

In the Senate of the United States,

October 3, 1996.

Resolved, That the bill from the House of Representatives (H.R. 4137) entitled “An Act to combat drug-facilitated crimes of violence, including sexual assaults.”, 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 “Drug-Induced Rape Pre-*
3 *vention and Punishment Act of 1996”.*

4 ***SEC. 2. PROVISIONS RELATING TO USE OF A CONTROLLED***
5 ***SUBSTANCE WITH INTENT TO COMMIT A***
6 ***CRIME OF VIOLENCE.***

7 *(a) PENALTIES FOR DISTRIBUTION.—Section 401(b) of*
8 *the Controlled Substances Act is amended by adding at the*
9 *end the following:*

10 *“(7) PENALTIES FOR DISTRIBUTION.—*

1 “(A) *IN GENERAL.*—Whoever, with intent to
2 commit a crime of violence, as defined in section 16
3 of title 18, United States Code (including rape),
4 against an individual, violates subsection (a) by dis-
5 tributing a controlled substance to that individual
6 without that individual’s knowledge, shall be impris-
7 oned not more than 20 years and fined in accordance
8 with title 18, United States Code.

9 “(B) *DEFINITION.*—For purposes of this para-
10 graph, the term ‘without that individual’s knowledge’
11 means that the individual is unaware that a sub-
12 stance with the ability to alter that individual’s abil-
13 ity to appraise conduct or to decline participation in
14 or communicate unwillingness to participate in con-
15 duct is administered to the individual.”.

16 (b) *ADDITIONAL PENALTIES RELATING TO*
17 *FLUNITRAZEPAM.*—

18 (1) *GENERAL PENALTIES.*—Section 401 of the
19 Controlled Substances Act (21 U.S.C. 841) is amend-
20 ed—

21 (A) in subsection (b)(1)(C), by inserting “,
22 or 1 gram of flunitrazepam,” after “I or II”;
23 and

1 (B) in subsection (b)(1)(D), by inserting
2 “or 30 milligrams of flunitrazepam,” after
3 “schedule III,”.

4 (2) *IMPORT AND EXPORT PENALTIES.*—

5 (A) Section 1009(a) of the Controlled Sub-
6 stances Import and Export Act (21 U.S.C.
7 959(a)) is amended by inserting “or
8 flunitrazepam” after “I or II”.

9 (B) Section 1010(b)(3) of the Controlled
10 Substances Import and Export Act (21 U.S.C.
11 960(b)) is amended by inserting “or
12 flunitrazepam,” after “I or II,”.

13 (C) Section 1010(b)(4) of the Controlled
14 Substances Import and Export Act is amended
15 by inserting “(except a violation involving
16 flunitrazepam)” after “III, IV, or V,”.

17 (3) *SENTENCING GUIDELINES.*—

18 (A) *AMENDMENT OF SENTENCING GUIDE-*
19 *LINES.*—Pursuant to its authority under section
20 994 of title 28, United States Code, the United
21 States Sentencing Commission shall review and
22 amend, as appropriate, the sentencing guidelines
23 for offenses involving flunitrazepam.

24 (B) *SUMMARY.*—The United States Sentenc-
25 ing Commission shall submit to the Congress—

1 (i) a summary of its review under sub-
2 paragraph (A); and

3 (ii) an explanation for any amend-
4 ment to the sentencing guidelines made
5 under subparagraph (A).

6 (C) *SERIOUS NATURE OF OFFENSES.*—In
7 carrying out this paragraph, the United States
8 Sentencing Commission shall ensure that the
9 sentencing guidelines for offenses involving
10 flunitrazepam reflect the serious nature of such
11 offenses.

12 (c) *INCREASED PENALTIES FOR UNLAWFUL SIMPLE*
13 *POSSESSION OF FLUNITRAZEPAM.*—Section 404(a) of the
14 *Controlled Substances Act (21 U.S.C. 844(a))* is amended
15 by inserting after “exceeds 1 gram.” the following: “Not-
16 withstanding any penalty provided in this subsection, any
17 person convicted under this subsection for the possession of
18 flunitrazepam shall be imprisoned for not more than 3
19 years, shall be fined as otherwise provided in this section,
20 or both.”.

21 **SEC. 3. STUDY ON RESCHEDULING FLUNITRAZEPAM.**

22 (a) *STUDY.*—The Administrator of the Drug Enforce-
23 ment Administration shall, in consultation with other Fed-
24 eral and State agencies, as appropriate, conduct a study
25 on the appropriateness and desirability of rescheduling

1 *flunitrazepam as a Schedule I controlled substance under*
2 *the Controlled Substances Act (21 U.S.C. 801 et seq.).*

3 (b) *REPORT.*—*Not later than 180 days after the date*
4 *of the enactment of this Act, the Administrator shall submit*
5 *to the Committees on the Judiciary of the House of Rep-*
6 *resentatives and the Senate the results of the study con-*
7 *ducted under subsection (a), together with any rec-*
8 *ommendations regarding rescheduling of flunitrazepam as*
9 *a Schedule I controlled substance under the Controlled Sub-*
10 *stances Act (21 U.S.C. 801 et seq.).*

11 **SEC. 4. EDUCATIONAL PROGRAM FOR POLICE DEPART-**
12 **MENTS.**

13 *The Attorney General may—*

14 (1) *create educational materials regarding the*
15 *use of controlled substances (as that term is defined*
16 *in section 102 of the Controlled Substances Act) in*
17 *the furtherance of rapes and sexual assaults; and*

18 (2) *disseminate those materials to police depart-*
19 *ments throughout the United States.*

Attest:

Secretary.

104TH CONGRESS
2D SESSION

H. R. 4137

AMENDMENT