is
11 amended to read as follows:

12 "(c) Whoever, during and in relation to any crime of
13 violence, including a crime of violence which provides for an
14 enhanced punishment if committed by the use of a deadly or
15 dangerous weapon or device, for which he may be prosecuted
16 in a court of the United States, uses or carries a firearm,
17 shall, in addition to the punishment provided for such crime
18 of violence, be sentenced to imprisonment for five years. In
19 the case of his second or subsequent conviction under this
20 subsection, such person shall be sentenced to imprisonment
21 for ten years. Notwithstanding any other provision of law,
22 the court shall not place on probation or suspend the sen-
23 tence of any person convicted of a violation of this subsection,
24 nor shall the term of imprisonment imposed under this sub-
25 section run concurrently with any other term of imprisonment

1 including that imposed for the crime of violence in which the
2 firearm was used or carried. No person sentenced under this
3 subsection shall be eligible for parole during the term of im-
4 prisonment imposed herein.”.

5 PART E—ARMOR-PIERCING BULLETS

6 SEC. 1006. (a) Chapter 44 of title 18, United States
7 Code, is amended by adding at the end thereof the following:

8 “§ 929. Use of restricted ammunition

9 “(a) Whoever, during and in relation to the commission
10 of a crime of violence including a crime of violence which
11 provides for an enhanced punishment if committed by the use
12 of a deadly or dangerous weapon or device for which he may
13 be prosecuted in a court of the United States, uses or carries
14 any handgun loaded with armor-piercing ammunition as de-
15 fined in subsection (b), shall, in addition to the punishment
16 provided for the commission of such crime of violence be sen-
17 tenced to a term of imprisonment for not less than five nor
18 more than ten years. Notwithstanding any other provision of
19 law, the court shall not suspend the sentence of any person
20 convicted of a violation of this subsection, nor place him on
21 probation, nor shall the term of imprisonment run concurrent-
22 ly with any other terms of imprisonment including that im-
23 posed for the felony in which the armor-piercing handgun
24 ammunition was used or carried. No person sentenced under

1 this subsection shall be eligible for parole during the term of
2 imprisonment imposed herein.

3 “(b) For purposes of this section—

4 “(1) ‘armor-piercing ammunition’ means ammuni-
5 tion which, when or if fired from any handgun used or
6 carried in violation of subsection (a) under the test
7 procedure of the National Institute of Law Enforce-
8 ment and Criminal Justice Standard for the Ballistics
9 Resistance of Police Body Armor promulgated Decem-
10 ber 1978, is determined to be capable of penetrating
11 bullet-resistant apparel or body armor meeting the re-
12 quirements of Type IIA of Standard NILECJ-STD-
13 0101.01 as formulated by the United States Depart-
14 ment of Justice and published in December of 1978;
15 and

16 “(2) ‘handgun’ means any firearm, including a
17 pistol or revolver, originally designed to be fired by the
18 use of a single hand.”

19 (b) The table of sections for chapter 44 of title 18,
20 United States Code, is amended by adding at the end thereof
21 the following:

“929. Use of restricted ammunition.”

22 PART F—KIDNAPING OF FEDERAL OFFICIALS

23 SEC. 1007. Section 1201 of title 18 of the United States
24 Code is amended—

1 (1) in subsection (a)(3), by deleting "or" at the
2 end thereof;

3 (2) in subsection (a)(4), by deleting the comma at
4 the end thereof and substituting "; or"; and

5 (3) by adding after subsection (a)(4) a new subsec-
6 tion (a)(5) to read as follows:

7 "(5) The person is among those officers and employees
8 designated in section 1114 of this title and any such act
9 against the person is done while the person is engaged in, or
10 on account of, the performance of his official duties,".

11 PART G—CRIMES AGAINST FAMILY MEMBERS OF
12 FEDERAL OFFICIALS

13 SEC. 1008. (a) Chapter 7 of title 18 of the United States
14 Code is amended by adding a new section at the end thereof
15 to read as follows:

16 "§ 115. Influencing, impeding, or retaliating against a
17 Federal official by threatening or injuring a
18 family member

19 "(a) Whoever assaults, kidnaps, or murders, or attempts
20 to kidnap or murder, or threatens to assault, kidnap or
21 murder a member of the immediate family of a United States
22 official, a United States judge, a Federal law enforcement
23 officer, or an official whose killing would be a crime under 18
24 U.S.C. 1114, as amended, with intent to impede, intimidate,
25 interfere with, or retaliate against such official, judge or law

1 enforcement officer while he is engaged in or on account of
2 the performance of his official duties, shall be punished as
3 provided in subsection (b).

4 “(b)(1) An assault in violation of this section shall be
5 punished as provided in section 111 of this title.

6 “(2) A kidnaping or attempted kidnaping in violation of
7 this section shall be punished as provided in section 1201 of
8 this title.

9 “(3) A murder or attempted murder in violation of this
10 section shall be punished as provided in sections 1111 and
11 1113 of this title.

12 “(4) A threat made in violation of this section shall be
13 punished by a fine of not more than \$5,000 or imprisonment
14 for a term of not more than five years, or both, except that
15 imprisonment for a threatened assault shall not exceed three
16 years.

17 “(c) As used in this section, the term—

18 “(1) ‘Federal law enforcement officer’ means any
19 officer, agent, or employee of the United States author-
20 ized by law or by a Government agency to engage in
21 or supervise the prevention, detection, investigation, or
22 prosecution of any violation of Federal criminal law;

23 “(2) ‘immediate family member’ of an individual
24 means—

1 “(A) his spouse, parent, brother or sister,
2 child or person to whom he stands in loco paren-
3 tis; or

4 “(B) any other person living in his household
5 and related to him by blood or marriage;

6 “(3) ‘United States judge’ means any judicial offi-
7 cer of the United States, and includes a justice of the
8 Supreme Court and a United States magistrate; and

9 “(4) ‘United States official’ means the President,
10 President-elect, Vice President, Vice President-elect, a
11 Member of Congress, a member-elect of Congress, a
12 member of the executive branch who is the head of a
13 department listed in 5 U.S.C. 101, or the Director of
14 The Central Intelligence Agency.”.

15 “(b) The analysis of chapter 7 of title 18, United States
16 Code, is amended by adding at the end thereof the following
17 new item:

 “115. Influencing, impeding, or retaliating against a Federal official by threatening
 or injuring a family member.”.

18 PART H—ADDITION OF CRIMES OF MAIMING AND
19 INVOLUNTARY SODOMY TO MAJOR CRIMES ACT

20 SEC. 1009. Section 1153 of title 18 is amended to read
21 as follows:

22 “Any Indian who commits against the person or proper-
23 ty of another Indian or other person any of the following
24 offenses, namely, murder, manslaughter, kidnaping, maiming,

1 rape, involuntary sodomy, carnal knowledge of any female,
2 not his wife, who has not attained the age of sixteen years,
3 assault with intent to commit rape, incest, assault with intent
4 to commit murder, assault with a dangerous weapon, assault
5 resulting in serious bodily injury, arson, burglary, robbery,
6 and a felony under section 661 of this title within the Indian
7 country, shall be subject to the same law and penalties as all
8 other persons committing any of the above offenses, within
9 the exclusive jurisdiction of the United States.

10 “As used in this section, the offenses of burglary, invol-
11 untary sodomy, and incest shall be defined and punished in
12 accordance with the laws of the State in which such offense
13 was committed as are in force at the time of such offense.

14 “In addition to the offenses of burglary, involuntary
15 sodomy, and incest, any other of the above offenses which are
16 not defined and punished by Federal law in force within the
17 exclusive jurisdiction of the United States shall be defined
18 and punished in accordance with the laws of the State in
19 which such offense was committed as are in force at the time
20 of such offense.”.

21 SEC. 1009A. Section 114 of title 18 is amended by de-
22 leting “Shall be fined not more than \$1,000 or imprisoned
23 not more than seven years, or both” and inserting in lieu
24 thereof “Shall be fined not more than \$25,000 and impris-
25 oned not more than twenty years, or both”.

1 PART I—DESTRUCTION OF MOTOR VEHICLES

2 SEC. 1010. Section 31 of title 18 of the United States
3 Code is amended in the definition of “motor vehicle” by
4 striking out “or passengers and property;” and inserting in
5 lieu thereof “passengers and property, or property or
6 cargo;”.

7 PART J—DESTRUCTION OF ENERGY FACILITIES

8 SEC. 1011. (a) Chapter 65 of title 18, United States
9 Code, is amended by adding at the end thereof the following:
10 “§ 1365. Destruction of an energy facility

11 “(a) Whoever knowingly and willfully damages the
12 property of an energy facility in an amount that in fact ex-
13 ceeds \$100,000, or damages the property of an energy facili-
14 ty in any amount and causes a significant interruption or im-
15 pairment of a function of an energy facility, shall be punish-
16 able by a fine of not more than \$50,000 or imprisonment for
17 not more than ten years, or both.

18 “(b) Whoever knowingly and willfully damages the
19 property of an energy facility in an amount that in fact ex-
20 ceeds \$5,000 shall be punishable by a fine of not more than
21 \$25,000, or imprisonment for not more than five years, or
22 both.

23 “(c) For purposes of this section, the term ‘energy facili-
24 ty’ means a facility that is involved in the production, stor-
25 age, transmission, or distribution of electricity, fuel, or an-

1 other form or source of energy, or research, development, or
2 demonstration facilities relating thereto, regardless of wheth-
3 er such facility is still under construction or is otherwise not
4 functioning, except a facility subject to the jurisdiction, ad-
5 ministration, or in the custody of the Nuclear Regulatory
6 Commission or interstate transmission facilities, as defined in
7 49 U.S.C. 1671.

8 “(d) The table of contents for chapter 65 of title 18,
9 United States Code, is amended by adding at the end thereof
10 the following new item:

“1965 Destruction of an energy facility.”.

11 PART K—ASSAULTS UPON FEDERAL OFFICIALS

12 SEC. 1012. Section 1114 of title 18 of the United States
13 Code is amended—

14 (1) by inserting “or attempts to kill” after “kills”;

15 (2) by striking out “while engaged in the perform-
16 ance of his official duties or on account of the perform-
17 ance of his official duties” and inserting in lieu thereof
18 “or any United States probation or pretrial services of-
19 ficer, or any United States magistrate, or any officer or
20 employee of any department or agency within the In-
21 telligence Community (as defined in section 3.4(F) of
22 Executive Order 12333, December 8, 1981, or succes-
23 sor orders) not already covered under the terms of this
24 section,”;

1 (3) by adding “, or any other officer, agency, or
2 employee of the United States designated for coverage
3 under this section in regulations issued by the Attorney
4 General” after “National Credit Union Administra-
5 tion”; and

6 (4) by inserting before the period at the end there-
7 of the following: “, except that any such person who is
8 found guilty of attempted murder shall be imprisoned
9 for not more than twenty years”.

10 PART L—ESCAPE FROM CUSTODY RESULTING FROM
11 CIVIL COMMITMENT

12 SEC. 1013. Section 1826 of title 28, United States
13 Code is amended by adding a new subsection (c) as follows:

14 “(c) Whoever escapes or attempts to escape from the
15 custody of any facility or from any place in which or to which
16 he is confined pursuant to this section or section 4243 of title
17 18, or whoever rescues or attempts to rescue or instigates,
18 aids, or assists the escape or attempt to escape of such a
19 person, shall be subject to imprisonment for not more than
20 three years, or a fine of not more than \$10,000, or both.”.

21 PART M—ARSON AMENDMENTS

22 SEC. 1014. Section 844 of title 18, United States Code,
23 is amended by—

24 (1) by deleting “personal injury results” in subsec-
25 tions (d), (f), and (i) and substitute “personal injury re-

1 sults to any person, including any public safety officer
2 performing duties as a direct or proximate result of
3 conduct prohibited by this subsection,";

4 (2) by deleting "death results" in subsections (d),
5 (f), and (i) and substitute "death results to any person,
6 including any public safety officer performing duties as
7 a direct or proximate result of conduct prohibited by
8 this subsection,".

9 PART N—PHARMACY ROBBERY AND BURGLARY

10 SEC. 1015. This part may be cited as the "Pharmacy
11 Protection and Violent Offender Control Act of 1984".

12 SEC. 1016. The Congress finds and declares that—

13 (1) robbers and other vicious criminals seeking to
14 obtain controlled substances have targeted federally
15 registered pharmacies and other registrants with in-
16 creasing frequency;

17 (2) the dramatic escalation of the diversion of con-
18 trolled substances for illegal purposes by persons who
19 rob and terrorize federally registered pharmacies is di-
20 rectly related to successful efforts by the Department
21 of Justice to prevent other forms of diversion of such
22 substances;

23 (3) Congress did not intend that terrorization and
24 victimization of pharmacists and other registrants and

1 their families, employees, and customers should result
2 from the aggressive enforcement of Federal drug laws;

3 (4) in order to address a discrepancy in Federal
4 law, it is necessary to make robbery and burglary of a
5 pharmacy or other registrant to obtain controlled sub-
6 stances a Federal offense, as is the case when such
7 substances are obtained by fraud, forgery, or illegal
8 dispensing or prescribing; and

9 (5) although the investigation and prosecution of
10 pharmacy robbery and burglary is primarily the respon-
11 sibility of State and local officials, any truly compre-
12 hensive strategy designed to curb crime must make
13 available in appropriate cases the investigative and
14 prosecutorial resources of the Federal Government
15 which are made available when controlled substances
16 are obtained by other unlawful means.

17 PURPOSE

18 SEC. 1017. It is the purpose of this part—

19 (1) to assist State and local law enforcement offi-
20 cials to more effectively repress pharmacy related
21 crime;

22 (2) to enhance the expeditious prosecution and
23 conviction of persons guilty of pharmacy crimes;

24 (3) to assure that convicted offenders receive ap-
25 propriate penalties; and

1 (4) to provide additional protection for pharma-
2 cies, pharmacists, and other registrants against the in-
3 creasing level of violence which accompanies unlawful
4 efforts to obtain controlled substances.

5 PROHIBITED ACTS

6 SEC. 1018. (a) Part D of the Controlled Substances Act
7 is amended by adding at the end thereof the following new
8 section:

9 "ROBBERY OR BURGLARY OF A CONTROLLED SUBSTANCE
10 FROM A PHARMACY

11 "SEC. 413. (a)(1) Whoever, by force and violence, or by
12 intimidation, takes, or attempts to take, from the person or
13 presence of another, any material, compound, mixture, or
14 prescription containing any quantity of a controlled substance
15 belonging to, or in the care, custody, control, management,
16 or possession of any pharmacy or a person registered with
17 the Drug Enforcement Administration under section 202
18 shall be fined not more than \$25,000 or imprisoned not more
19 than twenty years, or both.

20 "(2) Whoever enters or attempts to enter the business
21 premises or property of a pharmacy or a person registered
22 with the Drug Enforcement Administration under section
23 302 with the intent to steal any material, compound, mix-
24 ture, or prescription containing any quantity of a controlled

1 substance shall be fined not more than \$25,000 or imprisoned
2 not more than twenty years, or both.

3 “(b) Whoever, in committing any offense under this sec-
4 tion, assaults any person, or puts in jeopardy the life of any
5 person by the use of a dangerous weapon or device, shall be
6 fined not more than \$10,000 and imprisoned not more than
7 twenty-five years.

8 “(c) Whoever, in committing any offense under this sec-
9 tion kills, any person, shall be subject to imprisonment for
10 any term of years or for life.

11 “(d) If two or more persons conspire to violate this sec-
12 tion and one or more of such persons do any overt act to
13 effect the object of the conspiracy, each shall be punished by
14 fine or imprisonment, or both, which may not exceed the
15 maximum punishment prescribed for the offense, the commis-
16 sion of which was the object of the conspiracy.

17 “(e) For the purposes of this section, the term—

18 “(1) ‘pharmacy’ means the business premises or
19 property, including storage facilities, vehicles, aircraft,
20 trucks, or other means of transport or delivery;

21 “(2) ‘pharmacist’ means any person registered in
22 accordance with this Act for the purpose of engaging
23 in commercial activities involving the dispensing of any
24 controlled substance to an ultimate user pursuant to
25 the lawful order of a practitioner; and

1 “(3) ‘controlled substance’ has the meaning set
2 forth in section 102 of the Controlled Substances Act
3 (21 U.S.C. 802).

4 “(f) Violators of this section may be prosecuted only
5 upon approval by the Attorney General, the Deputy Attor-
6 ney General, the Associate Attorney General, or a designat-
7 ed Assistant Attorney General, unless assistance is requested
8 by a State or local law enforcement official.”.

9 (b) The table of contents for the Comprehensive Drug
10 Abuse Prevention and Control Act of 1970 is amended by
11 inserting after the item relating to section 412 the following
12 new item:

 “Sec. 413. Robbery or burglary of a controlled substance from a pharmacist.”.

13

COLLECTION OF DATA

14 SEC. 1019. In order to provide accurate and current
15 information on the nature and extent of pharmacy crime, the
16 Department of Justice shall collect relevant data and submit
17 an annual report for each of the first three years after the
18 date of enactment of this Act, to the Congress with respect to
19 its enforcement activities relating to the offense described in
20 this section.

21 PART O—RACKETEERING IN OBSCENE MATTER

22 SEC. 1020. Section 1961(1) of title 18, United States
23 Code, is amended—

24 (1) in clause (A) by inserting after “extortion,”
25 the following: “dealing in obscene matter,”; and

1 (2) in clause (B) by inserting after "section 1343
2 (relating to wire fraud)," the following: "sections
3 1461-1465 (relating to obscene matter),".

4 **TITLE XI—SERIOUS NONVIOLENT OFFENSES**

5 **PART A—CHILD PORNOGRAPHY**

6 **SEC. 1101. (a) Congress hereby finds that—**

7 (1) child pornography has developed into a highly
8 organized, multi-million-dollar industry which operates
9 on a nationwide scale;

10 (2) thousands of children including large numbers
11 of runaway and homeless youth are exploited in the
12 production and distribution of pornographic materials;
13 and

14 (3) the use of children as subjects of pornographic
15 materials is harmful to the physiological, emotional,
16 and mental health of the individual child and to soci-
17 ety.

18 **SEC. 1102. Chapter 110 of title 18, United States**
19 **Code, is amended to read as follows:**

"CHAPTER 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec.

"2251. Definitions for chapter.

"2252. Sexual exploitation of children.

**"2253. Certain activities relating to material involving the sexual exploitation of
minors.**

"2254. Criminal forfeiture.

"2255. Civil forfeiture.

"2256. Reporting.

20 **"§ 2251. Definitions for chapter**

21 **"For the purposes of this chapter, the term—**

1 “(1) ‘minor’ means any person under the age of
2 eighteen years;

3 “(2) ‘sexually explicit conduct’ means actual or
4 simulated—

5 “(A) sexual intercourse, including genital-
6 genital, oral-genital, anal-genital, or oral-anal,
7 whether between persons of the same or opposite
8 sex;

9 “(B) bestiality;

10 “(C) sado-masochistic abuse;

11 “(D) masturbation; or

12 “(E) a display of the genitals or pubic area
13 of any person for the purpose of arousing or incit-
14 ing sexual desire;

15 “(3) ‘simulated’ means the explicit depiction of
16 any conduct described in clause (2) of this section
17 which creates the actual appearance of such conduct;

18 “(4) ‘producing’ means producing, directing, man-
19 ufacturing, issuing, publishing, or advertising; and

20 “(5) ‘visual or print medium’ means any film, pho-
21 tograph, negative, slide, book, magazine, or other
22 visual or print medium.

23 **“§ 2252. Sexual exploitation of children**

24 “(a) Any person who knowingly employs, uses, per-
25 suades, induces, entices, or coerces any minor to engage in,

1 or who has a minor assist any other person to engage in, any
2 sexually explicit conduct for the purpose of producing any
3 visual or print medium depicting such conduct, shall be pun-
4 ished as provided under subsection (c), if such person knows
5 or has reason to know that such visual or print medium will
6 be transported in interstate or foreign commerce or mailed, or
7 if such visual or print medium has actually been transported
8 in interstate or foreign commerce or mailed.

9 “(b) Any parent, legal guardian, or person having custo-
10 dy or control of a minor who knowingly permits such minor
11 to engage in, or to assist any other person to engage in,
12 sexually explicit conduct for the purpose of producing any
13 visual or print medium depicting such conduct shall be pun-
14 ished as provided under subsection (c) of this section, if such
15 parent, legal guardian, or person knows or has reason to
16 know that such visual or print medium will be transported in
17 interstate or foreign commerce or mailed or if such visual or
18 print medium has actually been transported in interstate or
19 foreign commerce or mailed.

20 “(c) Any person who violates this section shall be fined
21 not more than \$75,000 or imprisoned not more than ten
22 years, or both, but, if such person has a prior conviction
23 under this section, such person shall be fined not more than
24 \$150,000 or imprisoned not less than two years nor more
25 than fifteen years, or both.

1 "§ 2253. Certain activities relating to material involving
2 the sexual exploitation of minors

3 "(a) Any person who—

4 "(1) knowingly transports or ships in interstate or
5 foreign commerce or mails any visual or print medium,
6 if—

7 "(A) the producing of such visual or print
8 medium involves the use of a minor engaging in
9 sexually explicit conduct; and

10 "(B) such visual or print medium visually de-
11 picts such conduct or such visual or print medium
12 is obscene and depicts such conduct; or

13 "(2) knowingly receives, sells or distributes any
14 visual or print medium that has been transported or
15 shipped in interstate or foreign commerce or mailed,
16 if—

17 "(A) the producing of such visual or print
18 medium involves the use of a minor engaging in
19 sexually explicit conduct; and

20 "(B) such visual or print medium visually de-
21 picts such conduct or such visual or print medium
22 is obscene and depicts such conduct;

23 shall be punished as provided in subsection (b) of this section.

24 "(b)(1) Any person who violates this section shall be
25 fined not more than \$75,000 or imprisoned not more than ten
26 years, or both, but, if such person has a prior conviction

1 under this section, such person shall be fined not more than
2 \$150,000 or imprisoned not less than two years nor more
3 than fifteen years, or both. Any organization which violates
4 this section shall be fined not more than \$250,000.

5 “(2) For purposes of this section, the term ‘organization’
6 means a person other than an individual.

7 **“§ 2254. Criminal forfeiture**

8 “(a) Whoever violates any provision of section 2252
9 shall forfeit to the United States (1) any interest he has ac-
10 quired or maintained in violation of section 2252, and (2) any
11 interest in, security of, claim against, or property or contrac-
12 tural right of any kind affording a source of influence over,
13 any enterprise which he has established, operated, controlled,
14 conducted, or participated in the conduct of, in violation of
15 section 2252.

16 “(b) In any action brought by the United States under
17 this section, the district courts of the United States shall have
18 jurisdiction to enter such restraining orders of prohibitions, or
19 to take such other action, including, but not limited to, the
20 acceptance of satisfactory performance bonds, in connection
21 with any property or other interest subject to forfeiture under
22 this section, as it shall deem proper.

23 “(c)(1) Upon conviction of a person under this section,
24 the court shall authorize the Attorney General to seize all
25 property or other interest declared forfeited under this section

1 upon such terms and conditions as the court shall deem
2 proper. If a property right or other interest is not exercisable
3 or transferable for value by the United States, it shall expire,
4 and shall not revert to the convicted person.

5 “(2) All provisions of law relating to the disposition of
6 property, or the proceeds from the sale thereof, or the remis-
7 sion or mitigation of forfeitures for violation of the customs
8 laws, and the compromise of claims and the award of com-
9 pensation to informers in respect of such forfeitures shall
10 apply to forfeitures incurred, or alleged to have been in-
11 curred, under the provisions of this section, insofar as appli-
12 cable and not inconsistent with the provisions thereof. Such
13 duties as are imposed upon the collector of customs or any
14 other person with respect to the disposition of property under
15 the customs laws shall be performed under this chapter by
16 the Attorney General.

17 “(3) The United States shall dispose of all such property
18 as soon as commercially reasonable, making due provision for
19 the rights of innocent persons.

20 **“§ 2255. Civil forfeiture**

21 “(a) The following property shall be subject to forfeiture
22 by the United States:

23 “(1) any visual or print medium produced, trans-
24 ported, shipped, or received in violation of this chapter;
25 and

1 “(2) any property constituting, or derived from,
2 any proceeds obtained, directly or indirectly, from a
3 violation of this chapter, except that no property shall
4 be forfeited under this paragraph, to the extent of the
5 interest of an owner, by reason of any act or omission
6 established by that owner to have been committed or
7 omitted without the knowledge or consent of that
8 owner.

9 “(b) All provisions of the customs law relating to the
10 seizure, summary and judicial forfeiture, and condemnation of
11 property for violation of the customs laws, the disposition of
12 such property or the proceeds from the sale thereof, the re-
13 mission or mitigation of such forfeitures, and the compromise
14 of claims, shall apply to seizures and forfeitures incurred, or
15 alleged to have been incurred, under the provisions of this
16 section, insofar as applicable and not inconsistent with the
17 provisions of this section, except that such duties as are im-
18 posed upon the customs officer or any other person with re-
19 spect to the seizure and forfeiture of property under the cus-
20 toms laws shall be performed with respect to seizures and
21 forfeitures of property under this section by such officers,
22 agents, or other persons as may be authorized or designated
23 for that purpose by the Attorney General, except to the
24 extent that such duties arise from seizures and forfeitures ef-
25 fected by any customs officer.

1 "§ 2256. Reporting

2 "Beginning one hundred and twenty days after the date
3 of enactment of this Act, and every year thereafter, the At-
4 torney General shall report to Congress the number of cases
5 and convictions brought under section 2252 of title 18,
6 United States Code, and the dollar amount of any forfeiture
7 of assets under section 2254 of such title."

8 PART B—WARNING THE SUBJECT OF A SEARCH

9 SEC. 1103. Section 2232 of title 18 of the United States
10 Code is amended—

11 (a) by deleting in the first paragraph "shall be
12 fined not more than \$2,000 or imprisoned not more
13 than one year, or both" and inserting in lieu thereof
14 "shall be fined not more than \$10,000 or imprisoned
15 more than five years, or both;

16 (b) by adding a new paragraph as follows:

17 "Whoever, having knowledge that any person author-
18 ized to make searches and seizures has been authorized or is
19 otherwise likely to make a search or seizure, in order to pre-
20 vent the authorized seizing or securing of any person, goods,
21 wares, merchandise or other property, gives notice or at-
22 tempts to give notice of the possible search or seizure to any
23 person shall be fined not more than \$10,000 or imprisoned
24 not more than five years, or both."

1 PART C—PROGRAM FRAUD AND BRIBERY

2 SEC. 1104. (a) Chapter 31 of title 18 of the United
3 States Code is amended by adding a new section 666 as fol-
4 lows:

5 “§ 666. Theft or bribery concerning programs receiving
6 Federal funds

7 “(a) Whoever, being an agent of an organization, or of a
8 State or local government agency, that receives benefits in
9 excess of \$10,000 in any one year period pursuant to a Fed-
10 eral program involving a grant, a contract, a subsidy, a loan,
11 a guarantee, insurance, or another form of Federal assist-
12 ance, embezzles, steals, purloins, willfully misapplies, obtains
13 by fraud, or otherwise knowingly without authority converts
14 to his own use or to the use of another, property having a
15 value of \$5,000 or more owned by or under the care, custo-
16 dy, or control of such organization or State or local govern-
17 ment agency, shall be imprisoned for not more than ten years
18 and fined not more than \$100,000 or an amount equal to
19 twice that which was obtained in violation of this subsection,
20 whichever is greater, or both so imprisoned and fined.

21 “(b) Whoever, being an agent of an organization, or of a
22 State or local government agency, described in subsection (a),
23 solicits, demands, accepts, or agrees to accept anything of
24 value from a person or organization other than his employer
25 or principal for or because of the recipient’s conduct in any

1 transaction or matter or a series of transactions or matters
2 involving \$5,000 or more concerning the affairs of such orga-
3 nization or State or local government agency, shall be impris-
4 oned for not more than ten years or fined not more than
5 \$100,000 or an amount equal to twice that which was ob-
6 tained, demanded, solicited or agreed upon in violation of this
7 subsection, whichever is greater, or both so imprisoned and
8 fined.

9 “(c) Whoever offers, gives, or agrees to give to an agent
10 of an organization or of a State or local government agency,
11 described in subsection (a), anything of value for or because
12 of the recipient’s conduct in any transaction or matter or any
13 series of transactions or matters involving \$5,000 or more
14 concerning the affairs of such organization or State or local
15 government agency, shall be imprisoned not more than ten
16 years or fined not more than \$100,000 or an amount equal to
17 twice that offered, given or agreed to be given, whichever is
18 greater, or both so imprisoned and fined.

19 “(d) For purposes of this section—

20 “(1) ‘agent’ means a person or organization au-
21 thorized to act on behalf of another person, organiza-
22 tion or a government and, in the case of an organiza-
23 tion or a government, includes a servant or employee,
24 a partner, director, officer, manager and representative;

1 “(2) ‘organization’ means a legal entity, other
2 than a government, established or organized for any
3 purpose, and includes a corporation, company, associ-
4 ation, firm, partnership, joint stock company, founda-
5 tion, institution, trust, society, union, and any other as-
6 sociation of persons;

7 “(3) ‘government agency’ means a subdivision of
8 the executive, legislative, judicial, or other branch of a
9 government, including a department, independent es-
10 tablishment, commission, administration, authority,
11 board, and bureau; or a corporation or other legal
12 entity established by, and subject to control by, a gov-
13 ernment or governments for execution of a governmen-
14 tal or intergovernmental program; and

15 “(4) ‘local’ means of or pertaining to a political
16 subdivision within a State.”.

17 (b) The analysis at the beginning of chapter 31 of title
18 18 of the United States Code is amended by adding after the
19 item relating to section 665 the following:

“666. Theft or bribery concerning programs receiving Federal funds.”.

20 PART D—COUNTERFEITING OF STATE AND CORPORATE
21 SECURITIES AND FORGING OF ENDORSEMENTS OR
22 SIGNATURES ON UNITED STATES SECURITIES

23 SEC. 1105. (a) Chapter 25 of title 18 of the United
24 States Code is amended by adding the following new sections
25 at the end thereof:

1 "§ 510. Securities of the States and private entities

2 “(a) Whoever makes, utters or possesses a counterfeited
3 security of a State or a political subdivision thereof or of an
4 organization, or whoever makes, utters or possesses a forged
5 security of a State or political subdivision thereof or of an
6 organization, with intent to deceive another person, organiza-
7 tion, or government shall be fined not more than \$250,000 or
8 imprisoned for not more than ten years, or both.

9 “(b) Whoever makes, receives, possesses, sells or other-
10 wise transfers an implement designed for or particularly
11 suited for making a counterfeit or forged security with the
12 intent that it be so used shall be punished by a fine of not
13 more than \$250,000 or by imprisonment for not more than
14 ten years, or both.

15 “(c) For purposes of this section—

16 “(1) the term ‘counterfeited’ means a document
17 that purports to be genuine but is not, because it has
18 been falsely made or manufactured in its entirety;

19 “(2) the term ‘forged’ means a document that pur-
20 ports to be genuine but is not because it has been
21 falsely altered, completed, signed, or endorsed, or con-
22 tains a false addition thereto or insertion therein, or is
23 a combination of parts of two or more genuine docu-
24 ments;

25 “(3) the term ‘security’ means—

1 “(A) a note, stock certificate, treasury stock
2 certificate, bond, treasury bond, debenture, certifi-
3 cate of deposit, interest coupon, bill, check, draft,
4 warrant, debit instrument as defined in section
5 916(c) of the Electronic Fund Transfer Act (15
6 U.S.C. 1693(c)), money order, traveler’s check,
7 letter of credit, warehouse receipt, negotiable bill
8 of lading, evidence of indebtedness, certificate of
9 interest in or participation in any profit-sharing
10 agreement collateral-trust certificate, pre-reorga-
11 nization certificate of subscription, transferable
12 share, investment contract, voting trust certifi-
13 cate, or certificate of interest in tangible or intan-
14 gible property;

15 “(B) an instrument evidencing ownership of
16 goods, wares, or merchandise;

17 “(C) any other written instrument commonly
18 known as a security;

19 “(D) a certificate of interest in, certificate of
20 participation in, certificate for, receipt for, or war-
21 rant or option or other right to subscribe to or
22 purchase, any of the foregoing; or

23 “(E) a blank form of any of the foregoing;

24 “(4) the term ‘organization’ means a legal entity,
25 other than a government, established or organized for

1 any purpose, and includes a corporation, company, as-
2 sociation, firm, partnership, joint stock company, foun-
3 dation, institution, society, union, or any other associ-
4 ation or persons which operates in or the activities of
5 which affect interstate or foreign commerce; and

6 “(5) the term ‘State’ includes a State of the
7 United States, the District of Columbia, Puerto Rico,
8 Guam, the Virgin Islands, and any other territory or
9 possession of the United States.

10 **“§ 511. Forging endorsements or signature on securities of**
11 **the United States**

12 “(a) Whoever—

13 “(1) with intent to defraud, forges any endorse-
14 ment or signature on a security of the United States;

15 “(2) with intent to defraud, passes, utters, or pub-
16 lishes, or attempts to pass, utter, or publish any secu-
17 rity of the United States bearing a forged endorsement
18 or signature; or

19 “(3) with knowledge that a security of the United
20 States is stolen or bears a forged endorsement or sig-
21 nature, buys, sells, exchanges, receives, delivers, re-
22 tains, or conceals any such security of the United
23 States that in fact is stolen or bears a forged endorse-
24 ment or signature—

1 shall be fined not more than \$250,000 or imprisoned not
2 more than ten years, or both; but if the face value of the
3 security of the United States or the aggregate face value, if
4 more than one security, does not exceed \$500 in any of the
5 above offenses, the penalty shall be a fine of not more than
6 \$1,000 or imprisonment for not more than one year, or both.

7 “(b) For purposes of this section—

8 “(1) the term ‘forge’ means to create an endorse-
9 ment or signature which purports to be genuine but is
10 not because it has been falsely signed, made, complet-
11 ed, altered, subjected to a false addition, or subjected
12 to a combination of parts of two or more genuine en-
13 dorsements or signatures;

14 “(2) the term ‘security’ means (A) an obligation of
15 the United States or (B) any security as defined in sec-
16 tion 510(c)(3) of this title.”.

17 (b) The analysis at the beginning of chapter 25 of title
18 18 is amended by adding after the item relating to section
19 509 the following:

“510. Securities of the State and private entities.

“511. Forging endorsements or signatures on securities of the United States.”.

20 (c) Section 3056(a) of title 18 of the United States Code
21 is amended by inserting “511,” after “509,”.

22 **PART E—RECEIPT OF STOLEN BANK PROPERTY**

23 **SEC. 1106.** Subsection (c) of section 2113 of title 18 is
24 amended to read as follows:

1 “(c) Whoever receives, possesses, conceals, stores, bar-
2 ters, sells, or disposes of, any property or money or other
3 thing of value which has been taken or stolen from a bank,
4 credit union, or savings and loan association in violation of
5 subsection (b), knowing the same to be property which has
6 been stolen shall be subject to the punishment provided in
7 subsection (b) for the taker.”.

8 PART F—BANK BRIBERY

9 SEC. 1107. (a) Section 215 of title 18 is amended to
10 read as follows:

11 “(a) Whoever, being an officer, director, employee,
12 agent, or attorney of any financial institution, bank holding
13 company, or savings and loan holding company, except as
14 provided by law, directly or indirectly, asks, demands, exacts,
15 solicits, seeks, accepts, receives or agrees to receive anything
16 of value, for himself or for any other person or entity, other
17 than such financial institution, from any person or entity for
18 or in connection with any transaction or business of such fi-
19 nancial institution; or

20 “(b) Whoever, except as provided by law, directly or
21 indirectly, gives, offers, or promises anything of value to any
22 officer, director, employee, agent, or attorney of any financial
23 institution, bank holding company, or savings and loan hold-
24 ing company, or offers or promises any such officer, director,
25 employee, agent, or attorney to give anything of value to any

1 person or entity, other than such financial institution, for or
2 in connection with any transaction or business of such finan-
3 cial institution, shall be fined not more than \$5,000 or three
4 times the value of anything offered, asked, given, received, or
5 agreed to be given or received, whichever is greater, or im-
6 prisoned not more than five years, or both; but if the value of
7 anything offered, asked, given, received, or agreed to be
8 given or received does not exceed \$100, shall be fined not
9 more than \$1,000 or imprisoned not more than one year, or
10 both.

11 “(c) As used in this section—

12 “(1) ‘financial institution’ means—

13 “(A) any bank the deposits of which are in-
14 sured by the Federal Deposit Insurance Corpora-
15 tion;

16 “(B) any member, as defined in section 2 of
17 the Federal Home Loan Bank Act, as amended,
18 of the Federal Home Loan Bank System and any
19 Federal Home Loan Bank;

20 “(C) any institution the accounts of which
21 are insured by the Federal Savings and Loan In-
22 surance Corporation;

23 “(D) any credit union the accounts of which
24 are insured by the Administrator of the National
25 Credit Union Administration;

1 “(E) any Federal land bank, Federal land
2 bank association, Federal intermediate credit
3 bank, production credit association, bank for coop-
4 eratives; and

5 “(F) a small business investment company,
6 as defined in section 103 of the Small Business
7 Investment Act of 1958 (15 U.S.C. 662); and

8 “(2) ‘bank holding company’ or ‘savings and loan
9 holding company’ means any person, corporation, part-
10 nership, business trust, association or similar organiza-
11 tion which controls a financial institution in such a
12 manner as to be a bank holding company or a savings
13 and loan holding company under the Bank Holding
14 Company Act Amendments of 1956 (12 U.S.C. 1841)
15 or the Savings and Loan Holding Company Amend-
16 ments of 1967 (12 U.S.C. 1730a).

17 “(d) This section shall not apply to the payment by a
18 financial institution of the usual salary or director’s fee paid
19 to an officer, director, employee, agent, or attorney thereof,
20 or to a reasonable fee paid by such financial institution to
21 such officer, director, employee, agent, or attorney for serv-
22 ices rendered to such financial institution.”.

23 (b) Section 216 of title 18 is repealed, and the section
24 analysis of chapter 11 for section 216 be amended to read:

“216. Repealed.”.

PART G—BANK FRAUD

1
2 SEC. 1108. (a) Chapter 63 of title 18 of the United
3 States Code is amended by adding a new section as follows:

4 “§ 1344. Bank fraud

5 “(a) Whoever knowingly executes, or attempts to ex-
6 ecute, a scheme or artifice—

7 “(1) to defraud a federally chartered or insured fi-
8 nancial institution; or

9 “(2) to obtain any of the moneys, funds, credits,
10 assets, securities or other property owned by or under
11 the custody or control of a federally chartered or in-
12 sured financial institution by means of false or fraudu-
13 lent pretenses, representations, or promises, shall be
14 fined not more than \$10,000, or imprisoned not more
15 than five years, or both.

16 “(b) As used in this section, the term ‘federally char-
17 tered or insured financial institution’ means—

18 “(1) a bank with deposits insured by the Federal
19 Deposit Insurance Corporation;

20 “(2) an institution with accounts insured by the
21 Federal Savings and Loan Insurance Corporation;

22 “(3) a credit union with accounts insured by the
23 National Credit Union Administration Board;

24 “(4) a Federal home loan bank or a member, as
25 defined in section 2 of the Federal Home Loan Bank

1 Act (12 U.S.C. 1422), of the Federal home loan bank
2 system; or

3 “(5) a bank, banking association, land bank, inter-
4 mediate credit bank, bank for cooperatives, production
5 credit association, land bank association, mortgage as-
6 sociation, trust company, savings bank, or other bank-
7 ing or financial institution organized or operating under
8 the laws of the United States.”.

9 (b) The analysis for chapter 63 of title 18 of the United
10 States Code is amended by adding at the end thereof the
11 following:

“1344. Bank fraud.”.

12 PART H—POSSESSION OF CONTRABAND IN PRISON

13 SEC. 1109. (a) Section 1791 of title 18, United States
14 Code is amended to read as follows:

15 “§ 1791. Providing or possessing contraband in prison

16 “(a) OFFENSE.—A person commits an offense if, in vio-
17 lation of a statute, or a regulation, rule, or order issued pur-
18 suant thereto—

19 “(1) he provides, or attempts to provide, to an
20 inmate of a Federal penal or correctional facility—

21 “(A) a firearm or destructive device;

22 “(B) any other weapon or object that may be
23 used as a weapon or as a means of facilitating
24 escape;

1 “(C) a narcotic drug as defined in section
2 102 of the Controlled Substances Act (21 U.S.C.
3 802);

4 “(D) a controlled substance, other than a
5 narcotic drug, as defined in section 102 of the
6 Controlled Substances Act (21 U.S.C. 802), or an
7 alcoholic beverage;

8 “(E) United States currency; or

9 “(F) any other object; or

10 “(2) being an inmate of a Federal penal or correc-
11 tional facility, he makes, possesses, procures, or other-
12 wise provides himself with, or attempts to make, pos-
13 sess, procure, or otherwise provide himself with, any-
14 thing described in paragraph (1).

15 “(b) GRADING.—An offense described in this section is
16 punishable by—

17 “(1) imprisonment for not more than ten years, a
18 fine of not more than \$25,000, or both, if the object is
19 anything set forth in paragraph (1)(A);

20 “(2) imprisonment for not more than five years, a
21 fine of not more than \$10,000, or both, if the object is
22 anything set forth in paragraph (1)(B) or (1)(C);

23 “(3) imprisonment for not more than one year, a
24 fine of not more than \$5,000, or both, if the object is
25 anything set forth in paragraph (1)(D) or (1)(E); and

1 “(4) imprisonment for not more than six months,
2 a fine of not more than \$1,000, or both, if the object is
3 any other object.

4 “(c) DEFINITIONS.—As used in this section, ‘firearm’
5 and ‘destructive device’ have the meaning given those terms,
6 respectively, in 18 U.S.C. 921(a) (3) and (4).”.

7 (b) Section 1792 of title 18, United States Code, is
8 amended to read as follows:

9 “§1792. Mutiny and riot prohibited

10 “Whoever instigates, connives, willfully attempts to
11 cause, assists, or conspires to cause any mutiny or riot, at
12 any Federal penal or correctional facility, shall be imprisoned
13 not more than ten years or fined not more than \$25,000, or
14 both.”;

15 (c) The analysis at the beginning of chapter 87 of title
16 18, United States Code, is amended to read as follows:

 “CHAPTER 87

 “Sec.

 “1791. Providing or possessing contraband in prison.

 “1792. Mutiny and riot prohibited.”;

17 (d) Chapter 301 of title 18, United States Code, is
18 amended by adding at the end thereof the following new sec-
19 tion:

20 “§ 4012. Summary seizure and forfeiture of prison contra-
21 band

22 “An officer or employee of the Bureau of Prisons may,
23 pursuant to rules and regulations of the Director of the

1 Bureau of Prisons, summarily seize any object introduced
2 into a Federal penal or correctional facility or possessed by
3 an inmate of such a facility in violation of a rule, regulation
4 or order promulgated by the Director, and such object shall
5 be forfeited to the United States.”; and

6 (e) The analysis at the beginning of chapter 301 of title
7 18, United States Code, is amended by adding after the item
8 relating to section 4011 the following:

“4012. Summary seizure and forfeiture of prison contraband.”.

9 PART I—LIVESTOCK FRAUD

10 SEC. 1110. This Part may be cited as the “Livestock
11 Fraud Protection Act”.

12 SEC. 1111. Chapter 31 of title 18, United States Code,
13 is amended by adding a new section 667 to read as follows:

14 “§ 667. Theft of livestock

15 “Whoever obtains or uses the property of another which
16 has a value of \$10,000 or more in connection with the mar-
17 keting of livestock in interstate or foreign commerce with
18 intent to deprive the other of a right to the property or a
19 benefit of the property or to appropriate the property to his
20 own use or the use of another shall be fined not more than
21 \$10,000 or imprisoned not more than five years, or both.”.

22 SEC. 1112. The analysis of chapter 31 of title 18,
23 United States Code, is amended by inserting at the end
24 thereof the following new item:

“667. Theft of livestock.”.

1 SEC. 1113. Section 2316 of title 18, United States
2 Code, is amended by striking out "cattle" each place it ap-
3 pears in the section heading and in the text and inserting in
4 lieu thereof in such instance "livestock".

5 SEC. 1114. Section 2317 of title 18, United States
6 Code, is amended by striking "cattle" each place it appears
7 in the section heading and in the text and inserting in lieu
8 thereof in such instance "livestock".

9 SEC. 1115. The analysis of chapter 113 of title 18,
10 United States Code, is amended by striking out "cattle" in
11 sections 2316 and 2317 and inserting in lieu thereof "live-
12 stock".

13 PART J—18 U.S.C. 219 AMENDMENT

14 SEC. 1116. Section 219 of title 18, United States Code,
15 is amended by:

16 (1) striking out "an officer or employee" and in-
17 serting in lieu thereof "a public official"; and

18 (2) adding at the end thereof the following new
19 paragraph:

20 "For the purpose of this section 'public official' means
21 Member of Congress, the Delegate from the District of Co-
22 lumbia, or Resident Commissioner, either before or after he
23 has qualified, or an officer or employee or person acting for or
24 on behalf of the United States, or any department, agency, or
25 branch of Governments thereof, including the District of Co-

1 lumbia, in any official function, under or by authority of any
2 such department, agency, or branch of Government, or a
3 juror.”.

4 TITLE XII—PROCEDURAL AMENDMENTS

5 PART A—PROSECUTION OF CERTAIN JUVENILES AS
6 ADULTS

7 SEC. 1201. (a) The first paragraph of section 5032 of
8 title 18 of the United States Code is amended to read as
9 follows:

10 “A juvenile alleged to have committed an act of juvenile
11 delinquency, other than a violation of law committed within
12 the special maritime and territorial jurisdiction of the United
13 States for which the maximum authorized term of imprison-
14 ment does not exceed six months, shall not be proceeded
15 against in any court of the United States unless the Attorney
16 General, after investigation, certifies to the appropriate dis-
17 trict court of the United States that (1) the juvenile court or
18 other appropriate court of a State does not have jurisdiction
19 or refuses to assume jurisdiction over said juvenile with re-
20 spect to such alleged act of juvenile delinquency, (2) the
21 State does not have available programs and services ade-
22 quate for the needs of juveniles, or (3) the offense charged is
23 a crime of violence that is a felony or an offense described in
24 section 841, 952(a), 955, or 959 of title 21, and that there is

1 a substantial Federal interest in the case or the offense to
2 warrant the exercise of Federal jurisdiction.”

3 (b) The fourth paragraph of section 5032 of title 18 of
4 the United States Code is amended—

5 (1) by striking “punishable by a maximum term of
6 ten years imprisonment or more, life imprisonment or
7 death,” and inserting in lieu thereof: “that is a crime
8 of violence or an offense described in section 841,
9 952(a), 955, or 959 of title 21,”;

10 (2) by striking out “sixteen” and “sixteenth” and
11 inserting in lieu thereof “fifteen” and “fifteenth” re-
12 spectively; and

13 (3) by striking out the period at the end of the
14 paragraph and inserting in lieu thereof: “; however, a
15 juvenile who is alleged to have committed an act after
16 his sixteenth birthday which if committed by an adult
17 would be a felony offense that has as an element there-
18 of the use, attempted use, or threatened use of physical
19 force against the person of another, or that, by its very
20 nature, involves a substantial risk that physical force
21 against the person of another may be used in commit-
22 ting the offense, or would be an offense described in
23 section 32, 81, 844 (d), (e), (f), (h), (i) or 2275 of this
24 title, and who has previously been found guilty of an
25 act which if committed by an adult would have been

1 one of the offenses set forth in this subsection or an
2 offense in violation of a State felony statute that would
3 have been such an offense if a circumstance giving rise
4 to Federal jurisdiction had existed, shall be transferred
5 to the appropriate district court of the United States
6 for criminal prosecution.”; and

7 (c) Section 5032 of title 18 of the United States Code is
8 further amended by adding at the end thereof the following:

9 “Whenever a juvenile transferred to district court under
10 this section is not convicted of the crime upon which the
11 transfer was based or another crime which would have war-
12 ranted transfer had the juvenile been initially charged with
13 that crime, further proceedings concerning the juvenile shall
14 be conducted pursuant to the provisions of this chapter.

15 “Any proceedings against a juvenile under this chapter
16 or as an adult shall not be commenced until any prior juvenile
17 court records of such juvenile have been received by the
18 court, or the clerk of the juvenile court has certified in writ-
19 ing that the juvenile has no prior record, or that the juve-
20 nile’s record is unavailable and why it is unavailable.

21 “Whenever a juvenile is adjudged delinquent pursuant
22 to the provisions of this chapter, the specific acts which the
23 juvenile has been found to have committed shall be described
24 as part of the official record of the proceedings and part of
25 the juvenile’s official record.”.

1 SEC. 1202. Section 5038 of title 18 of the United States
2 Code is amended to read as follows:

3 “§ 5038. Use of juvenile records

4 “(a) Throughout and upon the completion of the juvenile
5 delinquency proceeding, the records shall be safeguarded
6 from disclosure to unauthorized persons. The records shall be
7 released to the extent necessary to meet the following cir-
8 cumstances:

9 “(1) inquiries received from another court of law;

10 “(2) inquiries from an agency preparing a presen-
11 tence report for another court;

12 “(3) inquiries from law enforcement agencies
13 where the request for information is related to the in-
14 vestigation of a crime or a position within that agency;

15 “(4) inquiries, in writing, from the director of a
16 treatment agency or the director of a facility to which
17 the juvenile has been committed by the court;

18 “(5) inquiries from an agency considering the
19 person for a position immediately and directly affecting
20 the national security; and

21 “(6) inquiries from any victim of such juvenile de-
22 linquency, or if the victim is deceased from the imme-
23 diate family of such victim, related to the final disposi-
24 tion of such juvenile by the court in accordance with
25 section 5037.

1 Unless otherwise authorized by this section, information
2 about the juvenile record may not be released when the re-
3 quest for information is related to an application for employ-
4 ment, license, bonding, or any civil right or privilege. Re-
5 sponses to such inquiries shall not be different from responses
6 made about persons who have never been involved in a delin-
7 quency proceeding.

8 “(b) District courts exercising jurisdiction over any juve-
9 nile shall inform the juvenile, and his parent or guardian, in
10 writing in clear and nontechnical language, of rights relating
11 to his juvenile record.

12 “(c) During the course of any juvenile delinquency pro-
13 ceeding, all information and records relating to the proceed-
14 ing, which are obtained or prepared in the discharge of an
15 official duty by an employee of the court or an employee of
16 any other governmental agency, shall not be disclosed direct-
17 ly or indirectly to anyone other than the judge, counsel for
18 the juvenile and the Government, or others entitled under
19 this section to receive juvenile records.

20 “(d) Whenever a juvenile is found guilty of committing
21 an act which if committed by an adult would be a felony that
22 is a crime of violence or an offense described in section 841,
23 952(a), 955, or 959 of title 21, such juvenile shall be finger-
24 printed and photographed. Except a juvenile described in
25 subsection (f), fingerprints and photographs of a juvenile who

1 is not prosecuted as an adult shall be made available only in
2 accordance with the provisions of subsection (a) of this sec-
3 tion. Fingerprints and photographs of a juvenile who is pros-
4 ecuted as an adult shall be made available in the manner
5 applicable to adult defendants.

6 “(e) Unless a juvenile who is taken into custody is pros-
7 ecuted as an adult neither the name nor picture of any juve-
8 nile shall be made public in connection with a juvenile delin-
9 quency proceeding.

10 “(f) Whenever a juvenile has on two separate occasions
11 been found guilty of committing an act which if committed by
12 an adult would be a felony crime of violence or an offense
13 described in section 841, 952(a), 955, or 959 of title 21, the
14 court shall transmit to the Federal Bureau of Investigation,
15 Identification Division, the information concerning the adju-
16 dications, including name, date of adjudication, court, of-
17 fenses, and sentence, along with the notation that the matters
18 were juvenile adjudications.”.

19 PART B—WIRETAP AMENDMENTS

20 SEC. 1203. (a) Section 2518(7) of title 18 of the United
21 States Code is amended by inserting “, the Deputy Attorney
22 General, the Associate Attorney General,” after the words
23 “Attorney General”;

24 (b) Paragraph (a) of section 2518(7) of title 18 of the
25 United States Code is amended to read as follows:

1 “(a) an emergency situation exists that involves—

2 “(i) immediate danger of death or serious
3 physical injury to any person,

4 “(ii) conspiratorial activities threatening the
5 national security interest, or

6 “(iii) conspiratorial activities characteristic of
7 organized crime,

8 that requires a wire or oral communication to be inter-
9 cepted before an order authorizing such interception
10 can, with due diligence, be obtained, and”.

11 (c) Subsection (1) of section 2516 of title 18 of the
12 United States Code is amended—

13 (1) in paragraph (c) by adding “section 1343
14 (fraud by wire, radio, or television), section 2252 or
15 2253 (sexual exploitation of children),” after “section
16 664 (embezzlement from pension and welfare funds),”;

17 (2) again in paragraph (c) by deleting “section
18 1503” and substituting “sections 1503, 1512, and
19 1513”;

20 (3) by deleting the “or” at the end of paragraph
21 (f), by redesignating present paragraph “(g)” as “(h)”,
22 and by inserting a new paragraph (g) as follows:

23 “(g) a violation of section 5322 of title 31, United
24 States Code (dealing with the reporting of currency
25 transactions); or” and

1 (4) in the first paragraph by inserting the words
2 “Deputy Attorney General, Associate Attorney Gener-
3 al,” after the words “Attorney General.”.

4 PART C—EXPANSION OF VENUE FOR THREAT OFFENSES

5 SEC. 1204. (a) The second paragraph of subsection (a)
6 of section 3237 of title 18, United States Code is amended to
7 read as follows:

8 “Any offense involving the use of the mails, transporta-
9 tion in interstate or foreign commerce, or the importation of
10 an object or person into the United States is a continuing
11 offense and, except as otherwise expressly provided by enact-
12 ment of Congress, may be inquired of and prosecuted in any
13 district from, through, or into which such commerce, mail
14 matter, or imported object or person moves.”.

15 (b) Section 3239 of title 18 of the United States Code is
16 deleted, and amend section analysis accordingly.

17 PART D—INJUNCTIONS AGAINST FRAUD

18 SEC. 1205. (a) Chapter 63 of title 18 of the United
19 States Code is amended by adding at the end thereof a new
20 section 1345 as follows:

21 “§ 1345. Injunctions against fraud

22 “Whenever it shall appear that any person is engaged
23 or is about to engage in any act which constitutes or will
24 constitute a violation of this chapter, the Attorney General
25 may initiate a civil proceeding in a district court of the

1 United States to enjoin such violation. The court shall pro-
2 ceed as soon as practicable to the hearing and determination
3 of such an action, and may, at any time before final determi-
4 nation, enter such a restraining order or prohibition, or take
5 such other action, as is warranted to prevent a continuing
6 and substantial injury to the United States or to any person
7 or class of persons for whose protection the action is brought.
8 A proceeding under this section is governed by the Federal
9 Rules of Civil Procedure, except that, if an indictment has
10 been returned against the respondent, discovery is governed
11 by the Federal Rules of Criminal Procedure.”.

12 (b) The analysis at the beginning of chapter 63 of title
13 18 is amended by adding after the item relating to section
14 1343 the following:

“1345. Injunctions against fraud.”.

15 PART E—GOVERNMENT APPEAL OF POST-CONVICTION
16 NEW TRIAL ORDERS

17 SEC. 1206. The first paragraph of section 3731 of title
18 18 of the United States Code is amended by adding, after
19 “indictment or information” the words, “or granting a new
20 trial after verdict or judgment,”.

21 PART F—WITNESS SECURITY PROGRAM IMPROVEMENTS

22 SEC. 1207. (a) Title 18 of the United States Code is
23 amended by adding after chapter 223 the following new
24 chapter:

1 **“CHAPTER 224—PROTECTION OF WITNESSES**

“Sec.

“3521. Witness relocation and protection.

“3522. Reimbursement of expenses.

“3523. Penalty for wrongful disclosure.

“3524. Definition for chapter.

2 **“§ 3521. Witness relocation and protection**

3 “(a) **RELOCATION.**—The Attorney General may pro-
 4 vide for the relocation or protection of a Government witness
 5 or a potential Government witness in an official proceeding
 6 concerning an organized criminal activity or other serious of-
 7 fense if the Attorney General determines that an offense de-
 8 scribed in section 1512 or 1513, or a State or local offense
 9 that is similar in nature or that involves a crime of violence
 10 directed at a witness, is likely to be committed. The Attorney
 11 General may also provide for the relocation or protection of
 12 the immediate family of, or a person otherwise closely associ-
 13 ated with, such witness or potential witness if the family or
 14 person may also be endangered. The Attorney General shall
 15 issue guidelines defining the types of cases for which the ex-
 16 ercise of authority of the Attorney General contained in this
 17 subsection would be appropriate. Before providing protection
 18 to any person under this chapter, the Attorney General
 19 shall—

20 “(1) to the extent practicable, obtain and consider
 21 information relating to the suitability of the person for
 22 inclusion in the program, including the criminal history,
 23 if any, and a psychological evaluation of, the person;

1 “(2) make a written assessment in each case of
2 the seriousness of the investigation or case in which
3 the person’s information or testimony has been or will
4 be provided, and the possible risk of danger to persons
5 and property in the community where the person is to
6 be relocated; and

7 “(3) determine that the need for such protection
8 outweighs the risk of danger to the public.

9 Neither the United States nor the Attorney General shall be
10 subject to civil liability on account of a decision to provide
11 protection under this chapter.

12 “(b) RELATED PROTECTIVE MEASURES.—In connec-
13 tion with the relocation or protection of a witness, a potential
14 witness, or an immediate family member or close associate of
15 a witness or potential witness, the Attorney General may
16 take any action he determines to be necessary to protect such
17 person from bodily injury, and otherwise to assure his health,
18 safety, and welfare, for as long as, in the judgment of the
19 Attorney General, such danger exists. The Attorney General
20 may—

21 “(1) provide suitable official documents to enable
22 a person relocated to establish a new identity;

23 “(2) provide housing for the person relocated or
24 protected;

1 “(3) provide for the transportation of household
2 furniture and other personal property to the new resi-
3 dence of the person relocated;

4 “(4) provide a tax free subsistence payment, in a
5 sum established in regulations issued by the Attorney
6 General, for such times as the Attorney General deter-
7 mines to be warranted;

8 “(5) assist the person relocated in obtaining em-
9 ployment; and

10 “(6) disclose or refuse to disclose the identity or
11 location of the person relocated or protected, or any
12 other matter concerning the person or the program
13 after weighing the danger such a disclosure would pose
14 to the person, the detriment it would cause to the gen-
15 eral effectiveness of the program, and the benefit it
16 would afford to the public or to the person seeking the
17 disclosure, except that the Attorney General shall,
18 upon the request of State or local law enforcement offi-
19 cials, promptly disclose to such officials the identity
20 and location, criminal records, fingerprints, and other
21 relevant information relating to the person relocated or
22 protected when it appears that the person is under in-
23 vestigation for or has been arrested for or charged with
24 an offense that is punishable by more than one year in
25 prison or that is a crime of violence. The Attorney

1 General shall establish an accurate and effective
2 system of records concerning the criminal history of
3 persons provided protection under this chapter in order
4 to provide the information described in this paragraph.

5 “(c) CIVIL ACTION AGAINST A RELOCATED
6 PERSON.—Notwithstanding the provisions of subsection
7 (b)(6), if a person relocated under this section is named as a
8 defendant in a civil cause of action, arising prior to the per-
9 son’s relocation, for damages resulting from bodily injury,
10 property damage, or injury to business, process in the civil
11 proceeding may be served upon the Attorney General. The
12 Attorney General shall make reasonable efforts to serve a
13 copy of the process upon the person relocated at his last
14 known address. If a judgment in such an action is entered
15 against the person relocated, the Attorney General shall de-
16 termine whether the person has made reasonable efforts to
17 comply with the provisions of that judgment. The Attorney
18 General shall take affirmative steps to urge the person relo-
19 cated to comply with any judgment rendered. If the Attorney
20 General determines that the person has not made reasonable
21 efforts to comply with the provisions of the judgment, he
22 may, in his discretion, after weighing the danger to the
23 person relocated, disclose the identity and location of that
24 person to the plaintiff entitled to recovery pursuant to the
25 judgment. Any such disclosure shall be made upon the ex-

1 press condition that further disclosure by the plaintiff of such
2 identity or location may be made only if essential to the
3 plaintiff's efforts to recover under the judgment, and only to
4 such additional persons as is necessary to effect the recovery.
5 Any such disclosure or nondisclosure by the Attorney Gener-
6 al shall not subject the Government to liability in any action
7 based upon the consequences thereof.

8 “(d) ENFORCEMENT OF JUDGMENT IN CIVIL ACTION
9 BY SPECIAL MASTER.—(1) Anytime one hundred twenty
10 days after a decision by the Attorney General to deny disclo-
11 sure of the current identity and location of a person provided
12 protection under this chapter to any person who holds a judi-
13 cial order or judgment for money or damages entered by a
14 Federal or State court in his favor against the protected
15 person, the person who holds the judicial order or judgment
16 for money or damages shall have standing to petition the
17 United States district court in the district where the petition-
18 er resides for appointment of a special master. The United
19 States district court in the district where the petitioner re-
20 sides shall have jurisdiction over actions brought under this
21 subsection.

22 “(2) (A) Upon a determination that—

23 “(i) the petitioner holds a Federal or State judicial
24 order or judgment; and

1 “(ii) the Attorney General has declined to disclose
2 to the petitioner the current identity and location of the
3 protected person with respect to whom the order of
4 judgment was entered,

5 the court shall appoint a special master to act on behalf of the
6 petitioner to enforce the order or judgment.

7 “(B) The clerk of the court shall promptly furnish the
8 master appointed pursuant to clause (A) with a copy of the
9 order of appointment. The Attorney General shall disclose to
10 the master the current identity and location of such protected
11 person and any other information necessary to enable the
12 master to carry out his duties under this subsection. It is the
13 responsibility of the court to assure that the master proceeds
14 with all reasonable diligence and dispatch to enforce the
15 rights of the petitioner.

16 “(3) It is the duty of the master to—

17 “(A) proceed with all reasonable diligence and
18 dispatch to enforce the rights of the petitioner; and

19 “(B) to carry out his enforcement duties in a
20 manner that minimizes, to the extent practicable, the
21 safety and security of the protected person.

22 The master may disclose to State or Federal court judges, to
23 the extent necessary to effect the judgment, the new identity
24 or location of the protected person. In no other cases shall
25 the master disclose the new identity or location of the pro-

1 tected person without permission of the Attorney General.
2 Any good faith disclosure made by the master in the perform-
3 ance of his duties under this subsection shall not create civil
4 liability against the United States.

5 “(4) Upon appointment, the master shall have the power
6 to take any action with respect to the judgment or order
7 which the petitioner could take including the initiation of ju-
8 dicial enforcement actions in any Federal or State court or
9 the assignment of such enforcement actions to a third party
10 under applicable Federal or State law.

11 “(5) The costs of the action authorized by this subsec-
12 tion and the compensation to be allowed to a master shall be
13 fixed by the court and shall be apportioned among the parties
14 as follows:

15 “(A) the petitioner shall be assessed in the
16 amount he would have paid to collect on his judgment
17 in an action not arising under the provisions of this
18 section; and

19 “(B) the protected person shall be assessed the
20 costs which are normally charged to debtors in similar
21 actions and any other costs which are incurred as a
22 result of an action brought pursuant to this section.

23 In the event that the costs and compensation to the master
24 are not met by the petitioner or protected person, the court
25 may, in its discretion, enter judgment against the United

1 States for costs and fees reasonably incurred as a result of an
2 action brought pursuant to this section.

3 “(e) RESOLUTION OF COMPLAINTS OR GRIEV-
4 ANCES.—The Attorney General shall establish guidelines
5 and procedures for the resolution of complaints or grievances
6 of persons provided protection under this chapter regarding
7 the administration of the program.

8 **“§ 3522. Reimbursement of expenses**

9 “The provision of transportation, housing, subsistence,
10 or other assistance to a person under section 3521 may be
11 conditioned by the Attorney General upon reimbursement of
12 expenses in whole or in part to the United States by a State
13 or local government.

14 **“§ 3523. Penalty for wrongful disclosure**

15 “Whoever without the authorization of the Attorney
16 General, knowingly discloses any information received from
17 the Attorney General under section 3521(b)(6) shall be fined
18 not more than \$10,000, or imprisoned not more than five
19 years, or both.

20 **“§ 3524. Definition for chapter**

21 “As used in this subchapter ‘government’ includes the
22 Federal Government and a State or local government.”

23 (b) The table of chapters for part II of title 18, United
24 States Code, is amended by adding after the item for chapter
25 223 the following new item:

“224. Protection of witnesses..... 3521”.

1 (c) Title V of the Organized Crime Control Act of 1970
2 (84 Stat. 933) is repealed.

3 (d) Section 568 of title 28, United States Code, is
4 amended—

5 (1) by inserting “(a)” before “Appropriations”;

6 and

7 (2) by adding at the end thereof a new subsection
8 to read as follows:

9 “(b) Without regard to the provisions of sections 3302
10 and 9701 of title 31 of the United States Code, the United
11 States Marshals Service is authorized, to the extent provided
12 in the Appropriations Act, to credit to its appropriations ac-
13 count all fees, commissions, and expenses collected for—

14 “(1) the service of civil process, including com-
15 plaints, summonses, subpoenas, and similar process;
16 and

17 “(2) seizures, levies, and sales associated with ju-
18 dicial orders of execution;

19 for the purposes of carrying out these activities. Such cred-
20 ited amounts may be carried over from year to year for these
21 purposes.”.

22 PART G—CLARIFICATION OF CHANGE OF VENUE FOR
23 CERTAIN TAX OFFENSES

24 SEC. 1208. Section 3237(b) of title 18 of the United
25 States Code is amended to read as follows:

1 “(b) Notwithstanding the second paragraph of subsec-
2 tion (a), where an offense is described in section 7203 of the
3 Internal Revenue Code of 1954, or where venue for prosecu-
4 tion of an offense described in section 7201 or 7206 (1), (2)
5 or (5) of such Code (whether or not the offense is also de-
6 scribed in another provision of law) is based solely on a mail-
7 ing to the Internal Revenue Service, and prosecution is
8 begun in a judicial district other than the judicial district in
9 which the defendant resides, he may upon motion filed in the
10 district in which the prosecution is begun, elect to be tried in
11 the district in which he was residing at the time the alleged
12 offense was committed: *Provided*, That the motion is filed
13 within twenty days after arraignment of the defendant upon
14 indictment or information.”.

15 PART H—18 U.S.C. 951 AMENDMENTS

16 SEC. 1209. Section 951 of title 18, United States Code,
17 is amended by—

18 (1) striking out “Secretary of State” and inserting
19 in lieu thereof “Attorney General if required in subsec-
20 tion (b)”;

21 (2) inserting “(a)” before “Whoever” and adding
22 at the end of such subsection the following new subsec-
23 tions:

24 “(b) The Attorney General shall promulgate rules and
25 regulations establishing requirements for notification.

1 “(c) The Attorney General shall, upon receipt, promptly
2 transmit one copy of each notification statement filed under
3 this section to the Secretary of State for such comment and
4 use as the Secretary of State may determine to be appropri-
5 ate from the point of view of the foreign relations of the
6 United States. Failure of the Attorney General to do so shall
7 not be a bar to prosecution under this section.

8 “(d) For purposes of this section, the term ‘agent of a
9 foreign government’ means an individual who agrees to oper-
10 ate within the United States subject to the direction or con-
11 trol of a foreign government or official, except that such term
12 does not include—

13 “(1) a duly accredited diplomatic or consular offi-
14 cer of a foreign government, who is so recognized by
15 the Department of State;

16 “(2) any officially and publicly acknowledged and
17 sponsored official or representative of a foreign govern-
18 ment;

19 “(3) any officially and publicly acknowledged and
20 sponsored member of the staff of, or employee of, an
21 officer, official, or representative described in para-
22 graph (1) or (2), who is not a United States citizen; or

23 “(4) any person engaged in a legal commercial
24 transaction.”.

1 PART I—JURISDICTION OVER CRIMES BY UNITED
2 STATES NATIONALS IN PLACES OUTSIDE THE JU-
3 RISDICTION OF ANY NATION

4 SEC. 1210. Section 7 of title 18, United States Code, is
5 amended by adding a new paragraph, as follows:

6 “(7) Any place outside the jurisdiction of any
7 nation with respect to an offense by or against a na-
8 tional of the United States.”.

9 PART J—DEPARTMENT OF JUSTICE INTERNAL
10 OPERATIONS GUIDELINES

11 SEC. 1211. The Attorney General shall, not later than
12 twelve months after the date of enactment of this Act, pro-
13 vide a detailed report to the Congress concerning—

14 (1) the extent to which internal operating guide-
15 lines promulgated by the Attorney General for the di-
16 rection of the investigative and prosecutorial activities
17 of the Department of Justice have been relied upon by
18 criminal defendants in courts of the United States as
19 the basis for due process challenges to indictment and
20 prosecution by law enforcement authorities of crimes
21 prohibited by Federal statute;

22 (2) the extent to which courts of the United
23 States have sustained challenges based upon such
24 guidelines in cases wherein it has been alleged that
25 Federal investigative agents or prosecutorial personnel

1 have failed to comply with the requirements of such in-
2 ternal operating guidelines, and the extent and nature
3 of such failures to comply as the courts of the United
4 States have found to exist;

5 (3) the remedial measures taken by the Attorney
6 General to ensure the minimization of such violations
7 of internal operating guidelines by the investigative or
8 prosecutorial personnel of the Department of Justice;
9 and

10 (4) the advisability of the enactment of legislation
11 that would prohibit criminal defendants in the courts of
12 the United States from relying upon such violations as
13 grounds for the dismissal of indictments, suppression of
14 evidence, or the vacation of judgments of conviction.

15 PART K—NOTICE ON SOCIAL SECURITY CHECKS

16 SEC. 1212. (a) The Secretary of the Treasury shall take
17 such steps as may be necessary to provide that all checks
18 issued for payment of benefits under title II of the Social
19 Security Act, and the envelopes in which such checks are
20 mailed, contain a printed notice that the commission of forg-
21 ery in conjunction with the cashing or attempted cashing of
22 such checks constitutes a violation of Federal law. Such
23 notice shall also state the maximum penalties for forgery
24 under the applicable provisions of title 18 of the United
25 States Code.

1 (b) Subsection (a) shall apply with respect to checks
2 issued for months after the ninth month after the date of the
3 enactment of this Act.

4 PART L—FOREIGN EVIDENCE IMPROVEMENTS

5 SEC. 1213. This part may be cited as the “Acquisition
6 of Foreign Evidence Improvements Act”.

7 FOREIGN RECORDS ADMISSIBILITY

8 SEC. 1214. (a) Chapter 223 of title 18, United States
9 Code, is amended by striking out sections 3491 through 3494
10 and all references thereto and inserting in lieu thereof the
11 following:

12 **“§ 3491. Foreign records of regularly conducted activity**

13 “(a) A document, or copy thereof, which is a memoran-
14 dum, report, record, or data compilation in any form, of acts,
15 events, conditions, opinions or diagnoses, made or maintained
16 in a foreign country shall be admissible in any criminal action
17 or proceeding in any court of the United States as evidence of
18 the matters set forth therein if a competent person certifies,
19 under circumstances which subject him to the penalties for
20 perjury in that country—

21 “(1) that the document is made or kept in the
22 course of a regularly conducted business activity;

23 “(2) that it is a regular practice of that business
24 activity to make or keep a document of that kind;

1 “(3) that the document was made at or about the
2 time of the occurrence of the matters set forth, by, or
3 from information transmitted by a person with knowl-
4 edge of those matters;

5 “(4) his position in the management or employ of
6 the business activity and how he is in a position to
7 know the matters which he certifies under paragraphs
8 (1) through (3) and paragraph (5); and

9 “(5) if the document is not the original, that it is
10 a true and exact copy of the original.

11 “(b) A certification in compliance with subsection (a)
12 shall constitute prima facie proof of the genuineness and
13 trustworthiness of the document, and of the competency of
14 the person making the certification.

15 “(c) The memorandum, report, record or data compila-
16 tion and the statement of the custodian or other qualified
17 witness may not be admitted in evidence unless the propo-
18 nent of it makes known to the adverse party sufficiently in
19 advance of the trial or hearing to provide the adverse party
20 with a fair opportunity to prepare to meet it, his intention to
21 offer the statement and the particulars of it, including the
22 name and address of the custodian or other qualified witness.

23 “(d) Upon written demand of the proponent of the evi-
24 dence to be admitted, the adverse party shall serve upon such
25 proponent, within ten days after such demand, a written

1 notice of his intention to object. Such notice of intention shall
2 state the nature and basis for such objection.”.

3 (b) The table of sections for chapter 223 of title 18,
4 United States Code, is amended by striking out the items
5 relating to sections 3491 through 3494 and inserting in lieu
6 thereof the following:

“3491. Foreign records of regularly conducted activity.”.

7 APPOINTMENT OF MASTERS

8 SEC. 1215. Rule 15 of the Federal Rules of Criminal
9 Procedure is amended by adding at the end thereof the fol-
10 lowing:

11 “(h) MASTERS AT FOREIGN DEPOSITIONS.—A court
12 may appoint a master to attend a deposition taken outside the
13 United States to act on behalf of the court to the extent
14 possible. Such deposition shall be taken and filed in a manner
15 consistent with this rule and subject to any additional condi-
16 tions as the court shall provide, except that, notwithstanding
17 any other provision of law, the Federal Rules of Evidence
18 shall not apply.”.

19 NOTICE TO UNITED STATES AUTHORITY

20 SEC. 1216. Section 1781 of title 28, United States
21 Code, is amended by adding at the end thereof the following:

22 “(c) No person or entity subject to the jurisdiction of the
23 United States shall take, or cause to be taken, any action in a
24 foreign country to impair, delay, challenge or prevent the
25 execution of a request by the United States or any agency or

1 authority thereof either through letters rogatory, treaty, con-
2 vention, or any other means, for evidence located in that
3 country, without having simultaneously served the United
4 States or private litigant with copies of every pleading, objec-
5 tion, opposition, or other document submitted to any foreign
6 authority in furtherance of such action.”.

7

LIMITATIONS AMENDMENT

8 SEC. 1217. (a) Chapter 213 of title 18 of the United
9 States Code is amended by adding at the end thereof the
10 following new section:

11 **“§ 3292. Suspension of limitations to obtain foreign infor-**
12 **mation or evidence**

13 “(a) Upon application to the court in which the offense
14 lies, the running of any period of limitations applicable to any
15 offense shall be ordered to be suspended for such period as
16 provided in subsection (b) of this section to allow the United
17 States to obtain or to seek to obtain information or evidence
18 from one or more foreign jurisdictions if it reasonably appears
19 that material evidence, fruits, or instrumentalities of a crime
20 are in such jurisdictions.

21 “(b) The period of suspension under this section shall
22 run from the date of issuance of a request for foreign informa-
23 tion or evidence, until the foreign authority takes final action
24 upon the request; but in no case shall the period of suspen-
25 sion exceed three years.

1 “(c) If more than one such request is made, the respec-
2 tive periods of suspension may be aggregated, but not to
3 exceed a total of three years.

4 “(d) Nothing in this section shall extend the period of
5 limitations if final action on such requests by all foreign au-
6 thorities is complete before the period of limitations would
7 expire without regard to this section.”.

8 (b) The table of sections for chapter 213 of title 18,
9 United States Code, is amended by adding after the item re-
10 lating to section 3291 the following:

“3292. Suspension of limitations to obtain foreign information or evidence.”.

11 SPEEDY TRIAL AMENDMENT

12 SEC. 1218. Section 3161(h) of title 18, United States
13 Code, is amended—

14 (1) by redesignating paragraph (8) as paragraph
15 (9);

16 (2) by striking out “paragraph (8)(A)” in para-
17 graph (9) as redesignated herein and inserting in lieu
18 thereof “subparagraph (A)”;

19 (3) by inserting the following new paragraph after
20 paragraph (7):

21 “(8) Any period of delay, for the purpose of ob-
22 taining or seeking to obtain foreign information or evi-
23 dence, which would qualify as a period of suspension of

1 the running of any statute of limitations under section
2 3292 of this title.”.

Passed the Senate February 2 (legislative day, January
30), 1984.

Attest: WILLIAM F. HILDENBRAND,
Secretary.