

104TH CONGRESS
1ST SESSION

H. R. 667

IN THE SENATE OF THE UNITED STATES

FEBRUARY 22, 1995

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To control crime by incarcerating violent criminals.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Violent Criminal Incar-
5 ceration Act of 1995”.

6 **TITLE I—TRUTH IN SENTENCING**

7 **SEC. 101. TRUTH IN SENTENCING GRANT PROGRAM.**

8 (a) IN GENERAL.—Title V of the Violent Crime Con-
9 trol and Law Enforcement Act of 1994 is amended to read
10 as follows:

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

“SEC. 501. AUTHORIZATION OF GRANTS.

“(a) IN GENERAL.—The Attorney General is authorized to provide grants to eligible States and to eligible States organized as a regional compact to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities, including facilities on military bases and boot camp facilities, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony. Such grants may also be used to build, expand, and operate secure youth correctional facilities.

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

“SEC. 502. GENERAL GRANTS.

“(a) DISTRIBUTION OF GENERAL GRANTS.—50 percent of the total amount of funds made available under this title for each of the fiscal years 1995 through 2000

1 shall be made available for general eligibility grants for
2 each State or States organized as a regional compact that
3 meets the requirements of subsection (b).

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

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

11 “(2) increased the average prison time actually
12 to be served in prison by convicted violent offenders
13 sentenced to prison; and

14 “(3) increased the percentage of sentence to be
15 actually served in prison by violent offenders sen-
16 tenced to prison.

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

18 “(a) TRUTH-IN-SENTENCING INCENTIVE GRANTS.—
19 50 percent of the total amount of funds made available
20 under this title for each of the fiscal years 1995 through
21 2000 shall be made available for truth-in-sentencing incen-
22 tive grants to each State or States organized as a regional
23 compact that meet the requirements of subsection (b).

24 “(b) ELIGIBILITY FOR TRUTH-IN-SENTENCING IN-
25 CENTIVE GRANTS.—In order to be eligible to receive funds

1 under subsection (a), a State or States organized as a re-
2 gional compact shall submit an application to the Attorney
3 General that provides assurances that each State applying
4 has enacted laws and regulations which include—

5 “(1)(A) truth-in-sentencing laws which require
6 persons convicted of a serious violent felony serve
7 not less than 85 percent of the sentence imposed or
8 85 percent of the court-ordered maximum sentence
9 for States that practice indeterminate sentencing; or

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

19 “(2) laws requiring that the sentencing or re-
20 leasing authorities notify and allow the victims of
21 the defendant or the family of such victims the op-
22 portunity to be heard regarding the issue of sentenc-
23 ing and any postconviction release; and

24 “(3) laws requiring that the releasing authority
25 notify the victims of serious violent felons or the

1 family of such victims and the convicting court re-
2 garding the release of a defendant.

3 **“SEC. 504. SPECIAL RULES.**

4 “(a) **ADDITIONAL REQUIREMENTS.**—To be eligible to
5 receive a grant under section 502 or 503, a State or States
6 organized as a regional compact shall provide an assur-
7 ance to the Attorney General that—

8 “(1) to the extent practicable, inmate labor will
9 be used to build and expand correctional facilities;

10 “(2) each State will involve counties and other
11 units of local government, when appropriate, in the
12 construction, development, expansion, modification,
13 operation, or improvement of correctional facilities
14 designed to ensure the incarceration of offenders,
15 and that each State will share funds received under
16 this title with any county or other unit of local gov-
17 ernment that is housing State prisoners, taking into
18 account the burden placed on such county or unit of
19 local government in confining prisoners due to over-
20 crowding in State prison facilities in furtherance of
21 the purposes of this Act;

22 “(3) the State has implemented or will imple-
23 ment, not later than 18 months after the date of the
24 enactment of the Violent Criminal Incarceration Act
25 of 1995, policies to determine the veteran status of

1 inmates and to ensure that incarcerated veterans re-
2 ceive the veterans benefits to which they are entitled;
3 and

4 “(4) the State has adopted procedures for the
5 collection of reliable statistical data which compiles
6 the rate of serious violent felonies after the receipt
7 of grant funds under section 502 or section 503 in
8 comparison to the rate of serious violent felonies be-
9 fore receipt of such funds and will report such sta-
10 tistical data to the Attorney General if such data is
11 not already provided.

12 “(b) JUVENILE JUSTICE INCENTIVE.—Beginning in
13 fiscal year 1998, 15 percent of the funds that would other-
14 wise be available to a State under section 502 or 503 shall
15 be withheld from any State which does not have an eligible
16 system of consequential sanctions for juvenile offenders.

17 “(c) INDETERMINANT SENTENCING EXCEPTION.—
18 Notwithstanding the provisions of paragraphs (1) through
19 (3) of section 502(b), a State shall be eligible for grants
20 under this title, if the State, not later than the date of
21 the enactment of this title—

22 “(1) practices indeterminant sentencing; and

23 “(2) the average times served in such State for
24 the offenses of murder, rape, robbery, and assault

1 exceed, by 10 percent or greater, the national aver-
2 age of times served for such offenses.

3 “(d) AVAILABILITY OF FUNDS FOR JAIL CONSTRUC-
4 TION.—A State may use up to 15 percent of the funds
5 provided under this title for jail construction, if the Attor-
6 ney General determines that the State has enacted—

7 “(1) legislation that provides for pretrial release
8 requirements at least as restrictive as those found in
9 section 3142 of title 18, United States Code; or

10 “(2) legislation that requires an individual
11 charged with an offense for which a sentence of
12 more than one year may be imposed, or charged
13 with an offense involving violence against another
14 person, may not be released before trial without a fi-
15 nancial guarantee to ensure appearance before trial.

16 “(e) EXCEPTION.—The requirements under section
17 503(b) shall apply, except that a State may provide that
18 the Governor of the State may allow for earlier release
19 of a geriatric prisoner or a prisoner whose medical condi-
20 tion precludes the prisoner from posing a threat to the
21 public after a public hearing in which representatives of
22 the public and the prisoner’s victims have an opportunity
23 to be heard regarding a proposed release.

24 “(f) FUNDS FOR JUVENILE OFFENDERS.—Notwith-
25 standing any other provision of this title, if a State or

1 unit of local government located in a State which other-
2 wise meets the requirements of section 502 or 503 certifies
3 to the Attorney General that exigent circumstances exist
4 which require that the State expend funds to confine juve-
5 nile offenders, the State may use funds received under this
6 title to build, expand, and operate juvenile correctional fa-
7 cilities or pretrial detention facilities for such offenders.

8 **“SEC. 505. FORMULA FOR GRANTS.**

9 “To determine the amount of funds that each eligible
10 State or eligible States organized as a regional compact
11 may receive to carry out programs under section 502 or
12 503, the Attorney General shall apply the following
13 formula:

14 “(1) \$500,000 or 0.40 percent, whichever is
15 greater, shall be allocated to each participating State
16 or compact, as the case may be; and

17 “(2) of the total amount of funds remaining
18 after the allocation under paragraph (1), there shall
19 be allocated to each State or compact, as the case
20 may be, an amount equal to the ratio that the num-
21 ber of part 1 violent crimes reported by such State
22 or States to the Federal Bureau of Investigation for
23 the most recent calendar year for which the data is
24 available.

1 **“SEC. 506. ACCOUNTABILITY.**

2 “(a) FISCAL REQUIREMENTS.—A State or States or-
3 ganized as a regional compact that receives funds under
4 this title shall use accounting, audit, and fiscal procedures
5 that conform to guidelines which shall be prescribed by
6 the Attorney General, including a requirement that any
7 funds used to carry out the programs under section 501(a)
8 shall represent the best value for the State governments
9 at the lowest possible cost and employ the best available
10 technology.

11 “(b) REPORTING.—Each State that receives funds
12 under this title shall submit an annual report, beginning
13 on January 1, 1996, and each January 1 thereafter, to
14 the Congress regarding compliance with the requirements
15 of this title.

16 “(c) ADMINISTRATIVE PROVISIONS.—(1) The admin-
17 istrative provisions of sections 801 and 802 of the Omni-
18 bus Crime Control and Safe Streets Act of 1968 shall
19 apply to the Attorney General in the same manner as such
20 provisions apply to the officials listed in such sections.

21 “(2)(A) A State that receives funds under this title
22 shall, in such form and manner as the Attorney General
23 determines, and under such regulations as the Attorney
24 General shall prescribe, require that the appropriate public
25 authorities report promptly to the Attorney General the
26 death of each individual who dies in custody while in a

1 municipal or county jail, State prison, or other similar
2 place of confinement. Each such report shall include the
3 cause of death and all other facts relevant to the death
4 reported, which the person so reporting shall have the duty
5 to make a good faith effort to ascertain.

6 “(B) The Attorney General shall annually publish a
7 report containing—

8 “(i) the number of deaths in each institution
9 for which a report was filed during the relevant re-
10 porting period;

11 “(ii) the cause of death and time of death for
12 each death so reported; and

13 “(iii) such other information about the death as
14 the Attorney General deems relevant.

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

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

18 “(1) \$997,500,000 for fiscal year 1996;

19 “(2) \$1,330,000,000 for fiscal year 1997;

20 “(3) \$2,527,000,000 for fiscal year 1998;

21 “(4) \$2,660,000,000 for fiscal year 1999; and

22 “(5) \$2,753,100,000 for fiscal year 2000.

23 “(b) LIMITATIONS ON FUNDS.—

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

4 “(2) NONSUPPLANTING REQUIREMENT.—Funds
5 made available under this section shall not be used
6 to supplant State funds, but shall be used to in-
7 crease the amount of funds that would, in the ab-
8 sence of Federal funds, be made available from
9 State sources.

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

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

17 “(5) CARRY OVER OF APPROPRIATIONS.—Any
18 funds appropriated but not expended as provided by
19 this section during any fiscal year shall remain avail-
20 able until expended.

21 “(6) TRANSFER OF UNALLOCATED FUNDS.—
22 After making the distribution to all eligible States
23 required under section 503, the Attorney General
24 may transfer, as provided in this paragraph, in such
25 amounts as may be provided in appropriations Acts,

1 any remaining unallocated funds which have been
2 available for more than two fiscal years, but all such
3 funds shall be available for the purposes of this
4 paragraph after fiscal year 2000. Funds transferred
5 under this paragraph may be made available for ex-
6 penses of the Immigration and Nationalization Serv-
7 ice for investigators and for expenses of the Bureau
8 of Prisons, the Federal Bureau of Investigations and
9 the United States Attorneys for activities and oper-
10 ations related to the investigation, prosecution and
11 conviction of persons accused of a serious violent fel-
12 ony, and the incarceration of persons convicted of
13 such offenses, and the National Institute of Justice
14 for law enforcement technology programs.

15 **“SEC. 508. PAYMENTS TO STATES FOR INCARCERATION OF**
16 **CRIMINAL ALIENS.**

17 “(a) RESERVATION OF FUNDS.—Notwithstanding
18 any other provision of this title, for each of the fiscal years
19 1996, 1997, 1998, 1999, and 2000 from amounts appro-
20 priated under section 507, the Attorney General shall first
21 reserve an amount which when added to amounts appro-
22 priated to carry out section 242(j) of the Immigration and
23 Nationality Act for such fiscal year equals \$650,000,000.

24 “(b) PAYMENTS TO ELIGIBLE STATES.—

1 “(1) Notwithstanding any other provision of
2 this title, for each of the fiscal years 1996, 1997,
3 1998, 1999, and 2000 from amounts reserved under
4 subsection (a), the Attorney General shall make a
5 payment to each State which is eligible under section
6 242(j) of the Immigration and Nationality Act and
7 which meets the eligibility requirements of section
8 503(b), in such amount as is determined under sec-
9 tion 242(j) and for which payment is not made to
10 such State for such fiscal year under such section.

11 “(2) For any fiscal year, payments made to
12 States under paragraph (1) may not exceed the
13 amount reserved for such fiscal year under sub-
14 section (a).

15 “(c) USE OF UNOBLIGATED FUNDS.—For any fiscal
16 year, amounts reserved under subsection (a) which are not
17 obligated by the end of that fiscal year under subsection
18 (b) shall not be available for payments under this section
19 for any subsequent fiscal year, but shall be available, in
20 equal amounts, to the Attorney General only for grants
21 under sections 502 and 503.

22 “(d) REPORT TO CONGRESS.—Not later than May
23 15, 1999, the Attorney General shall submit a report to
24 the Congress which contains the recommendation of the

1 Attorney General concerning the extension of the program
2 under this section.

3 **“SEC. 509. DEFINITIONS.**

4 “As used in this title—

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

7 “(A) the court has discretion on imposing
8 the actual length of the sentence imposed, up to
9 the statutory maximum; and

10 “(B) an administrative agency, generally
11 the parole board, controls release between
12 court-ordered minimum and maximum sen-
13 tence;

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

15 “(A) an offense that is a felony and has as
16 an element the use, attempted use, or threat-
17 ened use of physical force against the person or
18 property of another and has a maximum term
19 of imprisonment of 10 years or more,

20 “(B) any other offense that is a felony and
21 that, by its nature, involves a substantial risk
22 that physical force against the person or prop-
23 erty of another may be used in the course of
24 committing the offense and has a maximum
25 term of imprisonment of 10 years or more, or

1 “(C) such crimes including murder, assault
2 with intent to commit murder, arson, armed
3 burglary, rape, assault with intent to commit
4 rape, kidnapping, and armed robbery;

5 “(3) the term ‘State’ means a State of the
6 United States, the District of Columbia, or any com-
7 monwealth, territory, or possession of the United
8 States; and

9 “(4) the term ‘an eligible system of consequen-
10 tial sanctions for juvenile offenders’ means that the
11 State or States organized as a regional compact, as
12 the case may be—

13 “(A)(i) have established or are in the proc-
14 ess of establishing a system of sanctions for the
15 State’s juvenile justice system in which the
16 State bases dispositions for juveniles on a scale
17 of increasingly severe sanctions for the commis-
18 sion of a repeat delinquent act, particularly if
19 the subsequent delinquent act committed by
20 such juvenile is of similar or greater seriousness
21 or if a court dispositional order for a delinquent
22 act is violated; and

23 “(ii) such dispositions should, to the extent
24 practicable, require the juvenile delinquent to
25 compensate victims for losses and compensate

1 the juvenile justice authorities for supervision
2 costs;

3 “(B) impose a sanction on each juvenile
4 adjudicated delinquent;

5 “(C) require that a State court concur in
6 allowing a juvenile to be sent to a diversionary
7 program in lieu of juvenile court proceedings;

8 “(D) have established and maintained an
9 effective system that requires the prosecution of
10 at least those juveniles who are 14 years of age
11 and older as adults, rather than in juvenile pro-
12 ceedings, for conduct constituting—

13 “(i) murder or attempted murder;

14 “(ii) robbery while armed with a dead-
15 ly weapon;

16 “(iii) battery while armed with a
17 deadly weapon;

18 “(iv) forcible rape;

19 “(v) any other crime the State deter-
20 mines appropriate; and

21 “(vi) the fourth or subsequent occa-
22 sion on which such juveniles engage in an
23 activity for which adults could be impris-
24 oned for a term exceeding 1 year;

1 unless, on a case-by-case basis, the transfer of
2 such juveniles for disposition in the juvenile jus-
3 tice system is determined under State law to be
4 in the interest of justice;

5 “(E) require that whenever a juvenile is
6 adjudicated in a juvenile proceeding to have en-
7 gaged in the conduct constituting an offense de-
8 scribed in subparagraph (D) that—

9 “(i) a record is kept relating to that
10 adjudication which is—

11 “(I) equivalent to the record that
12 would be kept of an adult conviction
13 for that offense;

14 “(II) retained for a period of
15 time that is equal to the period of
16 time records are kept for adult convic-
17 tions; and

18 “(III) made available to law en-
19 forcement officials to the same extent
20 that a record of an adult conviction
21 would be made available;

22 “(ii) the juvenile is fingerprinted and
23 photographed, and the fingerprints and
24 photograph are sent to the Federal Bureau
25 of Investigation; and

1 “(iii) the court in which the adjudica-
2 tion takes place transmits to the Federal
3 Bureau of Investigation the information
4 concerning the adjudication, including the
5 name and birth date of the juvenile, date
6 of adjudication, and disposition;

7 “(F) where practicable and appropriate,
8 require parents to participate in meeting the
9 dispositional requirements imposed on the juve-
10 nile by the court;

11 “(G) have consulted with any units of local
12 government responsible for secure youth correc-
13 tional facilities in setting priorities for construc-
14 tion, development, expansion and modification,
15 operation or improvement of juvenile facilities,
16 and to the extent practicable, ensure that the
17 needs of entities currently administering juve-
18 nile facilities are addressed; and

19 “(H) have in place or are putting in place
20 systems to provide objective evaluations of State
21 and local juvenile justice systems to determine
22 such systems’ effectiveness in protecting the
23 community, reducing recidivism, and ensuring
24 compliance with dispositions.”.

1 (b) PREFERENCE IN PAYMENTS UNDER SECTION
2 242(J) OF IMMIGRATION AND NATIONALITY ACT.—Sec-
3 tion 242(j)(4) of the Immigration and Nationality Act (8
4 U.S.C. 1252(j)(4)) is amended by adding at the end the
5 following:

6 “(C) In carrying out paragraph (1)(A), the
7 Attorney General shall give preference in mak-
8 ing payments to States and political subdivi-
9 sions of States which are ineligible for pay-
10 ments under section 508 of the Violent Crime
11 Control and Law Enforcement Act of 1994.”.

12 **SEC. 102. CONFORMING AMENDMENTS.**

13 (a) OMNIBUS CRIME CONTROL AND SAFE STREETS
14 ACT OF 1968.—

15 (1) PART V.—Part V of title I of the Omnibus
16 Crime Control and Safe Streets Act of 1968 is re-
17 pealed.

18 (2) FUNDING.—(A) Section 1001(a) of the Om-
19 nibus Crime Control and Safe Streets Act of 1968
20 is amended by striking paragraph (20).

21 (B) Notwithstanding the provisions of subpara-
22 graph (A), any funds that remain available to an ap-
23 plicant under paragraph (20) of title I of the Omni-
24 bus Crime Control and Safe Streets Act of 1968
25 shall be used in accordance with part V of such Act

1 as such Act was in effect on the day preceding the
2 date of enactment of this Act.

3 (b) VIOLENT CRIME CONTROL AND LAW ENFORCE-
4 MENT ACT OF 1994.—

5 (1) REPEAL.—(A) Subtitle A of title II of the
6 Violent Crime Control and Law Enforcement Act of
7 1994 is repealed.

8 (B) The table of contents of the Violent Crime
9 Control and Law Enforcement Act of 1994 is
10 amended by striking the matter relating to subtitle
11 A of title II.

12 (2) COMPLIANCE.—Notwithstanding the provi-
13 sions of paragraph (1), any funds that remain avail-
14 able to an applicant under subtitle A of title II of
15 the Violent Crime Control and Law Enforcement
16 Act of 1994 shall be used in accordance with such
17 subtitle as such subtitle was in effect on the day pre-
18 ceding the date of enactment of this Act.

19 (3) TRUTH-IN-SENTENCING.—The table of con-
20 tents of the Violent Crime Control and Law En-
21 forcement Act of 1994 is amended by striking the
22 matter relating to title V and inserting the following:

“TITLE V—TRUTH-IN-SENTENCING GRANTS

“Sec. 501. Authorization of grants.

“Sec. 502. General grants.

“Sec. 503. Truth-in-sentencing grants.

“Sec. 504. Special rules.

“Sec. 505. Formula for grants.

“Sec. 506. Accountability.

“Sec. 507. Authorization of appropriations.

“Sec. 508. Definitions.”.

1 **TITLE II—STOPPING ABUSIVE** 2 **PRISONER LAWSUITS**

3 **SEC. 201. EXHAUSTION REQUIREMENT.**

4 Section 7(a)(1) of the Civil Rights of Institutionalized
5 Persons Act (42 U.S.C. 1997e) is amended—

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

8 (2) by striking “the court shall” and all that
9 follows through “require exhaustion of” and insert
10 “until”; and

11 (3) by inserting “are exhausted” after “avail-
12 able”.

13 **SEC. 202. FRIVOLOUS ACTIONS.**

14 Section 7(a) of the Civil Rights of Institutionalized
15 Persons Act (42 U.S.C. 1997e(a)) is amended by adding
16 at the end the following:

17 “(3) The court shall on its own motion or on motion
18 of a party dismiss any action brought pursuant to section
19 1979 of the Revised Statutes of the United States by an
20 adult convicted of a crime and confined in any jail, prison,
21 or other correctional facility if the court is satisfied that
22 the action fails to state a claim upon which relief can be
23 granted or is frivolous or malicious.”.

1 **SEC. 203. MODIFICATION OF REQUIRED MINIMUM STAND-**
2 **ARDS.**

3 Section 7(b)(2) of the Civil Rights of Institutionalized
4 Persons Act (42 U.S.C. 1997e(b)(2)) is amended by strik-
5 ing subparagraph (A) and redesignating subparagraphs
6 (B) through (E) as subparagraphs (A) through (D), re-
7 spectively.

8 **SEC. 204. PROCEEDINGS IN FORMA PAUPERIS.**

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

11 (1) by inserting “at any time” after “counsel
12 and may”;

13 (2) by striking “and may” and inserting “and
14 shall”;

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

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

20 (b) PRISONER’S STATEMENT OF ASSETS.—Section
21 1915 of title 28, United States Code, is amended by add-
22 ing at the end the following:

23 “(f) If a prisoner in a correctional institution files
24 an affidavit in accordance with subsection (a) of this sec-
25 tion, such prisoner shall include in that affidavit a state-
26 ment of all assets such prisoner possesses. The court shall

1 make inquiry of the correctional institution in which the
 2 prisoner is incarcerated for information available to that
 3 institution relating to the extent of the prisoner's assets.
 4 The court shall require full or partial payment of filing
 5 fees according to the prisoner's ability to pay.'.

6 **TITLE III—STOP TURNING OUT** 7 **PRISONERS**

8 **SEC. 301. APPROPRIATE REMEDIES FOR PRISON CONDI-** 9 **TIONS.**

10 (a) IN GENERAL.—Section 3626 of title 18, United
 11 States Code, is amended to read as follows:

12 **“§ 3626. Appropriate remedies with respect to prison** 13 **conditions**

14 “(a) REQUIREMENTS FOR RELIEF.—

15 “(1) LIMITATIONS ON PROSPECTIVE RELIEF.—

16 Prospective relief in a civil action with respect to
 17 prison conditions shall extend no further than nec-
 18 essary to remove the conditions that are causing the
 19 deprivation of the Federal rights of individual plain-
 20 tiffs in that civil action. The court shall not grant
 21 or approve any prospective relief unless the court
 22 finds that such relief is narrowly drawn and the
 23 least intrusive means to remedy the violation of the
 24 Federal right. In determining the intrusiveness of
 25 the relief, the court shall give substantial weight to

1 any adverse impact on public safety or the operation
2 of a criminal justice system caused by the relief.

3 “(2) PRISON POPULATION REDUCTION RE-
4 LIEF.—In any civil action with respect to prison con-
5 ditions, the court shall not grant or approve any re-
6 lief whose purpose or effect is to reduce or limit the
7 prison population, unless the plaintiff proves that
8 crowding is the primary cause of the deprivation of
9 the Federal right and no other relief will remedy
10 that deprivation.

11 “(b) TERMINATION OF RELIEF.—

12 “(1) AUTOMATIC TERMINATION OF PROSPEC-
13 TIVE RELIEF AFTER 2-YEAR PERIOD.—In any civil
14 action with respect to prison conditions, any pro-
15 spective relief shall automatically terminate 2 years
16 after the later of—

17 “(A) the date the court found the violation
18 of a Federal right that was the basis for the re-
19 lief; or

20 “(B) the date of the enactment of the Stop
21 Turning Out Prisoners Act.

22 “(2) IMMEDIATE TERMINATION OF PROSPEC-
23 TIVE RELIEF.—In any civil action with respect to
24 prison conditions, a defendant or intervenor shall be
25 entitled to the immediate termination of any pro-

1 spective relief, if that relief was approved or granted
2 in the absence of a finding by the court that prison
3 conditions violated a Federal right.

4 “(c) PROCEDURE FOR MOTIONS AFFECTING PRO-
5 SPECTIVE RELIEF.—

6 “(1) GENERALLY.—The court shall promptly
7 rule on any motion to modify or terminate prospec-
8 tive relief in a civil action with respect to prison con-
9 ditions.

10 “(2) AUTOMATIC STAY.—Any prospective relief
11 subject to a pending motion shall be automatically
12 stayed during the period—

13 “(A) beginning on the 30th day after such
14 motion is filed, in the case of a motion made
15 under subsection (b); and

16 “(B) beginning on the 180th day after
17 such motion is filed, in the case of a motion
18 made under any other law;

19 and ending on the date the court enters a final order
20 ruling on that motion.

21 “(d) STANDING.—Any Federal, State, or local official
22 or unit of government—

23 “(1) whose jurisdiction or function includes the
24 prosecution or custody of persons in a prison subject
25 to; or

1 “(2) who otherwise is or may be affected by;
2 any relief whose purpose or effect is to reduce or limit
3 the prison population shall have standing to oppose the
4 imposition or continuation in effect of that relief and may
5 intervene in any proceeding relating to that relief. Stand-
6 ing shall be liberally conferred under this subsection so
7 as to effectuate the remedial purposes of this section.

8 “(e) SPECIAL MASTERS.—In any civil action in a
9 Federal court with respect to prison conditions, any spe-
10 cial master or monitor shall be a United States magistrate
11 and shall make proposed findings on the record on com-
12 plicated factual issues submitted to that special master or
13 monitor by the court, but shall have no other function.
14 The parties may not by consent extend the function of
15 a special master beyond that permitted under this sub-
16 section.

17 “(f) ATTORNEY’S FEES.—No attorney’s fee under
18 section 722 of the Revised Statutes of the United States
19 (42 U.S.C. 1988) may be granted to a plaintiff in a civil
20 action with respect to prison conditions except to the ex-
21 tent such fee is—

22 “(1) directly and reasonably incurred in proving
23 an actual violation of the plaintiff’s Federal rights;
24 and

1 “(2) proportionally related to the extent the
2 plaintiff obtains court ordered relief for that viola-
3 tion.

4 “(g) DEFINITIONS.—As used in this section—

5 “(1) the term ‘prison’ means any Federal,
6 State, or local facility that incarcerates or detains
7 juveniles or adults accused of, convicted of, sen-
8 tenced for, or adjudicated delinquent for, violations
9 of criminal law;

10 “(2) the term ‘relief’ means all relief in any
11 form which may be granted or approved by the
12 court, and includes consent decrees and settlement
13 agreements (except a settlement agreement the
14 breach of which is not subject to any court enforce-
15 ment other than reinstatement of the civil proceed-
16 ing which such agreement settled); and

17 “(3) the term ‘prospective relief’ means all re-
18 lief other than compensatory monetary damages.”.

19 (b) APPLICATION OF AMENDMENT.—Section 3626 of
20 title 18, United States Code, as amended by this section,
21 shall apply with respect to all relief (as defined in such
22 section) whether such relief was originally granted or ap-
23 proved before, on, or after the date of the enactment of
24 this Act.

1 (c) CLERICAL AMENDMENT.—The item relating to
2 section 3626 in the table of sections at the beginning of
3 subchapter C of chapter 229 of title 18, United States
4 Code, is amended by striking “crowding” and inserting
5 “conditions”.

6 **TITLE IV—ENHANCING PROTEC-**
7 **TION AGAINST INCARCER-**
8 **ATED CRIMINALS**

9 **SEC. 401. PRISON SECURITY.**

10 (a) IN GENERAL.—Chapter 303 of title 18, United
11 States Code, is amended by adding at the end the follow-
12 ing new section:

13 **“§ 4048. Strength-training of prisoners prohibited**

14 “The Bureau of Prisons shall ensure that—

15 “(1) prisoners under its jurisdiction do not en-
16 gage in any physical activities designed to increase
17 their fighting ability; and

18 “(2) all equipment designed for increasing the
19 strength or fighting ability of prisoners promptly be
20 removed from Federal correctional facilities and not
21 be introduced into such facilities thereafter except as
22 needed for a medically required program of physical
23 rehabilitation approved by the Director of the Bu-
24 reau of Prisons.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 303 of title 18, United States
3 Code, is amended by adding at the end the following new
4 item:

“4048. Strength-training of prisoners prohibited.”.

5 **TITLE V—PRISON CONDITIONS**

6 **SEC. 501. PRISON CONDITIONS.**

7 (a) IN GENERAL.—The Attorney General shall by
8 rule establish standards regarding conditions in the Fed-
9 eral prison system that provide prisoners the least amount
10 of amenities and personal comforts consistent with Con-
11 stitutional requirements and good order and discipline in
12 the Federal prison system.

13 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed to establish or recognize any mini-
15 mum rights or standards for prisoners.

16 **SEC. 502. ANNUAL REPORT.**

17 The director of the Bureau of Prisons shall submit
18 to Congress on or before December 31 of each year, begin-
19 ning on December 31, 1995, a report setting forth the
20 amount spent at each Federal correctional facility under
21 the jurisdiction of the Bureau of Prisons for each of the
22 following items:

23 (1) The minimal requirements necessary to
24 maintain custody and security of prisoners.

25 (2) Basic nutritional needs.

1 (3) Essential medical services.

2 (4) Amenities and programs beyond the scope
3 of the items referred to in paragraphs (1) through
4 (3), including but not limited to—

5 (A) recreational programs and facilities;

6 (B) vocational and educational programs;

7 and

8 (C) counseling services, together with the
9 rationale for spending on each category and em-
10 pirical data, if any, supporting such rationale.

11 **TITLE VI—COMMUNITY SERVICE**
12 **PROJECTS**

13 **SEC. 601. BUREAU OF PRISONS COMMUNITY SERVICE**
14 **PROJECTS.**

15 (a) IN GENERAL.—Chapter 303 of title 18, United
16 States Code, is amended by adding at the end the follow-
17 ing:

18 **“§ 4047. Community service projects**

19 “(a) Subject to the limitations of subsection (b), the
20 Chief Executive Officer of a Federal penal or correctional
21 facility may, as part of an inmate work program, provide
22 services to private, nonprofit organizations, as defined in
23 section 501(c)(3) of the Internal Revenue Code of 1986,
24 or to a component of any State government or political

1 subdivision thereof. Such services shall be provided pursu-
 2 ant to rules prescribed by the Attorney General.

3 “(b) Services provided under subsection (a)—

4 “(1) shall be used only for the benefit of the re-
 5 cipient entity and not for the benefit of any individ-
 6 ual or organization other than the recipient; and

7 “(2) shall not displace an employee of the recip-
 8 ient or result in a reduction in hours, wages, or em-
 9 ployment benefits of any employee of the recipient.”.

10 (b) CLERICAL AMENDMENT.—The table of chapters
 11 at the beginning of chapter 303, title 18, United States
 12 Code, is amended by adding at the end the following new
 13 item:

“4047. Community service projects.”.

14 **TITLE VII—PRISON** 15 **COMMISSARY ADMINISTRATION**

16 **SEC. 701. ADMINISTRATION OF FEDERAL PRISON COM-** 17 **MISSARIES.**

18 Section 4043 of title 18, United States Code, is
 19 amended by striking the current language and inserting
 20 the following:

21 “(a) The Director of the Bureau of Prisons may es-
 22 tablish, operate, and maintain commissaries in Federal
 23 penal or correctional facilities, from and through which ar-
 24 ticles and services may be procured, sold, rendered, or oth-
 25 erwise provided or made available for the benefit of in-

1 mates confined within those facilities. Only those articles
2 or services authorized by the Director of the Bureau of
3 Prisons may be procured from or through prison com-
4 missaries for the use of inmates.

5 “(b) There is established in the Treasury of the
6 United States a revolving fund to be called the Prison
7 Commissary Fund which shall be available to the Federal
8 Bureau of Prisons without fiscal-year limitation to carry
9 out the purposes, functions and powers authorized by this
10 section. Funds currently on deposit in the ‘Commissary
11 Funds, Federal Prisons’ account of the Treasury shall be
12 transferred to the Prison Commissary Fund.

13 “(c) The Director of the Federal Bureau of Prisons
14 may accept gifts or bequests of money for credit to the
15 Fund. The Director may also accept gifts or bequests of
16 other property, real or personal, for use or other disposi-
17 tion by the Bureau of Prisons. A gift or bequest under
18 this section is a gift or bequest to or for the use of the
19 United States under the Internal Revenue Code of 1986
20 (26 U.S.C. 1 et seq.).

21 “(d) Amounts in the Prison Commissary Fund which
22 are not currently needed for operations shall be kept on
23 deposit or invested in obligations of, or guaranteed by, the
24 United States and all earnings on such investments shall
25 be deposited in the Prison Commissary Fund.

1 “(e) There shall be deposited in the Fund, subject
2 to withdrawal by the Federal Bureau of Prisons—

3 “(1) revenues received from the sale of articles
4 through prison commissaries;

5 “(2) revenues received from services rendered
6 by prison commissaries;

7 “(3) a gift or bequest of money for credit to the
8 Fund;

9 “(4) proceeds from the sale or disposal of do-
10 nated property, real or personal, for credit to the
11 Fund; and

12 “(5) earnings or interest which may be derived
13 from investments of the Fund.

14 “(f) The Fund shall be available for the payment of
15 any expenses incurred by the Federal Bureau of Prisons
16 in establishing, operating, and maintaining prison com-
17 missaries and the Prison Commissary Fund, including the
18 employment of personnel, the purchase of equipment, se-
19 curity-related or otherwise, and those expenses incurred
20 in the provision of articles or services procured, sold, ren-
21 dered, or otherwise provided or made available to inmates.

22 “(g) The Director of the Bureau of Prisons is author-
23 ized to use monies from the Prison Commissary Fund for
24 the general welfare of inmates. No inmate shall be entitled
25 to any portion of the Fund.

1 “(h) Employees compensated by or through the Pris-
 2 on Commissary Fund may be assigned additional duties
 3 other than those directly related to commissary activities.

4 “(i) The provisions of sections 554 and 555 and 701
 5 through 706 of title 5, United States Code, do not apply
 6 to the making of any determination, decision, or order
 7 under this section.”.

8 **SEC. 702. TECHNICAL AMENDMENT.**

9 Section 1321(b) of title 31, United States Code, is
 10 amended by striking “Commissary Funds, Federal
 11 Prisons”.

Passed the House of Representatives February 10,
 1995.

Attest:

ROBIN H. CARLE,
Clerk.

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