

In the Senate of the United States,

September 18, 1996.

Resolved, That the bill from the House of Representatives (H.R. 3723) entitled “An Act to amend title 18, United States Code, to protect proprietary economic information, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Economic Espionage*
3 *Act of 1996”.*

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 *(a) FINDINGS.—Congress finds that—*

6 *(1) sustaining a healthy and competitive na-*
7 *tional economy is imperative;*

8 *(2) the development and production of propri-*
9 *etary economic information involves every aspect of*
10 *interstate commerce and business;*

1 (3) *the development, production, protection, and*
2 *lawful exchange, sale, and transfer of proprietary eco-*
3 *nom ic information is essential to maintaining the*
4 *health and competitiveness of interstate commerce and*
5 *the national economy;*

6 (4) *much proprietary economic information*
7 *moves in interstate and foreign commerce and propri-*
8 *etary economic information that does not move in*
9 *interstate or foreign commerce directly and substan-*
10 *tially affects proprietary economic information that*
11 *does;*

12 (5) *the theft, wrongful destruction or alteration,*
13 *misappropriation, and wrongful conversion of propri-*
14 *etary economic information substantially affects and*
15 *harms interstate commerce, costing United States*
16 *firms, businesses, industries, and consumers millions*
17 *of dollars each year; and*

18 (6) *enforcement of existing State laws protecting*
19 *proprietary economic information is frustrated by the*
20 *ease with which stolen or wrongfully appropriated*
21 *proprietary economic information is transferred*
22 *across State and national boundaries.*

23 (b) *PURPOSE.*—*The purpose of this Act is—*

24 (1) *to promote the development and lawful utili-*
25 *zation of United States proprietary economic infor-*

1 *mation produced for, or placed in, interstate and for-*
 2 *foreign commerce by protecting it from theft, wrongful*
 3 *destruction or alteration, misappropriation, and con-*
 4 *version; and*

5 *(2) to secure to authors and inventors the exclu-*
 6 *sive right to their respective writings and discoveries.*

7 **SEC. 3. PREVENTION OF ECONOMIC ESPIONAGE AND PRO-**
 8 **TECTION OF PROPRIETARY ECONOMIC IN-**
 9 **FORMATION IN INTERSTATE AND FOREIGN**
 10 **COMMERCE.**

11 *(a) IN GENERAL.—Title 18, United States Code, is*
 12 *amended by inserting after chapter 89 the following new*
 13 *chapter:*

14 **“CHAPTER 90—PROTECTION OF**
 15 **PROPRIETARY ECONOMIC INFORMATION**

“Sec.

“1831. *Definitions.*

“1832. *Criminal activities affecting proprietary economic information.*

“1833. *Criminal forfeiture.*

“1834. *Civil remedies.*

“1835. *Extraterritoriality.*

“1836. *Construction with other laws.*

“1837. *Preservation of confidentiality.*

“1838. *Prior authorization requirement.*

“1839. *Law enforcement and intelligence activities.*

16 **“§ 1831. Definitions**

17 *“As used in this chapter:*

18 *“(1) The term ‘person’ means a natural person,*
 19 *corporation, agency, association, institution, or any*
 20 *other legal, commercial, or business entity.*

1 “(2) The term ‘proprietary economic informa-
2 tion’ means all forms and types of financial, business,
3 scientific, technical, economic, or engineering infor-
4 mation, including data, plans, tools, mechanisms,
5 compounds, formulas, designs, prototypes, processes,
6 procedures, programs, codes, or commercial strategies,
7 whether tangible or intangible, and whether stored,
8 compiled, or memorialized physically, electronically,
9 graphically, photographically, or in writing that—

10 “(A) the owner thereof has taken reasonable
11 measures, under the circumstances, to keep such
12 information confidential; and

13 “(B) the information derives independent
14 economic value, actual or potential, from not
15 being generally known to, and not being readily
16 ascertainable, acquired, or developed by legal
17 means by the public.

18 The term does not include any general knowledge, ex-
19 perience, training, or skill that a person lawfully has
20 acquired due to his work as an employee of or as an
21 independent contractor for any person.

22 “(3) The term ‘owner’ means the person or per-
23 sons in whom, or government component, department,
24 or agency in which, rightful legal, or equitable title

1 to, or license in, proprietary economic information is
2 reposed.

3 “(4) The term ‘without authorization’ means not
4 permitted, expressly or implicitly, by the owner.

5 **“§ 1832. Criminal activities affecting proprietary eco-**
6 **nom ic information**

7 “(a) Any person, with intent to, or reason to believe
8 that it will, injure any owner of proprietary economic in-
9 formation and with intent to convert it to his or her own
10 use or benefit or the use or benefit of another, who know-
11 ingly—

12 “(1) steals, or without authorization appro-
13 priates, takes, carries away, or conceals, or by fraud,
14 artifice, or deception obtains such information;

15 “(2) without authorization copies, duplicates,
16 sketches, draws, photographs, downloads, uploads, al-
17 ters, destroys, photocopies, replicates, transmits, deliv-
18 ers, sends, mails, communicates, or conveys such in-
19 formation;

20 “(3) receives, buys, or possesses such information,
21 knowing the same to have been stolen or appro-
22 priated, obtained, or converted without authorization;

23 “(4) attempts to commit any offense described in
24 paragraphs (1) through (3);

1 “(5) solicits another to commit any offense de-
2 scribed in paragraphs (1) through (3); or

3 “(6) conspires with one or more other persons to
4 commit any offense described in paragraphs (1)
5 through (3), and one or more of such persons do any
6 act to effect the object of the conspiracy,
7 shall, except as provided in subsection (b), be fined up to
8 \$250,000, or twice the value of the proprietary economic
9 information, whichever is greater, or imprisoned not more
10 than 10 years, or both.

11 “(b) Any organization that commits any offense de-
12 scribed in subsection (a) shall be fined up to \$10,000,000,
13 or twice the value of the proprietary economic information,
14 whichever is greater.

15 “(c) This section does not prohibit the reporting of any
16 suspected criminal activity or regulatory violation to any
17 appropriate agency or instrumentality of the United States,
18 a State, a political subdivision of a State, or to Congress.

19 **“§ 1833. Criminal forfeiture**

20 “(a) Notwithstanding any provision of State law, any
21 person or organization convicted of a violation under this
22 chapter shall forfeit to the United States—

23 “(1) any property constituting or derived from,
24 any proceeds the person or organization obtained, di-

1 *rectly or indirectly, as the result of such violation;*
2 *and*

3 *“(2) any of the person’s or organization’s prop-*
4 *erty used, or intended to be used, in any manner or*
5 *part to commit or facilitate the commission of such*
6 *violation.*

7 *“(b) The court, in imposing a sentence on such person*
8 *or organization, shall order, in addition to any other sen-*
9 *tence imposed pursuant to this chapter, that the person or*
10 *organization forfeit to the United States all property de-*
11 *scribed in this section.*

12 *“(c) Property subject to forfeiture under this section,*
13 *any seizure and disposition thereof, and any administrative*
14 *or judicial proceeding in relation thereto, shall be governed*
15 *by section 413 of the Comprehensive Drug Abuse Prevention*
16 *and Control Act of 1970 (21 U.S.C. 853), except for sub-*
17 *section 413(d) which shall not apply to forfeitures under*
18 *this section.*

19 *“(d) Notwithstanding section 524(c) of title 28, there*
20 *shall be deposited in the Crime Victims Fund established*
21 *under section 1402 of the Victims of Crime Act of 1984 (42*
22 *U.S.C. 10601) all amounts from the forfeiture of property*
23 *under this section remaining after the payment of expenses*
24 *and sale authorized by law.*

1 **“§ 1834. Civil remedies**

2 “(a) *The district courts of the United States shall have*
3 *jurisdiction to prevent and restrain violations of sections*
4 *1832 of this chapter by issuing appropriate orders.*

5 “(b) *The Attorney General may institute proceedings*
6 *under this section. Pending final determination thereof, the*
7 *court may at any time enter such restraining orders or pro-*
8 *hibitions, or take such other actions, including the accept-*
9 *ance of satisfactory performance bonds, as it shall deem*
10 *proper.*

11 “(c) *A final judgment or decree rendered in favor of*
12 *the United States in any criminal proceeding brought by*
13 *the United States under this chapter shall estop the defend-*
14 *ant from denying the essential allegations of the criminal*
15 *offense in any subsequent civil proceeding brought by the*
16 *United States.*

17 **“§ 1835. Extraterritoriality**

18 “(a) *This chapter applies to conduct occurring within*
19 *the United States.*

20 “(b) *This chapter also applies to conduct occurring*
21 *outside the United States if—*

22 “(1) *the offender is a natural person who is a*
23 *citizen or permanent resident alien of the United*
24 *States, or an organization organized under the laws*
25 *of the United States or a State or political subdivi-*
26 *sion thereof; or*

1 “(2) an act in furtherance of the offense was
2 committed in the United States.

3 **“§ 1836. Construction with other laws**

4 *“This chapter shall not be construed to preempt or dis-*
5 *place any other Federal or State remedies, whether civil or*
6 *criminal, for the misappropriation of proprietary economic*
7 *information, or to affect the otherwise lawful disclosure of*
8 *information by any government employee under section 552*
9 *of title 5 (commonly known as the Freedom of Information*
10 *Act).*

11 **“§ 1837. Preservation of confidentiality**

12 *“In any prosecution or other proceeding under this*
13 *chapter, the court shall enter such orders and take such*
14 *other action as may be necessary and appropriate to pre-*
15 *serve the confidentiality of proprietary economic informa-*
16 *tion, consistent with rule 16 of the Federal Rules of Crimi-*
17 *nal Procedure, the Federal Rules of Evidence, and other ap-*
18 *plicable laws. An interlocutory appeal by the United States*
19 *shall lie from a decision or order of a district court author-*
20 *izing or directing the disclosure of proprietary economic in-*
21 *formation.*

22 **“§ 1838. Prior authorization requirement**

23 *“The United States may not file a charge under this*
24 *chapter or use a violation of this chapter as a predicate*
25 *offense under any other law without the personal approval*

1 of the Attorney General, the Deputy Attorney General, or
 2 the Assistant Attorney General for the Criminal Division
 3 of the Department of Justice or the Acting Attorney Gen-
 4 eral, the Acting Deputy Attorney General, or the Acting As-
 5 sistant Attorney General for the Criminal Division of the
 6 Department of Justice.

7 **“§ 1839. Law enforcement and intelligence activities**

8 *“This chapter does not prohibit any and shall not im-*
 9 *pair otherwise lawful activity conducted by an agency or*
 10 *instrumentality of the United States, a State, or a political*
 11 *subdivision of a State.”.*

12 (b) *TECHNICAL AMENDMENT.—The table of chapters*
 13 *for title 18, United States Code, is amended by inserting*
 14 *after the item relating to chapter 89 the following new item:*

“90. Protection of Proprietary Economic Information 1831”.

15 (c) *REPORT.—Not later than 2 years and 4 years after*
 16 *the date of enactment of this Act, the Attorney General shall*
 17 *report to Congress on the amounts received and distributed*
 18 *from forfeitures of property deposited as provided in section*
 19 *1833(d) of title 18, United States Code, as added by sub-*
 20 *section (a) of this section.*

21 **SEC. 4. WIRE AND ELECTRONIC COMMUNICATIONS INTER-**
 22 **CEPTION AND INTERCEPTION OF ORAL COM-**
 23 **MUNICATIONS.**

24 *Section 2516(1)(a) of title 18, United States Code, is*
 25 *amended by inserting “chapter 90 (relating to economic es-*

1 *espionage and protection of proprietary economic informa-*
 2 *tion in interstate and foreign commerce),” after “title:”.*

3 **SEC. 5. PREVENTION OF ECONOMIC ESPIONAGE.**

4 *(a) IN GENERAL.—Part I of title 18, United States*
 5 *Code, is amended by inserting after chapter 27 the following*
 6 *new chapter:*

7 **“CHAPTER 28—ECONOMIC ESPIONAGE**

“Sec.

“571. Definitions.

“572. Economic espionage.

“573. Criminal forfeiture.

“574. Civil remedies.

“575. Prior authorization requirement.

“576. Construction with other laws.

“577. Preservation of confidentiality.

“578. Law enforcement and intelligence activities.

8 **“§ 571. Definitions**

9 *“For purposes of this chapter, the following definitions*
 10 *shall apply:*

11 *“(1) FOREIGN AGENT.—The term ‘foreign agent’*
 12 *means any officer, employee, proxy, servant, delegate,*
 13 *or representative of a foreign government.*

14 *“(2) FOREIGN INSTRUMENTALITY.—The term*
 15 *‘foreign instrumentality’ means any agency, bureau,*
 16 *ministry, component, institution, association, or any*
 17 *legal, commercial, or business organization, corpora-*
 18 *tion, firm, or entity that is substantially owned, con-*
 19 *trolled, sponsored, commanded, managed, or domi-*
 20 *nated by a foreign government or subdivision thereof.*

1 “(3) *OWNER*.—*The term ‘owner’ means the per-*
2 *son or persons in whom, or the government compo-*
3 *nent, department, or agency in which, rightful legal,*
4 *or equitable title to, or license in, proprietary eco-*
5 *nomic information is reposed.*

6 “(4) *PROPRIETARY ECONOMIC INFORMATION*.—
7 *The term ‘proprietary economic information’ means*
8 *all forms and types of financial, business, scientific,*
9 *technical, economic, or engineering information (in-*
10 *cluding data, plans, tools, mechanisms, compounds,*
11 *formulas, designs, prototypes, processes, procedures,*
12 *programs, codes, or commercial strategies) whether*
13 *tangible or intangible, and whether stored, compiled,*
14 *or memorialized physically, electronically, graphi-*
15 *cally, photographically, or in writing, if—*

16 “(A) *the owner thereof has taken reasonable*
17 *measures to keep such information confidential;*
18 *and*

19 “(B) *the information derives independent*
20 *economic value, actual or potential, from not*
21 *being generally known to, and not being readily*
22 *ascertainable through legal means by, the public.*

23 “(5) *WITHOUT AUTHORIZATION*.—*The term*
24 *‘without authorization’ means not permitted, ex-*
25 *pressly or implicitly, by the owner.*

1 **“§ 572. Economic espionage**

2 “(a) *IN GENERAL.*—Any person who, with knowledge
3 or reason to believe that he or she is acting on behalf of,
4 or with the intent to benefit, any foreign government, in-
5 strumentality, or agent, knowingly—

6 “(1) *steals, or without authorization appro-*
7 *priates, takes, carries away, or conceals, or by fraud,*
8 *artifice, or deception obtains proprietary economic*
9 *information;*

10 “(2) *without authorization copies, duplicates,*
11 *sketches, draws, photographs, downloads, uploads, al-*
12 *ters, destroys, photocopies, replicates, transmits, deliv-*
13 *ers, sends, mails, communicates, or conveys propri-*
14 *etary economic information;*

15 “(3) *receives, buys, or possesses proprietary eco-*
16 *nom ic information, knowing the same to have been*
17 *stolen or appropriated, obtained, or converted without*
18 *authorization;*

19 “(4) *attempts to commit any offense described in*
20 *any of paragraphs (1) through (3);*

21 “(5) *solicits another to commit any offense de-*
22 *scribed in any of paragraphs (1) through (4); or*

23 “(6) *conspires with one or more other persons to*
24 *commit any offense described in any of paragraphs*
25 *(1) through (4), and one or more of such persons do*
26 *any act to effect the object of the conspiracy,*

1 *shall, except as provided in subsection (b), be fined not more*
2 *than \$500,000, or twice the value of the proprietary eco-*
3 *nomie information, whichever is greater, or imprisoned not*
4 *more than 25 years, or both.*

5 “(b) *ORGANIZATIONS.*—*Any organization that com-*
6 *mits any offense described in subsection (a) shall be fined*
7 *not more than \$10,000,000, or twice the value of the propri-*
8 *etary economic information, whichever is greater.*

9 “(c) *EXCEPTION.*—*It shall not be a violation of this*
10 *section to disclose proprietary economic information in the*
11 *case of—*

12 “(1) *appropriate disclosures to Congress; or*

13 “(2) *disclosures to an authorized official of an*
14 *executive agency that are deemed essential to report-*
15 *ing a violation of United States law.*

16 **“§573. Criminal forfeiture**

17 “(a) *IN GENERAL.*—*Notwithstanding any provision of*
18 *State law to the contrary, any person or organization con-*
19 *victed of a violation under this chapter shall forfeit to the*
20 *United States—*

21 “(1) *any property constituting, or derived from,*
22 *any proceeds the person or organization obtained, di-*
23 *rectly or indirectly, as the result of such violation;*
24 *and*

1 “(2) any of the property of that person or orga-
2 nization used, or intended to be used, in any manner
3 or part, to commit or facilitate the commission of
4 such violation.

5 “(b) COURT ACTION.—The court, in imposing sentence
6 on such person, shall order, in addition to any other sen-
7 tence imposed pursuant to this chapter, that the person for-
8 feit to the United States all property described in this sec-
9 tion.

10 “(c) APPLICABILITY OF OTHER LAW.—Property sub-
11 ject to forfeiture under this section, any seizure and disposi-
12 tion thereof, and any administrative or judicial proceeding
13 in relation thereto, shall be governed by the provisions of
14 section 413 of the Comprehensive Drug Abuse Prevention
15 and Control Act of 1970 (21 U.S.C. 853), other than sub-
16 section (d) of that section.

17 **“§ 574. Scope of extraterritorial jurisdiction**

18 “(a) This chapter applies to conduct occurring within
19 the United States.

20 “(b) This chapter also applies to conduct occurring
21 outside the United States if—

22 “(1) the offender is a natural person who is a
23 citizen or permanent resident alien of the United
24 States, or an organization organized under the laws

1 *of the United States or a State or political subdivi-*
2 *sion thereof; or*

3 “(2) *an act in furtherance of the offense was*
4 *committed in the United States.*

5 **“§ 575. Civil remedies**

6 “(a) *The district courts of the United States shall have*
7 *jurisdiction to prevent and restrain violations of section*
8 *572 of this chapter by issuing appropriate orders.*

9 “(b) *The Attorney General may institute proceedings*
10 *under this section. Pending final determination thereof, the*
11 *court may at any time enter such restraining orders or pro-*
12 *hibitions, or take such other actions, including the accept-*
13 *ance of satisfactory performance bonds, as it shall deem*
14 *proper.*

15 “(c) *A final judgment or decree rendered in favor of*
16 *the United States in any criminal proceeding brought by*
17 *the United States under this chapter shall estop the defend-*
18 *ant from denying the essential allegations of the criminal*
19 *offense in any subsequent civil proceeding brought by the*
20 *United States.*

21 **“§ 576. Prior authorization requirement**

22 “*The United States may not file a charge under this*
23 *chapter or use a violation of this chapter as a predicate*
24 *offense under any other law without the personal approval*
25 *of the Attorney General, the Deputy Attorney General, or*

1 *the Assistant Attorney General for the Criminal Division*
2 *of the Department of Justice or the Acting Attorney Gen-*
3 *eral, the Acting Deputy Attorney General, or the Acting As-*
4 *stant Attorney General for the Criminal Division of the*
5 *Department of Justice.*

6 **“§577. Construction with other laws**

7 *“This chapter shall not be construed to preempt or dis-*
8 *place any other remedies, whether civil or criminal, pro-*
9 *vided by Federal, State, commonwealth, possession, or terri-*
10 *torial laws that are applicable to the misappropriation of*
11 *proprietary economic information.*

12 **“§578. Preservation of confidentiality**

13 *“In any prosecution or other proceeding under this*
14 *chapter, the court shall enter such orders and take such*
15 *other action as may be necessary and appropriate to pre-*
16 *serve the confidentiality of proprietary economic informa-*
17 *tion, consistent with the requirements of the Federal Rules*
18 *of Criminal Procedure, the Federal Rules of Civil Proce-*
19 *dure, the Federal Rules of Evidence, and all other applica-*
20 *ble laws. An interlocutory appeal by the United States shall*
21 *lie from a decision or order of a district court authorizing*
22 *or directing the disclosure of proprietary economic informa-*
23 *tion.*

1 **“§ 579. Law enforcement and intelligence activities**

2 *“This chapter does not prohibit, and shall not impair,*
 3 *otherwise lawful activity conducted by an agency of the*
 4 *United States, a State, or a political subdivision of a State,*
 5 *or an intelligence agency of the United States.”.*

6 **(b) CLERICAL AMENDMENT.**—*The table of chapters at*
 7 *the beginning of part I of title 18, United States Code, is*
 8 *amended by inserting after the item relating to chapter 27*
 9 *the following new item:*

“28. Economic Espionage 571”.

10 **(c) CONFORMING AMENDMENT.**—*Section 2516(1)(a) of*
 11 *title 18, United States Code, is amended by inserting*
 12 *“chapter 28 (relating to economic espionage),” after “or*
 13 *under the following chapters of this title:”.*

14 **SEC. 6. WIRE AND COMPUTER FRAUD.**

15 **(a) WIRE AND COMPUTER FRAUD.**—*Section 1343 of*
 16 *title 18, United States Code, is amended—*

17 *(1) by adding at the end the following new sub-*
 18 *section:*

19 **“(b) SECRET SERVICE JURISDICTION.**—*The Secretary*
 20 *of the Treasury and the Attorney General are authorized*
 21 *to enter into an agreement under which the United States*
 22 *Secret Service may investigate certain offenses under this*
 23 *section.”.*

24 **(b) USE OF CERTAIN TECHNOLOGY TO FACILITATE**
 25 **CRIMINAL CONDUCT.**—

1 (1) *INFORMATION.*—*The Administrative Office of*
2 *the United States Courts shall establish policies and*
3 *procedures for the inclusion in all Presentence Re-*
4 *ports of information that specifically identifies and*
5 *describes any use of encryption or scrambling tech-*
6 *nology that would be relevant to an enhancement*
7 *under section 3C1.1 (dealing with Obstructing or Im-*
8 *peding the Administration of Justice) of the Sentenc-*
9 *ing Guidelines or to offense conduct under the Sen-*
10 *tencing Guidelines.*

11 (2) *COMPILING AND REPORT.*—*The United States*
12 *Sentencing Commission shall—*

13 (A) *compile and analyze any information*
14 *contained in documentation described in para-*
15 *graph (1) relating to the use of encryption or*
16 *scrambling technology to facilitate or conceal*
17 *criminal conduct; and*

18 (B) *based on the information compiled and*
19 *analyzed under subparagraph (A), annually re-*
20 *port to the Congress on the nature and extent of*
21 *the use of encryption or scrambling technology to*
22 *facilitate or conceal criminal conduct.*

23 (c) *Section 1029 of title 18, United States Code, is*
24 *amended—by striking the (a)(5) in the second place it ap-*
25 *pears and replacing it with (a)(8); by striking the (a)(6)*

1 *the second place it appears and replacing it with (a)(9);*
 2 *and by adding the following new section:*

3 “(a)(10) *knowingly and with intent to defraud uses,*
 4 *produces, traffics in, or possesses any device containing*
 5 *electronically stored monetary value.”.*

6 **SEC. 7. TRANSFER OF PERSONS FOUND NOT GUILTY BY**
 7 **REASON OF INSANITY.**

8 (a) *AMENDMENT OF SECTION 4243 OF TITLE 18.—*
 9 *Section 4243 of title 18, United States Code, is amended*
 10 *by adding at the end the following new subsection:*

11 “(i) *CERTAIN PERSONS FOUND NOT GUILTY BY REA-*
 12 *SON OF INSANITY IN THE DISTRICT OF COLUMBIA.—*

13 “(1) *TRANSFER TO CUSTODY OF THE ATTORNEY*
 14 *GENERAL.—Notwithstanding section 301(h) of title 24*
 15 *of the District of Columbia Code, and notwithstand-*
 16 *ing subsection 4247(j) of this title, all persons who*
 17 *have been committed to a hospital for the mentally ill*
 18 *pursuant to section 301(d)(1) of title 24 of the Dis-*
 19 *trict of Columbia Code, and for whom the United*
 20 *States has continuing financial responsibility, may be*
 21 *transferred to the custody of the Attorney General,*
 22 *who shall hospitalize the person for treatment in a*
 23 *suitable facility.*

24 “(2) *APPLICATION.—*

1 “(A) *IN GENERAL.*—*The Attorney General*
2 *may establish custody over such persons by filing*
3 *an application in the United States District*
4 *Court for the District of Columbia, demonstrat-*
5 *ing that the person to be transferred is a person*
6 *described in this subsection.*

7 “(B) *NOTICE.*—*The Attorney General shall,*
8 *by any means reasonably designed to do so, pro-*
9 *vide written notice of the proposed transfer of*
10 *custody to such person or such person’s guard-*
11 *ian, legal representative, or other lawful agent.*
12 *The person to be transferred shall be afforded an*
13 *opportunity, not to exceed 15 days, to respond to*
14 *the proposed transfer of custody, and may, at the*
15 *court’s discretion, be afforded a hearing on the*
16 *proposed transfer of custody. Such hearing, if*
17 *granted, shall be limited to a determination of*
18 *whether the constitutional rights of such person*
19 *would be violated by the proposed transfer of cus-*
20 *tody.*

21 “(C) *ORDER.*—*Upon application of the At-*
22 *torney General, the court shall order the person*
23 *transferred to the custody of the Attorney Gen-*
24 *eral, unless, pursuant to a hearing under this*
25 *paragraph, the court finds that the proposed*

1 *transfer would violate a right of such person*
2 *under the United States Constitution.*

3 “(D) *EFFECT.*—*Nothing in this paragraph*
4 *shall be construed to—*

5 “(i) *create in any person a liberty in-*
6 *terest in being granted a hearing or notice*
7 *on any matter;*

8 “(ii) *create in favor of any person a*
9 *cause of action against the United States or*
10 *any officer or employee of the United*
11 *States; or*

12 “(iii) *limit in any manner or degree*
13 *the ability of the Attorney General to move,*
14 *transfer, or otherwise manage any person*
15 *committed to the custody of the Attorney*
16 *General.*

17 “(3) *CONSTRUCTION WITH OTHER SECTIONS.*—
18 *Subsections (f) and (g) and section 4247 shall apply*
19 *to any person transferred to the custody of the Attor-*
20 *ney General pursuant to this subsection.”.*

21 “(b) *TRANSFER OF RECORDS.*—*Notwithstanding any*
22 *provision of the District of Columbia Code or any other pro-*
23 *vision of law, the District of Columbia and St. Elizabeth’s*
24 *Hospital—*

1 (1) *not later than 30 days after the date of en-*
2 *actment of this Act, shall provide to the Attorney*
3 *General copies of all records in the custody or control*
4 *of the District or the Hospital on such date of enact-*
5 *ment pertaining to persons described in section*
6 *4243(i) of title 18, United States Code (as added by*
7 *subsection (a));*

8 (2) *not later than 30 days after the creation of*
9 *any records by employees, agents, or contractors of the*
10 *District of Columbia or of St. Elizabeth's Hospital*
11 *pertaining to persons described in section 4243(i) of*
12 *title 18, United States Code, provide to the Attorney*
13 *General copies of all such records created after the*
14 *date of enactment of this Act;*

15 (3) *shall not prevent or impede any employee,*
16 *agent, or contractor of the District of Columbia or of*
17 *St. Elizabeth's Hospital who has obtained knowledge*
18 *of the persons described in section 4243(i) of title 18,*
19 *United States Code, in the employee's professional ca-*
20 *pacitv from providing that knowledge to the Attorney*
21 *General, nor shall civil or criminal liability attach to*
22 *such employees, agents, or contractors who provide*
23 *such knowledge; and*

24 (4) *shall not prevent or impede interviews of per-*
25 *sons described in section 4243(i) of title 18, United*

1 *States Code, by representatives of the Attorney Gen-*
2 *eral, if such persons voluntarily consent to such inter-*
3 *views.*

4 (c) *CLARIFICATION OF EFFECT ON CERTAIN TESTI-*
5 *MONIAL PRIVILEGES.—The amendments made by this sec-*
6 *tion shall not be construed to affect in any manner any*
7 *doctor-patient or psychotherapist-patient testimonial privi-*
8 *lege that may be otherwise applicable to persons found not*
9 *guilty by reason of insanity and affected by this section.*

10 (d) *SEVERABILITY.—If any provision of this section,*
11 *an amendment made by this section, or the application of*
12 *such provision or amendment to any person or cir-*
13 *cumstance is held to be unconstitutional, the remainder of*
14 *this section and the amendments made by this section shall*
15 *not be affected thereby.*

16 **SEC. 8. ESTABLISHING BOYS AND GIRLS CLUBS.**

17 (a) *FINDINGS AND PURPOSE.—*

18 (1) *FINDINGS.—The Congress finds that—*

19 (A) *the Boys and Girls Clubs of America,*
20 *chartered by an Act of Congress on December 10,*
21 *1991, during its 90-year history as a national*
22 *organization, has proven itself as a positive force*
23 *in the communities it serves;*

24 (B) *there are 1,810 Boys and Girls Clubs*
25 *facilities throughout the United States, Puerto*

1 *Rico, and the United States Virgin Islands, serv-*
2 *ing 2,420,000 youths nationwide;*

3 *(C) 71 percent of the young people who ben-*
4 *efit from Boys and Girls Clubs programs live in*
5 *our inner cities and urban areas;*

6 *(D) Boys and Girls Clubs are locally run*
7 *and have been exceptionally successful in bal-*
8 *ancing public funds with private sector dona-*
9 *tions and maximizing community involvement;*

10 *(E) Boys and Girls Clubs are located in*
11 *289 public housing sites across the Nation;*

12 *(F) public housing projects in which there is*
13 *an active Boys and Girls Club have experienced*
14 *a 25 percent reduction in the presence of crack*
15 *cocaine, a 22 percent reduction in overall drug*
16 *activity, and a 13 percent reduction in juvenile*
17 *crime;*

18 *(G) these results have been achieved in the*
19 *face of national trends in which overall drug use*
20 *by youth has increased 105 percent since 1992*
21 *and 10.9 percent of the Nation's young people*
22 *use drugs on a monthly basis; and*

23 *(H) many public housing projects and other*
24 *distressed areas are still underserved by Boys*
25 *and Girls Clubs.*

1 (2) *PURPOSE.*—*It is the purpose of this section*
2 *to provide adequate resources in the form of seed*
3 *money for the Boys and Girls Clubs of America to es-*
4 *tablish 1,000 additional local Boys and Girls Clubs*
5 *in public housing projects and other distressed areas*
6 *by 2001.*

7 (b) *DEFINITIONS.*—*For purposes of this section—*

8 (1) *the terms “public housing” and “project”*
9 *have the same meanings as in section 3(b) of the*
10 *United States Housing Act of 1937; and*

11 (2) *the term “distressed area” means an urban,*
12 *suburban, or rural area with a high percentage of*
13 *high risk youth as defined in section 509A of the Pub-*
14 *lic Health Service Act (42 U.S.C. 290aa–8(f)).*

15 (c) *ESTABLISHMENT.*—

16 (1) *IN GENERAL.*—*For each of the fiscal years*
17 *1997, 1998, 1999, 2000, and 2001, the Director of the*
18 *Bureau of Justice Assistance of the Department of*
19 *Justice shall provide a grant to the Boys and Girls*
20 *Clubs of America for the purpose of establishing Boys*
21 *and Girls Clubs in public housing projects and other*
22 *distressed areas.*

23 (2) *CONTRACTING AUTHORITY.*—*Where appro-*
24 *priate, the Secretary of Housing and Urban Develop-*
25 *ment, in consultation with the Attorney General, shall*

1 *enter into contracts with the Boys and Girls Clubs of*
2 *America to establish clubs pursuant to the grants*
3 *under paragraph (1).*

4 *(d) REPORT.—Not later than May 1 of each fiscal year*
5 *for which amounts are made available to carry out this Act,*
6 *the Attorney General shall submit to the Committees on the*
7 *Judiciary of the Senate and the House of Representatives*
8 *a report that details the progress made under this Act in*
9 *establishing Boys and Girls Clubs in public housing*
10 *projects and other distressed areas, and the effectiveness of*
11 *the programs in reducing drug abuse and juvenile crime.*

12 *(e) AUTHORIZATION OF APPROPRIATIONS.—*

13 *(1) IN GENERAL.—There are authorized to be ap-*
14 *propriated to carry out this section—*

15 *(A) \$20,000,000 for fiscal year 1997;*

16 *(B) \$20,000,000 for fiscal year 1998;*

17 *(C) \$20,000,000 for fiscal year 1999;*

18 *(D) \$20,000,000 for fiscal year 2000; and*

19 *(E) \$20,000,000 for fiscal year 2001.*

20 *(2) VIOLENT CRIME REDUCTION TRUST FUND.—*

21 *The sums authorized to be appropriated by this sub-*

1 *section may be made from the Violent Crime Reduc-*
2 *tion Trust Fund.*

Attest:

Secretary.

104TH CONGRESS
2^D SESSION

H. R. 3723

AMENDMENT

HR 3723 EAS—2

HR 3723 EAS—3

HR 3723 EAS—4

HR 3723 EAS—5