

**Calendar No. 107**

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 761**

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**A BILL**

To improve the ability of the United States to respond to the international terrorist threat.

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MAY 15, 1995

Read the second time and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

MAY 5 (legislative day, MAY 1), 1995

Mr. DASCHLE (for himself, Mr. BIDEN, Mr. KOHL, Mrs. FEINSTEIN, and Mr. DODD) introduced the following bill; which was read the first time

MAY 15, 1995

Read the second time and placed on the calendar

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**A BILL**

To improve the ability of the United States to respond to the international terrorist threat.

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 “Omnibus  
5 Counterterrorism Act of 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The following is the table of contents for this Act:

Sec. 1. Short title.

- Sec. 2. Table of contents.
- Sec. 3. Findings and purposes.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

- Sec. 101. Acts of terrorism transcending national boundaries.
- Sec. 102. Conspiracy to harm people or property overseas.
- Sec. 103. Clarification and extension of criminal jurisdiction over certain terrorism offense overseas.

TITLE II—IMMIGRATION LAW IMPROVEMENTS

- Sec. 201. Alien terrorist removal procedures.
- Sec. 202. Changes to the Immigration and Nationality Act to facilitate removal of alien terrorists.
- Sec. 203. Access to certain confidential INS files through court order.

TITLE III—CONTROLS OVER TERRORIST FUND-RAISING

- Sec. 301. Terrorist fund-raising prohibited.

TITLE IV—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

- Sec. 401. Short title.
- Sec. 402. Findings and purposes.
- Sec. 403. Definitions.
- Sec. 404. Requirement of detection agents for plastic explosives.
- Sec. 405. Criminal sanctions.
- Sec. 406. Exceptions.
- Sec. 407. Investigative authority.
- Sec. 408. Effective date.

TITLE V—NUCLEAR MATERIALS

- Sec. 501. Expansion of nuclear materials prohibitions.

TITLE VI—PROCEDURAL AND TECHNICAL CORRECTIONS AND IMPROVEMENTS

- Sec. 601. Correction to material support provision.
- Sec. 602. Expansion of weapons of mass destruction statute.
- Sec. 603. Addition of terrorist offenses to the RICO statute.
- Sec. 604. Addition of terrorist offenses to the money laundering statute.
- Sec. 605. Authorization for interception of communications in certain terrorism related offenses.
- Sec. 606. Clarification of maritime violence jurisdiction.
- Sec. 607. Expansion of Federal jurisdiction over bomb threats.
- Sec. 608. Increased penalty for explosives conspiracies.
- Sec. 609. Amendment to include assaults, murder, and threats against former Federal officials on account of the performance of their official duties.
- Sec. 610. Addition of conspiracy to terrorism offenses.

TITLE VII—ANTITERRORISM ASSISTANCE

- Sec. 701. Findings.
- Sec. 702. Antiterrorism assistance amendments.

## TITLE VIII—SUBSTANTIVE INVESTIGATIVE ENHANCEMENTS

- Sec. 801. Pen registers and trap and trace devices in foreign counterintelligence and counterterrorism investigations.
- Sec. 802. Disclosure of information and consumer reports to Federal Bureau of Investigation for foreign counterintelligence purposes.
- Sec. 803. Study and requirements for tagging of explosive materials, and study and recommendations for rendering explosive components inert and imposing controls on precursors of explosives.
- Sec. 804. Access to records of common carriers, public accommodation facilities, physical storage facilities and vehicle rental facilities in foreign counterintelligence and counterterrorism cases.
- Sec. 805. Limitation of statutory exclusionary rule.
- Sec. 806. Authority for wiretaps in any terrorism-related or explosives felony.
- Sec. 807. Temporary emergency wiretap authority involving terroristic crimes.
- Sec. 808. Expanded authority for roving wiretapes.
- Sec. 809. Enhanced access to telephone billing records.
- Sec. 810. Requirement to preserve evidence.
- Sec. 811. Permission to request military assistance with respect to offenses involving chemical and biological weapons.
- Sec. 812. General reward authority of the attorney general.

## TITLE IX—SUBSTANTIVE PROSECUTIVE ENHANCEMENTS

- Sec. 901. Possession of stolen explosives.
- Sec. 902. Protection of Federal employees on account of the performance of their official duties.

## TITLE X—CRIMINAL PENALTIES

- Sec. 1001. Mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence.
- Sec. 1002. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
- Sec. 1003. Increase period of limitations for National Firearms Act.

## TITLE XI—FUNDING

- Sec. 1101. Civil monetary penalty surcharge and telecommunications carrier compliance payments.

**1 SEC. 3. FINDINGS AND PURPOSES.**

2 (a) The Congress finds and declares:

- 3 (1) International terrorism remains a serious  
 4 and deadly problem which threatens the interests of  
 5 the United States both overseas and within its terri-  
 6 tory. States or organizations that practice terrorism

1 or actively support it should not be allowed to do so  
2 without serious consequence.

3 (2) International terrorism directed against  
4 United States interests must be confronted by the  
5 appropriate use of the full array of tools available to  
6 the President, including diplomatic, military, eco-  
7 nomic and prosecutive actions.

8 (3) The Nation's security interests are seriously  
9 impacted by terrorist attacks carried out overseas  
10 against United States Government facilities, officials  
11 and other American citizens present in foreign coun-  
12 tries.

13 (4) United States foreign policy interests are  
14 profoundly affected by terrorist acts overseas espe-  
15 cially those directed against friendly foreign govern-  
16 ments and their people and those intended to under-  
17 mine the peaceful resolution of disputes in the Mid-  
18 dle East and other troubled regions.

19 (5) Since the Iranian Revolution of 1979, the  
20 defeat of the Soviet Union in Afghanistan, the peace  
21 initiative in the Middle East, and the fall of com-  
22 munism throughout Eastern Europe and the former  
23 Soviet Union, international terrorism has become a  
24 more complex problem, with new alliances emerging  
25 among terrorist organizations.

1           (6) Violent crime is a pervasive international  
2           problem and is exacerbated by the free international  
3           movement of drugs, firearms, explosives and individ-  
4           uals dedicated to performing acts of international  
5           terrorism who travel using false or fraudulent docu-  
6           mentation.

7           (7) While international terrorists move freely  
8           from country to country, ordinary citizens and for-  
9           eign visitors often fear to travel to or through cer-  
10          tain parts of the world due to concern about terror-  
11          ist violence.

12          (8) In addition to the destruction of property  
13          and devastation to human life, the occurrence of an  
14          international terrorist event results in a decline of  
15          tourism and affects the marketplace, thereby having  
16          an adverse impact on interstate and foreign com-  
17          merce and economies of friendly nations.

18          (9) International terrorists, violating the sov-  
19          ereignty of foreign countries, attack dissidents and  
20          former colleagues living in foreign countries, includ-  
21          ing the United States.

22          (10) International terrorists, both inside and  
23          outside the United States, carefully plan attacks and  
24          carry them out in foreign countries against innocent  
25          victims.

1           (11) There are increasing intelligence indica-  
2           tions of networking between different international  
3           terrorist organizations leading to their increased co-  
4           operation and sharing of information and resources  
5           in areas of common interest.

6           (12) In response, increased international coordi-  
7           nation of legal and enforcement issues is required,  
8           pursuant, for example, to the numerous multilateral  
9           conventions in force providing universal prosecutive  
10          jurisdiction over persons involved in a variety of ter-  
11          rorist acts, including hostage taking, murder of an  
12          internationally protected person, and aircraft piracy  
13          and sabotage.

14          (13) Until recently, United States asylum proc-  
15          essing procedures have been complicated and often  
16          duplicative, providing a powerful incentive for indi-  
17          viduals, including terrorists, without a genuine  
18          claim, to apply for asylum and remain in the United  
19          States.

20          (14) The United States Constitution grants  
21          Congress the power to establish a uniform rule of  
22          naturalization and to make all laws necessary and  
23          proper thereto.

24          (15) Part of that power authorizes the Con-  
25          gress to establish laws directly applicable to alien

1       conduct within the United States that harms the  
2       foreign relations, domestic tranquility or national se-  
3       curity of the United States.

4           (16) While the vast majority of aliens justify  
5       the trust placed in them by United States immigra-  
6       tion policies, an dangerous few utilized access to the  
7       United States to carry out their terrorist activity to  
8       the detriment of this Nation's national security and  
9       foreign policy interests. Accordingly, international  
10      terrorist organizations have been able to create sig-  
11      nificant infrastructures and cells in the United  
12      States among aliens who are in this country either  
13      temporarily or as permanent resident aliens.

14          (17) International terrorist organizations, act-  
15      ing through affiliated groups and/or individuals,  
16      have been raising significant funds within the Unit-  
17      ed States, often through misrepresentation of their  
18      purposes or subtle forms of extortion, or using the  
19      United States as a conduit for transferring funds  
20      among countries.

21          (18) The provision of funds to organizations  
22      that engage in terrorism serves to facilitate their  
23      terrorist activities regardless of whether the funds,  
24      in whole or in part, are intended or claimed to be  
25      used for non-violent purposes.

1           (19) Certain foreign governments and inter-  
2           national terrorist organizations have directed their  
3           members or sympathizers residing in the United  
4           States to take measures in support of terrorist acts,  
5           either within or outside the United States.

6           (20) Present Federal law does not adequately  
7           reach all terrorist activity likely to be engaged in by  
8           aliens within the United States.

9           (21) Law enforcement officials have been hin-  
10          dered in using current immigration law to deport  
11          alien terrorists because the law fails to provide pro-  
12          cedures to protect classified intelligence sources and  
13          information. Moreover, a few high ranking members  
14          of terrorist organizations have been naturalized as  
15          United States citizens because denial of such natu-  
16          ralizations would have necessitated public disclosure  
17          of highly classified sources and methods. Further-  
18          more, deportation hearings frequently extend over  
19          several years, thus hampering the expeditious re-  
20          moval of aliens engaging in terrorist activity.

21          (22) Present immigration law is inadequate to  
22          protect the United States from terrorist attacks by  
23          certain aliens. New procedures are needed to permit  
24          expeditious removal of alien terrorists from the Unit-  
25          ed States, thereby reducing the threat that such

1 aliens pose to the national security and other vital  
2 interests of the United States.

3 (23) International terrorist organizations that  
4 have infrastructure support within the United States  
5 are believed to have been responsible for—

6 (A) conspiring in 1982 to bomb the Turk-  
7 ish Honorary Consulate in Philadelphia, Penn-  
8 sylvania;

9 (B) bombing the Marine barracks in Leb-  
10 anon in 1983;

11 (C) holding Americans hostage in Lebanon  
12 from 1984–1991;

13 (D) hijacking in 1984 Kuwait Airlines  
14 Flight 221 during which two American employ-  
15 ees of the Agency for International Develop-  
16 ment were murdered;

17 (E) hijacking in 1985 TWA Flight 847  
18 during which a United States Navy diver was  
19 murdered;

20 (F) murdering in 1985 an American tour-  
21 ist aboard the Achille Lauro cruise liner;

22 (G) hijacking in 1985 Egypt Air Flight  
23 648 during which one American and one Israeli  
24 were killed;

1 (H) murdering in 1985 four members of  
2 the United States Marine Corps in El Salvador;

3 (I) attacking in December 1985 the Rome  
4 and Vienna airports resulting in the death of a  
5 young American girl;

6 (J) hijacking in 1986 Pan Am Flight 73 in  
7 Karachi, Pakistan, in which 44 Americans were  
8 held hostage and two were killed;

9 (K) conspiring in 1986 in New York City  
10 to bomb an Air India aircraft;

11 (L) bombing in April 1988 the USO club  
12 in Naples, Italy, killing one American service-  
13 woman and injuring four American servicemen;

14 (M) attacking in 1988 the Greek cruise  
15 ship "City of Poros";

16 (N) bombing in 1988 Pan Am Flight 103  
17 resulting in 270 deaths;

18 (O) bombing in 1989 UTA Flight 772 re-  
19 sulting in 171 deaths, including seven Ameri-  
20 cans;

21 (P) murdering in 1989 a United States  
22 Marine Corps officer assigned to the United  
23 Nations Truce Supervisory Organization in  
24 Lebanon;

1 (Q) downing in January 1991 a United  
2 States military helicopter in El Salvador caus-  
3 ing the death of a United States military crew-  
4 man as a result of the crash and subsequently  
5 murdering its two surviving United States mili-  
6 tary crewmen;

7 (R) bombing in February 1992 the United  
8 States Ambassador's residence in Lima, Peru;

9 (S) bombing in February 1993 a cafe in  
10 Cairo, Egypt, which wounded two United States  
11 citizens;

12 (T) bombing in February 1993 the World  
13 Trade Center in New York City, resulting in six  
14 deaths;

15 (U) conspiring in the New York City area  
16 in 1993 to destroy several government buildings  
17 and tunnels;

18 (V) wounding in October 1994 two United  
19 States citizens on a crowded street in Jerusa-  
20 lem, Israel;

21 (W) kidnapping and subsequently murder-  
22 ing in October 1994 a dual citizen of the Unit-  
23 ed States and Israel; and

24 (X) numerous bombings and murders in  
25 Northern Ireland over the past decade.

1           (24) Nuclear materials, including byproduct  
2 materials, can be used to create radioactive dispersal  
3 devices which are capable of causing serious bodily  
4 injury as well as substantial damage to property and  
5 the environment.

6           (25) The potential use of nuclear materials, in-  
7 cluding byproduct materials, enhances the threat  
8 posed by terrorist activities and thereby has a great-  
9 er effect on the security interests of the United  
10 States.

11           (26) Due to the widespread hazards presented  
12 by the threat of nuclear contamination, as well as  
13 nuclear bombs, the United States has strong interest  
14 in assuring that persons who are engaged in the ille-  
15 gal acquisition and use of nuclear materials, includ-  
16 ing byproduct materials, are prosecuted for their of-  
17 fenses.

18           (27) The threat that the nuclear materials will  
19 be obtained and used by terrorist and other criminal  
20 organizations has increased substantially due to  
21 international developments in the years since the en-  
22 actment in 1982 of the legislation which imple-  
23 mented the Convention of the Physical Protection of  
24 Nuclear Material, codified at section 831 of title 18,  
25 United States Code.

1           (28) The successful effort to obtain agreements  
2 from other countries to dismantle and destroy nu-  
3 clear weapons has resulted in increased packaging  
4 and transportation of nuclear materials, thereby cre-  
5 ating more opportunities for their unlawful diversion  
6 or theft;

7           (29) The illicit trafficking in the relatively more  
8 common, commercially available and useable nuclear  
9 and byproduct materials poses a potential to cause  
10 significant loss of life and/or environmental damage.

11           (30) Reported trafficking incidents in the early  
12 1990's suggest that the individuals involved in traf-  
13 ficking these materials from Eurasia and Eastern  
14 Europe frequently conducted their black market  
15 sales within the Federal Republic of Germany, the  
16 Baltic States, and to a lesser extent in the Middle  
17 European countries.

18           (31) The international community has become  
19 increasingly concerned over the illegal possession of  
20 nuclear and nuclear byproduct materials.

21           (32) The potentially disastrous ramifications of  
22 increased access by terrorists to nuclear and nuclear  
23 byproduct material pose such a significant future  
24 threat that the United States must use all lawful

1 methods available to combat the illegal use of such  
2 materials.

3 (33) The United States has an interest in en-  
4 couraging United States corporations to do business  
5 in the countries which comprised the former Soviet  
6 Union, as well as in other developing democracies;  
7 protection of such corporations from threats created  
8 by the unlawful use of nuclear materials is impor-  
9 tant to encourage such business ventures, and to  
10 further the foreign relations and commerce of the  
11 United States.

12 (34) The nature of nuclear contamination is  
13 such that it may affect the health, environment, and  
14 property of United States nationals even if the acts  
15 which constitute the illegal activity occur outside the  
16 territory of the United States, and are primarily di-  
17 rected toward non-nationals of the United States.

18 (35) Plastic explosives were used by terrorists  
19 in the bombings of Pan Am flight 103 in December  
20 1988 and UTA flight 772 in September 1989.

21 (36) Plastic explosives currently can be used  
22 with little likelihood of detection for acts of unlawful  
23 interference with civil aviation, maritime navigation,  
24 and other modes of transportation.

1           (37) The marking of plastic explosives for the  
2           purpose of detection would contribute significantly to  
3           the prevention and punishment of such unlawful  
4           acts.

5           (38) In order to deter and detect the unlawful  
6           use of plastic explosives, the Convention on the  
7           Marking of Plastic Explosives for Purpose of Detec-  
8           tion, done at Montreal on 1 March 1991, requires  
9           each contracting State to adopt appropriate meas-  
10          ures to ensure that plastic explosives are duly  
11          marked and controlled.

12          The Congress further finds:

13           (39) Such international terrorist offenses place  
14           innocent lives in jeopardy, endanger national secu-  
15           rity, affect domestic tranquility, and gravely impact  
16           on interstate and foreign commerce.

17           (40) Such international terrorist offenses in-  
18           volved international associations, communication,  
19           and mobility which can often be addressed effectively  
20           only at the Federal law enforcement level.

21           (41) There previously has been no Federal  
22           criminal statute which provides a comprehensive  
23           basis for addressing acts of international terrorism  
24           carried out within the United States.

1           (42) There previously has been no Federal pro-  
2 vision that specifically prohibits fund raising within  
3 the United States on behalf of international terrorist  
4 organizations.

5           (43) There previously has been no adequate  
6 procedure under the immigration law that permits  
7 the expeditious removal of resident and non-resident  
8 alien terrorists.

9           (44) There previously has been no Federal  
10 criminal statute which provides adequate protection  
11 to United States interests from non-weapons grade,  
12 yet hazardous radioactive material, and from the il-  
13 legal diversion of nuclear materials which are held  
14 for other than peaceful purposes.

15           (45) There previously has been no Federal law  
16 that requires the marking of plastic explosives to im-  
17 prove their detectability.

18           (46) Congress has the power under the inter-  
19 state and foreign commerce clause, and other provi-  
20 sions of the Constitution, to enact the following  
21 measures against international terrorism in order to  
22 help ensure the integrity and safety of the Nation.

23           (b) The purposes of this Act are to provide—

24           (1) Federal law enforcement the necessary tools  
25 and fullest possible basis allowed under the Con-

1       stitution of the United States to address, pursuant  
2       to the rule of law, acts of international terrorism oc-  
3       curring within the United States, or directed against  
4       the United States or its nationals anywhere in the  
5       world;

6               (2) the Federal Government the fullest possible  
7       basis, consistent with the Constitution, of the United  
8       States, to prevent persons and organizations within  
9       the jurisdiction of the United States from providing  
10      funds, directly or indirectly, to organizations, includ-  
11      ing subordinate or affiliated persons, designated by  
12      the President as engaging in terrorism, unless au-  
13      thorized under this Act;

14              (3) procedures which, consistent with principles  
15      of fundamental fairness, will allow the government  
16      to deport resident and non-resident alien terrorists  
17      promptly without compromising intelligence sources  
18      and methods;

19              (4) provide Federal law enforcement the nec-  
20      essary tools and fullest possible basis allowed under  
21      the Constitution of the United States to combat the  
22      threat of nuclear contamination and proliferation  
23      which may result from illegal possession and use of  
24      radioactive materials; and

1 (5) fully implement the Convention on the  
2 Marking or Plastic Explosives for the Purpose of  
3 Detection, done at Montreal on 1 March 1991.

4 **TITLE I—SUBSTANTIVE CRIMINAL LAW**  
5 **ENHANCEMENTS**

6 **SEC. 101. ACTS OF TERRORISM TRANSCENDING NATIONAL**  
7 **BOUNDARIES.**

8 (a) OFFENSE.—Chapter 113B of title 18, United  
9 States Code, is amended by inserting after section 2332a  
10 this new section:

11 **“§ 2332b. Acts of terrorism transcending national**  
12 **boundaries**

13 “(a) FINDINGS AND PURPOSE.—

14 “(1) The Congress hereby finds that—

15 “(A) international terrorism is a serious  
16 and deadly problem which threatens the inter-  
17 ests of this Nation not only overseas but also  
18 within our territory;

19 “(B) international terrorists have dem-  
20 onstrated their intention and capability of car-  
21 rying out attacks within the United States by,  
22 for example, bombing The World Trade Center  
23 in New York and undertaking attacks, includ-  
24 ing assassinations, against former colleagues

1 and opponents who have taken up residence in  
2 this country;

3 “(C) United States foreign policy interests  
4 are seriously affected by terrorist acts within  
5 the United States directed against foreign gov-  
6 ernments and their people;

7 “(D) such offenses place innocent lives in  
8 jeopardy, endanger national security, affect do-  
9 mestic tranquility, and gravely impact on inter-  
10 state and foreign commerce;

11 “(E) such offenses involve international as-  
12 sociations, communication, and mobility which  
13 often can be addressed effectively only at the  
14 Federal law enforcement level; and

15 “(F) there previously has been no Federal  
16 criminal statute which provides a comprehensive  
17 basis for addressing acts of international terror-  
18 ism carried out within the United States.

19 “(2) The purpose of this section is to provide  
20 Federal law enforcement the fullest possible basis al-  
21 lowed under the Constitution to address acts of  
22 international terrorism occurring within the United  
23 States.

24 “(b) PROHIBITED ACTS.—

1           “(1) Whoever, in a circumstance described in  
2 subsection (c),

3           “(A) kills, kidnaps, maims, commits an as-  
4 sult resulting in serious bodily injury, or as-  
5 sults with a dangerous weapon any individual  
6 within the United States; or

7           “(B) destroys or damages any structure,  
8 conveyance or other real or personal property  
9 within the United States

10 in violation of the laws of any State or the United  
11 States shall be punished as prescribed in subsection  
12 (d).

13           “(2) Whoever threatens to commit an offense  
14 under subsection (b)(1), or attempts or conspires so  
15 to do, shall be punished as prescribed in subsection  
16 (d).

17           “(c) JURISIDICTIONAL BASES.—The circumstances  
18 referred to in subsection (b) are—

19           “(1) any of the offenders travels in commerce  
20 with the intent to commit the offense or to escape  
21 apprehension after the commission of such offense;

22           “(2) the mail, or any facility utilized in any  
23 manner in commerce, is used in furtherance of the  
24 commission of the offense or to effect the escape of  
25 any offender after the commission of such offense;

1           “(3) the offense obstructs, delays or affects  
2 commerce in any way or degree or would have so ob-  
3 structed, delayed or affected commerce if the offense  
4 had been consummated;

5           “(4) the victim, or intended victim, is the Unit-  
6 ed States Government or any official, officer, em-  
7 ployee or agent of the legislative, executive or judi-  
8 cial branches, or of any department or agency, of  
9 the United States;

10           “(5) the structure, conveyance or other real or  
11 personal property (A) was used in commerce or in  
12 any activity affecting commerce, or (B) was in whole  
13 or in part owned, possessed, or used by, or leased to  
14 (I) the United States, or any department or agency  
15 thereof, or (II) any institution or organization re-  
16 ceiving Federal financial assistance or insured by  
17 any department or agency of the United States;

18           “(6) any victim, or intended victim, of the of-  
19 fense is, at the time of the offense, traveling in com-  
20 merce;

21           “(7) any victim, intended victim or offender is  
22 not a national of the United States;

23           “(8) the offense is committed in the territorial  
24 sea (including the airspace above and the seabed and

1 subsoil below, and artificial islands and fixed struc-  
2 tures erected thereon) of the United States; or

3 “(9) the offense is committed in those places  
4 within the United States that are in the special mar-  
5 itime and territorial jurisdiction of the United  
6 States.

7 Jurisdiction shall exist over all principals and  
8 coconspirators of an offense under subsection (b), and ac-  
9 cessories after the fact to any offense based upon sub-  
10 section (b), if at least one of the above circumstances is  
11 applicable to at least one offender.

12 “(d) PENALTIES.—Whoever violates this section  
13 shall, in addition to the punishment provided for any other  
14 crime charged in the indictment, be punished—

15 “(1) for a killing or if death results to any per-  
16 son from any other conduct prohibited by this sec-  
17 tion by death, or by imprisonment for any term of  
18 years or for life;

19 “(2) for kidnapping, by imprisonment for any  
20 term of years or for life;

21 “(3) for maiming, by imprisonment for not  
22 more than thirty-five years;

23 “(4) for assault with a dangerous weapon or as-  
24 sault resulting in serious bodily injury, by imprison-  
25 ment for not more than thirty years;

1           “(5) for destroying or damaging any structure,  
2 conveyance or other real or personal property, by im-  
3 prisonment for not more than twenty-five years;

4           “(6) for attempting or conspiring to commit an  
5 offense, for any term of years up to the maximum  
6 punishment that would have applied had the offense  
7 been completed; and

8           “(7) for threatening to commit an offense  
9 under this section, by imprisonment for not more  
10 than ten years.

11 Notwithstanding any other provision of law, the court  
12 shall not place on probation any person convicted of a vio-  
13 lation of this section; nor shall the term of imprisonment  
14 imposed under this section run concurrently with any  
15 other term of imprisonment.

16           “(e) LIMITATION ON PROSECUTION.—No indictment  
17 for any offense described in this section shall be sought  
18 by the United States except after the Attorney General,  
19 or the highest ranking subordinate of the Attorney Gen-  
20 eral with responsibility for criminal prosecutions, has  
21 made a written certification that, in the judgment of the  
22 certifying official, such offense, or any activity preparatory  
23 to its commission, transcended national boundaries and  
24 that the offense appears to have been intended to coerce,

1 intimidate, or retaliate against a government or a civilian  
2 population, including any segment thereof.

3 “(f) INVESTIGATIVE RESPONSIBILITY.—Violations of  
4 this section shall be investigated by the Attorney General.  
5 Assistance may be requested from any Federal, State or  
6 local agency, including the Army, Navy, and Air Force,  
7 any statute, rule, or regulation to the contrary notwith-  
8 standing.

9 “(g) EVIDENCE.—

10 “(1) The prosecution is not required to prove  
11 knowledge by any defendant of a jurisdictional base  
12 alleged in the indictment.

13 “(2) In a prosecution under this section that is  
14 based upon the adoption of State law, only the ele-  
15 ments of the offense under State law, and not any  
16 provisions pertaining to criminal procedure or evi-  
17 dence, are adopted.

18 “(h) EXTRATERRITORIAL JURISDICTION.—There is  
19 extraterritorial Federal jurisdiction (1) over any offense  
20 under subsection (b), including any threat, attempt, or  
21 conspiracy to commit such offense, and (2) over conduct  
22 which, under section 3 of this title, renders any person  
23 an accessory after the fact to an offense under sub-  
24 section (b).

1       “(i) DEFINITIONS.—As used in this section, the  
2 term—

3           “(1) ‘commerce’ has the meaning given such  
4 term in section 1951(b)(3) of this title;

5           “(2) ‘facility utilized in any manner in com-  
6 merce’ includes means of transportation, commu-  
7 nication, and transmission;

8           “(3) ‘national of the United States’ has the  
9 meaning prescribed in section 101(a)(22) of the Im-  
10 migration and Nationality Act (8 U.S.C.  
11 1101(a)(22));

12           “(4) ‘serious bodily injury’ has the meaning  
13 prescribed in section 1365(g)(3) of this title;

14           “(5) ‘State’ includes a State of the United  
15 States, the District of Columbia, and any common-  
16 wealth, territory or possession of the United States;  
17 and

18           “(6) ‘territorial sea of the United States’ means  
19 all waters extending seaward to 12 nautical miles  
20 from the baselines of the United States determined  
21 in accordance with international law.”.

22       (b) TECHNICAL AMENDMENT.—The chapter analysis  
23 for Chapter 113B of title 18, United States Code, is  
24 amended by inserting after “2332a. Use of Weapons of  
25 Mass Destruction.” the following:

“2332b. Acts of terrorism transcending national boundaries.”

1 (c) STATUTE OF LIMITATIONS AMENDMENT.—Sec-  
2 tion 3286 of title 18, United States Code, is amended by—

3 (1) striking “any offense” and inserting “any  
4 non-capital offense”;

5 (2) striking “36” and inserting “37”;

6 (3) striking “2331” and inserting “2332”;

7 (4) striking “2339” and inserting “2332a”; and

8 (5) inserting “2332b (acts of terrorism tran-  
9 scending national boundaries),” after “(use of weap-  
10 ons of mass destruction),”.

11 (d) PRESUMPTIVE DETENTION.—Section 3142(e) of  
12 title 18, United States Code, is amended by inserting “or  
13 section 2332b” after “section 924(c)”.

14 **SEC. 102. CONSPIRACY TO HARM PEOPLE AND PROPERTY**  
15 **OVERSEAS.**

16 (a) Section 956 of chapter 45 of title 18, United  
17 States Code, is amended to read as follows:

18 **“§956. Conspiracy to kill, kidnap, maim, or injure**  
19 **certain property in a foreign country**

20 “(a)(1) Whoever, within the jurisdiction of the United  
21 States, conspires with one or more other persons, regard-  
22 less of where such other person or persons are located,  
23 to commit at any place outside the United States an act  
24 that would constitute the offense of murder, kidnapping,  
25 or maiming if committed in the special maritime and terri-

1 torial jurisdiction of the United States shall, if he or any  
2 such other person commits an act within the jurisdiction  
3 of the United States to effect any object of the conspiracy,  
4 be punished as provided in subsection (a)(2).

5 “(2) The punishment for an offense under subsection  
6 (a)(1) of this section is—

7 “(A) imprisonment for any term of years or for  
8 life if the offense is conspiracy to murder or kidnap;  
9 and

10 “(B) imprisonment for not more than thirty-  
11 five years if the offense is conspiracy to maim.

12 “(b) Whoever, within the jurisdiction of the United  
13 States, conspires with one or more persons, regardless of  
14 where such other person or persons are located, to injure  
15 or destroy specific property situated within a foreign coun-  
16 try and belonging to a foreign government or to any politi-  
17 cal subdivision thereof with which the United States is at  
18 peace, or any railroad, canal, bridge, airport, airfield or  
19 other public utility, public conveyance or public structure,  
20 or any religious, educational or cultural property so situ-  
21 ated, shall, if he or any such other person commits an  
22 act within the jurisdiction of the United States to effect  
23 any object of the conspiracy, be imprisoned not more than  
24 twenty-five years.”.

1 (b) The chapter analysis for chapter 45 of title 18,  
2 United States Code, is amended by striking “956. Con-  
3 spiracy to injure property of foreign government.” and in-  
4 serting in lieu thereof:

“956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign  
country.”.

5 (c) Section 2339A of title 18, United States Code,  
6 is amended by—

7 (1) striking “36” and inserting in lieu thereof  
8 “37”;

9 (2) striking “2331” and inserting in lieu there-  
10 of “2332”;

11 (3) striking “2339” and inserting in lieu there-  
12 of “2332a”;

13 (4) striking “of an escape” and inserting in lieu  
14 thereof “or an escape”; and

15 (5) inserting “956,” before “1114.”

16 **SEC. 103. CLARIFICATION AND EXTENSION OF CRIMINAL**  
17 **JURISDICTION OVER CERTAIN TERRORISM**  
18 **OFFENSES OVERSEAS.**

19 (a) Section 46502(b) of title 49, United States Code,  
20 is amended by—

21 (1) in paragraph (1), striking “and later found  
22 in the United States”;

23 (2) amending paragraph (2) to read as follows:

1           “(2) There is jurisdiction over the offense in  
2 paragraph (1) if—

3           “(A) a national of the United States was  
4 aboard the aircraft;

5           “(B) an offender is a national of the Unit-  
6 ed States; or

7           “(C) an offender is afterwards found in the  
8 United States.”; and

9           (3) inserting a new paragraph (3) as follows:

10           “(3) For purposes of this subsection, the term  
11 ‘national of the United States’ has the meaning pre-  
12 scribed in section 101(a)(22) of the Immigration  
13 and Nationality Act (8 U.S.C. 1101(a)(22)).”.

14           (b) Section 32(b) of title 18, United States Code, is  
15 amended by—

16           (1) striking “, if the offender is later found in  
17 the United States,”; and

18           (2) adding at the end the following two new  
19 paragraphs:

20           “(5) There is jurisdiction over an offense in this  
21 subsection if—

22           “(A) a national of the United States was  
23 on board, or would have been on board, the air-  
24 craft;

1           “(B) an offender is a national of the Unit-  
2           ed States; or

3           “(C) an offender is afterwards found in the  
4           United States.

5           “(6) For purposes of this subsection, the term  
6           ‘national of the United States’ has the meaning pre-  
7           scribed in section 101(a)(22) of the Immigration  
8           and Nationality Act (8 U.S.C. 1101(a)(22)).”.

9           (c) Section 1116 of title 18, United States Code, is  
10          amended by—

11           (1) in subsection (b), adding at the end a new  
12          paragraph (7) as follows:

13           “(7) ‘national of the United States’ has the  
14          meaning prescribed in section 101(a)(22) of the Im-  
15          migration and Nationality Act (8 U.S.C.  
16          1101(a)(22)).”; and

17           (2) in subsection (c), striking the first sentence  
18          and inserting the following: “If the victim of an of-  
19          fense under subsection (a) is an internationally pro-  
20          tected person outside the United States, the United  
21          States may exercise jurisdiction over the offense if  
22          (1) the victim is a representative, officer, employee,  
23          or agent of the United States, (2) an offender is a  
24          national of the United States, or (3) an offender is  
25          afterwards found in the United States.”.

1 (d) Section 112 of title 18, United States Code, is  
2 amended by—

3 (1) in subsection (c), inserting “national of the  
4 United States,” before “and”; and

5 (2) in subsection (e), striking the first sentence  
6 and inserting the following: “If the victim of an of-  
7 fense under subsection (a) is an internationally pro-  
8 tected person outside the United States, the United  
9 States may exercise jurisdiction over the offense if  
10 (1) the victim is a representative, officer, employee,  
11 or agent of the United States, (2) an offender is a  
12 national of the United States, or (3) an offender is  
13 afterwards found in the United States.”.

14 (e) Section 878 of title 18, United States Code, is  
15 amended by—

16 (1) in subsection (c), inserting “national of the  
17 United States,” before “and”; and

18 (2) in subsection (d) striking the first sentence  
19 and inserting the following: “If the victim of an of-  
20 fense under subsection (a) is an internationally pro-  
21 tected person outside the United States, the United  
22 States may exercise jurisdiction over the offense if  
23 (1) the victim is a representative, officer, employee,  
24 or agent of the United States, (2) an offender is a

1 national of the United States, or (3) an offender is  
2 afterwards found in the United States.”.

3 (f) Section 1201(e) of title 18, United States Code,  
4 is amended by—

5 (1) striking the first sentence and inserting the  
6 following: “If the victim of an offense under sub-  
7 section (a) is an internationally protected person  
8 outside the United States, the United States may  
9 exercise jurisdiction over the offense if (1) the victim  
10 is a representative, officer, employee, or agent of the  
11 United States, (2) an offender is a national of the  
12 United States, or (3) an offender is afterwards  
13 found in the United States.”; and

14 (2) adding at the end thereof the following:  
15 “For purposes of this subsection, the term ‘national  
16 of the United States’ has the meaning prescribed in  
17 section 101(a)(22) of the Immigration and National-  
18 ity Act (8 U.S.C. 1101(a)(22)).”.

19 (g) Section 37(b)(2) of title 18, United States Code,  
20 is amended—

21 (1) by inserting “(A)” before “the offender is  
22 later found in the United States”; and

23 (2) by inserting “; or (B) an offender or a vic-  
24 tim is a national of the United States (as defined in  
25 section 101(a)(22) of the Immigration and National-

1       ity Act (8 U.S.C. 1101(a)(22)))” after “the offender  
2       is later found in the United States”.

3       (h) Section 178 of title 18, United States Code, is  
4 amended by—

5           (1) striking the “and” at the end of para-  
6 graph (3);

7           (2) striking the “period” at the end of para-  
8 graph (4) and inserting in lieu thereof “; and”; and

9           (3) adding the following at the end thereof:

10          “(5) the term ‘national of the United States’  
11 has the meaning prescribed in section 101(a)(22) of  
12 the Immigration and Nationality Act (8 U.S.C.  
13 1101(a)(22)).”.

## 14                   **TITLE II—IMMIGRATION LAW**

### 15                           **IMPROVEMENTS**

#### 16   **SEC. 201. ALIEN TERRORIST REMOVAL PROCEDURES.**

17       (a) FINDINGS AND PURPOSE.—

18           (1) The Congress hereby finds that—

19                   (A) international terrorism is a serious and  
20 deadly problem which threatens the interests of  
21 this Nation overseas and within our territory;

22                   (B) until recently, United States asylum  
23 processing procedures have been complicated  
24 and often duplicative, providing a powerful in-  
25 centive for individuals, including terrorists,

1 without a genuine claim, to apply for asylum  
2 and remain in the United States;

3 (C) while most aliens justify the trust  
4 placed in them by our immigration policies, a  
5 dangerous few utilized access to the United  
6 States to create significant infrastructures and  
7 cells in the United States in order to carry out  
8 their terrorist activity to the detriment of the  
9 Nation's national security and foreign policy in-  
10 terests;

11 (D) the bombing of the World Trade Cen-  
12 ter exemplifies the danger posed to the United  
13 States and its citizens by alien terrorists;

14 (E) similarly, some foreign terrorist orga-  
15 nizations utilize associated aliens within the  
16 United States to raise funds to facilitate their  
17 overseas terrorist acts against United States  
18 nationals as well as against foreign govern-  
19 ments and their citizens; and

20 (F) current immigration laws and proce-  
21 dures are not effective in addressing the alien  
22 terrorist problem, as they require the govern-  
23 ment to place sensitive intelligence sources and  
24 methods at risk and allow the alien to remain  
25 within the United States for the prolonged pe-

1           riod necessary to pursue a deportation action.  
 2           Moreover, under the current statutory frame-  
 3           work a few high ranking members of terrorist  
 4           organizations have been naturalized as United  
 5           States citizens because denial of such natu-  
 6           ralizations would have necessitated public dis-  
 7           closure of highly classified sources and methods.

8           (2) The purpose of this section is to provide  
 9           procedures which, consistent with principles of fun-  
 10          damental fairness, will allow the government to de-  
 11          port alien terrorists promptly without compromising  
 12          intelligence sources and methods.

13          (b) ALIEN REMOVAL PROCEDURES.—The Immigra-  
 14          tion and Nationality Act is amended—

15               (1) by adding at the end of the table of con-  
 16          tents the following:

“TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

“Sec. 501. Applicability.

“Sec. 502. Special removal hearing.

“Sec. 503. Designation of judges.

“Sec. 504. Miscellaneous provisions.”;

17          and

18               (2) by adding at the end the following new title:



1 right to seek suppression of evidence. Further, the govern-  
2 ment is authorized to use, in the removal proceedings, the  
3 fruits of electronic surveillance and/or unconsented phys-  
4 ical searches authorized under the Foreign Intelligence  
5 Surveillance Act without regard to subsections 106(c), (e),  
6 (f), (g), and (h) of that Act. The provisions and require-  
7 ments of section 3504 of title 18, United States Code,  
8 shall not apply to procedures under this title.

9       “(c) This title is enacted in response to findings of  
10 Congress that aliens described in paragraph 4(B) of sec-  
11 tion 241(a), as amended, represent a unique threat to the  
12 security of the United States. It is the intention of Con-  
13 gress that such aliens be promptly removed from the  
14 United States following—

15               “(1) a judicial determination of probable cause  
16 to believe that such person is such an alien; and

17               “(2) a judicial determination pursuant to the  
18 provisions of this title that an alien is removable on  
19 the grounds that he or she is an alien described in  
20 paragraph 4(B) of section 241(a), as amended.

21 The Congress furthers intends that, other than as pro-  
22 vided by this title, such aliens shall not be given a deporta-  
23 tion hearing and are ineligible for any discretionary relief  
24 from deportation or for relief under section 243(h).

1                   “SPECIAL REMOVAL HEARING

2           “SEC. 502. (a) Whenever removal of an alien is  
3 sought pursuant to the provisions of this title, a written  
4 application upon oath or affirmation shall be submitted  
5 in camera and ex parte to the court established under sec-  
6 tion 503 for an order authorizing such a procedure. Each  
7 application shall require the approval of the Attorney Gen-  
8 eral or the Deputy Attorney General based upon his find-  
9 ing that it satisfies the criteria and requirements of such  
10 application as set forth in this title. Each application shall  
11 include—

12                   “(1) the identity of the Department of Justice  
13 attorney making the application;

14                   “(2) the approval of the Attorney General or  
15 the Deputy Attorney General for the making of the  
16 application;

17                   “(3) the identity of the alien for whom author-  
18 ization for the special removal procedure is sought;  
19 and

20                   “(4) a statement of the facts and circumstances  
21 relied on by the Department of Justice to establish  
22 that—

23                           “(A) the alien is an alien as described in  
24 paragraph 4(B) of section 214(a), as amended,

1           and is physically present in the United States;  
2           and

3                   “(B) with respect to such alien, adherence  
4           to the provisions of title II regarding the depor-  
5           tation of aliens would pose a risk to the na-  
6           tional security of the United States.

7           “(b)(1) The application shall be filed under seal with  
8           the court established under section 503. The Attorney  
9           General may take into custody any alien with respect to  
10          whom such an application has been filed and, notwith-  
11          standing any other provision of law, may retain such an  
12          alien in custody in accordance with the procedures author-  
13          ized by this title.

14          “(2) An alien lawfully admitted for permanent resi-  
15          dence (hereafter referred to as resident alien) shall be enti-  
16          tled to a release hearing before the judge assigned to the  
17          special removal case pursuant to section 503(a). The resi-  
18          dent alien shall be granted release pending the special re-  
19          moval hearing, upon such terms and conditions prescribed  
20          by the court (including the posting of any monetary  
21          amount), if the alien demonstrates to the court that the  
22          alien, if released, is not likely to flee and that the alien’s  
23          release will not endanger national security or the safety  
24          of any person or the community. The judge may consider

1 classified information submitted in camera and ex parte  
2 in making his determination.

3 “(c) In accordance with the rules of the court estab-  
4 lished under section 503, the judge shall consider the ap-  
5 plication and may consider other information, including  
6 classified information, presented under oath or affirmation  
7 at an in camera and ex parte hearing on the application.  
8 A verbatim record shall be maintained of such a hearing.  
9 The application and any other evidence shall be considered  
10 by a single judge of that court who shall enter an ex parte  
11 order as requested if he finds, on the basis of the facts  
12 submitted in the application and any other information  
13 provided by the Department of Justice at the in camera  
14 and ex parte hearing, there is probable cause to believe  
15 that—

16 “(1) the alien who is the subject of the applica-  
17 tion has been correctly identified and is an alien as  
18 described in paragraph 4(B) of section 241(a), as  
19 amended; and

20 “(2) adherence to the provisions of title II re-  
21 garding the deportation of the identified alien would  
22 pose a risk to the national security of the United  
23 States.

24 “(d)(1) In any case in which the application for the  
25 order is denied, the judge shall prepare a written state-

1 ment of his reasons for the denial and the Department  
2 of Justice may seek a review of the denial by the United  
3 States Court of Appeals for the District of Columbia Cir-  
4 cuit by notice of appeal which must be filed within twenty  
5 days. In such a case the entire record of the proceeding  
6 shall be transmitted to the Court of Appeals under seal  
7 and the Court of Appeals shall hear the matter ex parte.

8       “(2) If the Department of Justice does not seek re-  
9 view, the alien shall be released from custody, unless such  
10 alien may be arrested and taken into custody pursuant  
11 to title II as an alien subject to deportation, in which case  
12 such alien shall be treated in accordance with the provi-  
13 sions of this Act concerning the deportation of aliens.

14       “(3) If the application for the order is denied because  
15 the judge has not found probable cause to believe that the  
16 alien who is the subject of the application has been cor-  
17 rectly identified or is an alien as described in paragraph  
18 4(B) of section 241(a), as amended, and the Department  
19 of Justice seeks review, the alien shall be released from  
20 custody unless such alien may be arrested and taken into  
21 custody pursuant to title II as an alien subject to deporta-  
22 tion, in which case such alien shall be treated in accord-  
23 ance with the provisions of this Act concerning the depor-  
24 tation of aliens simultaneously with the application of this  
25 title.

1       “(4) If the application for the order is denied be-  
2 cause, although the judge found probable cause to believe  
3 that the alien who is the subject of the application has  
4 been correctly identified and is an alien as described in  
5 paragraph 4(B) of section 241(a), as amended, the judge  
6 has found that there is not probable cause to believe that  
7 adherence to the provisions of title II regarding the depor-  
8 tation of the identified alien would pose a risk to the na-  
9 tional security of the United States, the judge shall release  
10 the alien from custody subject to the least restrictive con-  
11 dition or combination of conditions of release described in  
12 section 3142(b) and (c)(1)(B) (i) through (xiv) of title 18,  
13 United States Code, that will reasonably assure the ap-  
14 pearance of the alien at any future proceeding pursuant  
15 to this title and will not endanger the safety of any other  
16 person or the Community; but if the judge finds no such  
17 condition or combination of conditions the alien shall re-  
18 main in custody until the completion of any appeal author-  
19 ized by this title. The provisions of sections 3145 through  
20 3148 of title 18, United States Code, pertaining to review  
21 and appeal of a release or detention order, penalties for  
22 failure to appear, penalties for an offense committed while  
23 on release, and sanctions for violation of a release condi-  
24 tion shall apply to an alien to whom the previous sentence  
25 applies and—

1           “(A) for purposes of section 3145 of such title  
2           an appeal shall be taken to the United States Court  
3           of Appeals for the District of Columbia Circuit; and

4           “(B) for purposes of section 3146 of such title  
5           the alien shall be considered released in connection  
6           with a charge of an offense punishable by life im-  
7           prisonment.

8           “(e)(1) In any case in which the application for the  
9           order authorizing the special procedures of this title is ap-  
10          proved, the judge who granted the order shall consider  
11          each item of classified information the Department of Jus-  
12          tice proposes to introduce in camera and ex parte at the  
13          special removal hearing and shall order the introduction  
14          of such information pursuant to subsection (j) if he deter-  
15          mines the information to be relevant. The Department of  
16          Justice shall prepare a written summary of such classified  
17          information which does not pose a risk to national security  
18          and the judge shall approve the summary if he finds the  
19          summary is sufficient to inform the alien of the general  
20          nature of the evidence that he is an alien as described in  
21          paragraph 4(B) of section 241(a), as amended, and to per-  
22          mit the alien to prepare a defense. The Department of  
23          Justice shall cause to be delivered to the alien a copy of  
24          the summary.

1       “(2) If the written summary is not approved by the  
2 court, the Department shall be afforded reasonable oppor-  
3 tunity to correct the deficiencies identified by the court  
4 and submit a revised summary. Thereafter, if the written  
5 summary is not approved by the court, the special removal  
6 hearing shall be terminated unless the court issues a find-  
7 ing that—

8               “(A) the continued presence of the alien in the  
9 United States, or

10              “(B) the provision of the required summary  
11 would likely cause serious and irreparable harm to  
12 the national security or death or serious bodily in-  
13 jury to any person. If such finding is issued, the spe-  
14 cial removal hearing shall continue, the Department  
15 of Justice shall cause to be delivered to the alien a  
16 statement that no summary is possible, and the clas-  
17 sified information submitted in camera and ex parte  
18 may be used pursuant to subsection (j).

19       “(3) The Department of Justice may take an inter-  
20 locutory appeal to the United States Court of Appeals for  
21 the District of Columbia Circuit of—

22              “(A) any determination by the judge pursuant  
23 to paragraph (1)—

1           “(I) concerning whether an item of evi-  
2           dence may be introduced in camera and ex  
3           parte; or

4           “(II) concerning the contents of any sum-  
5           mary of evidence to be introduced in camera  
6           and ex parte prepared pursuant to paragraph  
7           (1); or

8           “(B) the refusal of the court to make the find-  
9           ing permitted by paragraph (2);

10 In any interlocutory appeal taken pursuant to this para-  
11 graph, the entire record, including any proposed order of  
12 the judge or summary of evidence, shall be transmitted  
13 to the Court of Appeals under seal and the matter shall  
14 be heard ex parte. The Court of Appeals shall consider  
15 the appeal as expeditiously as possible.

16       “(f) In any case in which the application for the order  
17 is approved, the special removal hearing authorized by this  
18 section shall be conducted for the purpose of determining  
19 if the alien to whom the order pertains should be removed  
20 from the United States on the grounds that he is an alien  
21 as described in paragraph 4(B) of section 241(a), as  
22 amended. In accordance with subsection (e), the alien shall  
23 be given reasonable notice of the nature of the charges  
24 against him and a general account of the basis for the  
25 charges. The alien shall be given notice, reasonable under

1 all the circumstances, of the time and place at which the  
2 hearing will be held. The hearing shall be held as expedi-  
3 tiously as possible.

4       “(g) The special removal hearing shall be held before  
5 the same judge who granted the order pursuant to sub-  
6 section (e) unless that judge is deemed unavailable due  
7 to illness or disability by the chief judge of the court estab-  
8 lished pursuant to section 503, or has died, in which case  
9 the chief judge shall assign another judge to conduct the  
10 special removal hearing. A decision by the chief judge pur-  
11 suant to the preceding sentence shall not be subject to  
12 review by either the alien or the Department of Justice.

13       “(h) The special removal hearing shall be open to the  
14 public. The alien shall have a right to be present at such  
15 hearing and to be represented by counsel. Any alien finan-  
16 cially unable to obtain counsel shall be entitled to have  
17 counsel assigned to represent him. Such counsel shall be  
18 appointed by the judge pursuant to the plan for furnishing  
19 representation for any person financially unable to obtain  
20 adequate representation for the district in which the hear-  
21 ing is conducted, as provided for in section 3006A of title  
22 18, United States Code. All provisions of that section shall  
23 apply and, for purposes of determining the maximum  
24 amount of compensation, the matter shall be treated as  
25 if a felony was charged. The alien may be called as a wit-

1 ness by the Department of Justice. The alien shall have  
2 a right to introduce evidence on his own behalf. Except  
3 as provided in subsection (j), the alien shall have a reason-  
4 able opportunity to examine the evidence against him and  
5 to cross-examine any witness. A verbatim record of the  
6 proceedings and of all testimony and evidence offered or  
7 produced at such a hearing shall be kept. The decision  
8 of the judge shall be based only on the evidence introduced  
9 at the hearing, including evidence introduced under sub-  
10 section (j).

11       “(i) At any time prior to the conclusion of the special  
12 removal hearing, either the alien or the Department of  
13 Justice may request the judge to issue a subpoena for the  
14 presence of a named witness (which subpoena may also  
15 command the person to whom it is directed to produce  
16 books, papers, documents, or other objects designated  
17 therein) upon a satisfactory showing that the presence of  
18 the witness is necessary for the determination of any ma-  
19 terial matter. Such a request may be made ex parte except  
20 that the judge shall inform the Department of Justice of  
21 any request for a subpoena by the alien for a witness or  
22 material if compliance with such a subpoena would reveal  
23 evidence or the source of evidence which has been intro-  
24 duced, or which the Department of Justice has received  
25 permission to introduce, in camera and ex parte pursuant

1 to subsection (j), and the Department of Justice shall be  
2 given a reasonable opportunity to oppose the issuance of  
3 such a subpoena. If an application for a subpoena by the  
4 alien also makes a showing that the alien is financially  
5 unable to pay for the attendance of a witness so requested,  
6 the court may order the costs incurred by the process and  
7 the fees of the witness so subpoenaed to be paid for from  
8 funds appropriated for the enforcement of title II. A sub-  
9 poena under this subsection may be served anywhere in  
10 the United States. A witness subpoenaed under this sub-  
11 section shall receive the same fees and expenses as a wit-  
12 ness subpoenaed in connection with a civil proceeding in  
13 a court of the United States. Nothing in this subsection  
14 is intended to allow an alien to have access to classified  
15 information.

16       “(j) When classified information has been summa-  
17 rized pursuant to subsection (e)(1) or where a finding has  
18 been made under subsection (e)(2) that no summary is  
19 possible, classified information shall be introduced (either  
20 in writing or through testimony) in camera and ex parte  
21 and neither the alien nor the public shall be informed of  
22 such evidence or its sources other than through reference  
23 to the summary provided pursuant to subsection (e)(1).  
24 Notwithstanding the previous sentence, the Department of  
25 Justice may, in its discretion and, in the case of classified

1 information, after coordination with the originating agen-  
2 cy, elect to introduce such evidence in open session.

3 “(k) Evidence introduced at the special removal hear-  
4 ing, either in open session or in camera and ex parte, may,  
5 in the discretion of the Department of Justice, include all  
6 or part of the information presented under subsections (a)  
7 through (c) used to obtain the order for the hearing under  
8 this section.

9 “(l) Following the receipt of evidence, the attorneys  
10 for the Department of Justice and for the alien shall be  
11 given fair opportunity to present argument as to whether  
12 the evidence is sufficient to justify the removal of the  
13 alien. The attorney for the Department of Justice shall  
14 open the argument. the attorney for the alien shall be per-  
15 mitted to reply. The attorney for the Department of Jus-  
16 tice shall then be permitted to reply in rebuttal. The judge  
17 may allow any part of the argument that refers to evidence  
18 received in camera and ex parte to be heard in camera  
19 and ex parte.

20 “(m) The Department of Justice has the burden of  
21 showing by clear and convincing evidence that the alien  
22 is subject to removal because he is an alien as described  
23 in paragraph 4(B) of subsection 241(a) of this Act (8  
24 U.S.C. 1251(a)(4)(B)), as amended. If the judge finds  
25 that the Department of Justice has met this burden, the

1 judge shall order the alien removed and, if the alien is  
2 a resident alien who was released pending the special re-  
3 moval hearing, order the Attorney General to take the  
4 alien into custody.

5       “(n)(1) At the time of rendering a decision as to  
6 whether the alien shall be removed, the judge shall prepare  
7 a written order containing a statement of facts found and  
8 conclusions of law. Any portion of the order that would  
9 reveal the substance or source of information received in  
10 camera and ex parte pursuant to subsection (j) shall not  
11 be made available to the alien or the public.

12       “(2) The decision of the judge may be appealed by  
13 either the alien or the Department of Justice to the United  
14 States Court of Appeals for the District of Columbia Cir-  
15 cuit by notice of appeal which must be filed within twenty  
16 days, during which time such order shall not be executed.  
17 In any case appealed pursuant to this subsection, the en-  
18 tire record shall be transmitted to the Court of Appeals  
19 and information received pursuant to subsection (j), and  
20 any portion of the judge’s order that would reveal the sub-  
21 stance or source of such information shall be transmitted  
22 under seal. The Court of Appeals shall consider the case  
23 as expeditiously as possible.

24       “(3) In an appeal to the Court of Appeals pursuant  
25 to either subsection (d) or (e) of this section, the Court

1 of Appeals shall review questions of law de novo, but a  
2 prior finding on any question of fact shall not be set aside  
3 unless such finding was clearly erroneous.

4 “(o) If the judge decides pursuant to subsection (n)  
5 that the alien should not be removed, the alien shall be  
6 released from custody unless such alien may be arrested  
7 and taken into custody pursuant to title II of this Act  
8 as an alien subject to deportation, in which case, for pur-  
9 poses of detention, such alien may be treated in accord-  
10 ance with the provisions of this Act concerning the depor-  
11 tation of aliens.

12 “(p) Following a decision by the Court of Appeals  
13 pursuant to either subsection (d) or (n), either the alien  
14 or the Department of Justice may petition the Supreme  
15 Court for a writ of certiorari. In any such case, any infor-  
16 mation transmitted to the Court of Appeals under seal  
17 shall, if such information is also submitted to the Supreme  
18 Court, be transmitted under seal. Any order of removal  
19 shall not be stayed pending disposition of a writ of certio-  
20 rari except as provided by the Court of Appeals or a Jus-  
21 tice of the Supreme Court.

22 “(q) The Department of Justice retains the right to  
23 dismiss a removal action at any stage of the proceeding.

24 “(r) Nothing in this section shall prevent the United  
25 States from seeking protective orders and/or asserting

1 privileges ordinarily available to the United States to pro-  
2 tect against the disclosure of classified information, in-  
3 cluding the invocation of the military and state secrets  
4 privileges.

5                                   “DESIGNATION OF JUDGES

6           “SEC. 503. (a) The Chief Justice of the United  
7 States shall publicly designate five district court judges  
8 from five of the United States judicial circuits who shall  
9 constitute a court which shall have jurisdiction to conduct  
10 all matters and proceedings authorized by section 502.  
11 The Chief Justice shall publicly designate one of the  
12 judges so appointed as the chief judge. The chief judge  
13 shall promulgate rules to facilitate the functioning of the  
14 court and shall be responsible for assigning the consider-  
15 ation of cases to the various judges.

16           “(b) Proceedings under section 502 shall be con-  
17 ducted as expeditiously as possible. The Chief Justice, in  
18 consultation with the Attorney General, the Director of  
19 Central Intelligence and other appropriate Federal offi-  
20 cials, shall, consistent with the objectives of this title, pro-  
21 vide for the maintenance of appropriate security measures  
22 for applications for ex parte orders to conduct the special  
23 removal hearings authorized by section 502, the orders  
24 themselves, and evidence received in camera and ex parte,  
25 and for such other actions as are necessary to protect in-

1 formation concerning matters before the court from harm-  
2 ing the national security of the United States.

3 “(c) Each judge designated under this section shall  
4 serve for a term of five years and shall be eligible for re-  
5 designation, except that the four associate judges first des-  
6 ignated under subsection (a) shall be designated for terms  
7 of from one to four years so that the term of one judge  
8 shall expire each year.

9 “MISCELLANEOUS PROVISIONS

10 “SEC. 504. (a)(1) Following a determination pursu-  
11 ant to this title that an alien shall be removed, and after  
12 the conclusion of any judicial review thereof, the Attorney  
13 General may retain the alien in custody or, if the alien  
14 was released pursuant to subsection 502(o), may return  
15 the alien to custody, and shall cause the alien to be trans-  
16 ported to any country which the alien shall designate pro-  
17 vided such designation does not, in the judgment of the  
18 Attorney General, in consultation with the Secretary of  
19 State, impair the obligation of the United States under  
20 any treaty (including a treaty pertaining to extradition)  
21 or otherwise adversely affect the foreign policy of the  
22 United States.

23 “(2) If the alien refuses to choose a country to which  
24 he wishes to be transported, or if the Attorney General,  
25 in consultation with the Secretary of State, determines

1 that removal of the alien to the country so selected would  
2 impair a treaty obligation or adversely affect United  
3 States foreign policy, the Attorney General shall cause the  
4 alien to be transported to any country willing to receive  
5 such alien.

6 “(3) Before an alien is transported out of the United  
7 States pursuant to paragraph (1) or (2) or pursuant to  
8 an order of exclusion because such alien is excludable  
9 under paragraph 212(a)(3)(B) of this Act (8 U.S.C.  
10 1182(a)(3)(B)), as amended, he shall be photographed  
11 and fingerprinted, and shall be advised of the provisions  
12 of subsection 276(b) of this Act (8 U.S.C. 1326(b)).

13 “(4) If no country is willing to receive such an alien,  
14 the Attorney General may, notwithstanding any other pro-  
15 vision of law, retain the alien in custody. The Attorney  
16 General, in coordination with the Secretary of State, shall  
17 make periodic efforts to reach agreement with other coun-  
18 tries to accept such an alien and at least every six months  
19 shall provide to the alien a written report on his efforts.  
20 Any alien in custody pursuant to this subsection shall be  
21 released from custody solely at the discretion of the Attor-  
22 ney General and subject to such conditions as the Attorney  
23 General shall deem appropriate. The determinations and  
24 actions of the Attorney General pursuant to this sub-  
25 section shall not be subject to judicial review, including

1 application for a writ of habeas corpus, except for a claim  
2 by the alien that continued detention violates his rights  
3 under the Constitution. Jurisdiction over any such chal-  
4 lenge shall lie exclusively in the United States Court of  
5 Appeals for the District of Columbia Circuit.

6       “(b)(1) Notwithstanding the provisions of subsection  
7 (a), the Attorney General may hold in abeyance the re-  
8 moval of an alien who has been ordered removed pursuant  
9 to this title to allow the trial of such alien on any Federal  
10 or State criminal charge and the service of any sentence  
11 of confinement resulting from such a trial.

12       “(2) Pending the commencement of any service of a  
13 sentence of confinement by an alien described in para-  
14 graph (1), such an alien shall remain in the custody of  
15 the Attorney General, unless the Attorney General deter-  
16 mines that temporary release of the alien to the custody  
17 of State authorities for confinement in a State facility is  
18 appropriate and would not endanger national security or  
19 public safety.

20       “(3) Following the completion of a sentence of con-  
21 finement by an alien described in paragraph (1) or follow-  
22 ing the completion of State criminal proceedings which do  
23 not result in a sentence of confinement of an alien released  
24 to the custody of State authorities pursuant to paragraph  
25 (2), such an alien shall be returned to the custody of the

1 Attorney General who shall proceed to carry out the provi-  
2 sions of subsection (a) concerning removal of the alien.

3 “(c) For purposes of section 751 and 752 of title 18,  
4 United States Code, an alien in the custody of the Attor-  
5 ney General pursuant to this title shall be subject to the  
6 penalties provided by those sections in relation to a person  
7 committed to the custody of the Attorney General by vir-  
8 tue of an arrest on a charge of felony.

9 “(d)(1) An alien in the custody of the Attorney Gen-  
10 eral pursuant to this title shall be given reasonable oppor-  
11 tunity to communicate with and receive visits from mem-  
12 bers of his family, and to contact, retain, and commu-  
13 nicate with an attorney.

14 “(2) An alien in the custody of the Attorney General  
15 pursuant to this title shall have the right to contact an  
16 appropriate diplomatic or consular official of the alien’s  
17 country of citizenship or nationality or of any country pro-  
18 viding representation services therefor. The Attorney Gen-  
19 eral shall notify the appropriate embassy, mission, or con-  
20 sular office of the alien’s detention.”.

21 (c) ADDITIONAL AMENDMENTS TO INA.—(1) Sub-  
22 section 106(b) of the Immigration and Nationality Act (8  
23 U.S.C. 1105a(b)) is amended by adding at the end thereof  
24 the following sentence: “Jurisdiction to review an order  
25 entered pursuant to the provisions of section 235(c) of this

1 Act concerning an alien excludable under paragraph 3(B)  
2 of subsection 212(a) (8 U.S.C. 1182(a)), as amended,  
3 shall rest exclusively in the United States Court of Appeals  
4 for the District of Columbia Circuit.”.

5 (2) Section 276(b) of the Immigration and National-  
6 ity Act (8 U.S.C. 1326(b)) is amended by deleting the  
7 word “or” at the end of subparagraph (b)(1), by replacing  
8 the period at the end of subparagraph (b)(2) with a semi-  
9 colon followed by the word “or”, and by adding at the  
10 end of paragraph (b) the following subparagraph:

11 “(3) who has been excluded from the United  
12 States pursuant to subsection 235(c) of this Act (8  
13 U.S.C. 1225(c)) because such alien was excludable  
14 under paragraph 3(B) of subsection 212(a) thereof  
15 (8 U.S.C. 1182(a)(2)(B)), as amended, or who has  
16 been removed from the United States pursuant to  
17 the provisions of title V of the Immigration and Na-  
18 tionality Act, and who thereafter, without the per-  
19 mission of the Attorney General, enters the United  
20 States or attempts to do so shall be fined under title  
21 18, United States Code, and imprisoned for a period  
22 of ten years which sentence shall not run concur-  
23 rently with any other sentence.”

24 (3) Section 106(a) of the Immigration and National-  
25 ity Act (8 U.S.C. 1105a(a)) is amended by striking from

1 the end of subparagraph 9 the semicolon and the word  
2 “and” and inserting a period in lieu thereof, and by strik-  
3 ing subparagraph 10.

4 (d) EFFECTIVE DATE.—The provisions of this Act  
5 shall be effective upon enactment, and shall apply to all  
6 aliens without regard to the date of entry or attempted  
7 entry into the United States.

8 **SEC. 202. CHANGES TO THE IMMIGRATION AND NATIONAL-**  
9 **ITY ACT TO FACILITATE REMOVAL OF ALIEN**  
10 **TERRORISTS.**

11 (a) Section 212(a)(3)(B) of the Immigration and Na-  
12 tionality Act (8 U.S.C. 1182(a)(3)(B)) is amended to read  
13 as follows:

14 “(B) TERRORISM ACTIVITIES.—

15 “(i) IN GENERAL.—Any alien who—

16 “(I) has engaged in a terrorism  
17 activity, or

18 “(II) a consular officer or the At-  
19 torney General knows, or has reason  
20 to believe, is likely to engage after  
21 entry in any terrorism activity (as de-  
22 fined in clause (iii)),

23 is excludable. An alien who is a representa-  
24 tive of the Palestine Liberation Organiza-  
25 tion, or any terrorist organization des-

1           ignated by proclamation by the President  
2           after he has found such organization to be  
3           detrimental to the interest of the United  
4           States, is considered, for purposes of this  
5           Act, to be engaged in a terrorism activity.  
6           As used in clause (B)(i), the term “rep-  
7           resentative” includes an officer, official, or  
8           spokesman of the organization and any  
9           person who directs, counsels, commands or  
10          induces such organization or its members  
11          to engage in terrorism activity. For pur-  
12          poses of subparagraph (3)(B)(i), the deter-  
13          mination by the Secretary of State or the  
14          Attorney General that an alien is a rep-  
15          resentative of the organization shall be  
16          controlling and shall not be subject to re-  
17          view by any court.

18                 “(ii)   TERRORISM   ACTIVITY   DE-  
19                 FINED.—As used in this Act, the term  
20                 “terrorism activity’ means any activity  
21                 which is unlawful under the laws of the  
22                 place where it is committed (or which, if it  
23                 had been committed in the United States,  
24                 would be unlawful under the laws of the

1 United States or any State), and which in-  
2 volves any of the following:

3 “(I) The hijacking or sabotage of  
4 any conveyance (including an aircraft,  
5 vessel, or vehicle).

6 “(II) The seizing or detaining,  
7 and threatening to kill, injure, or con-  
8 tinue to detain, another individual in  
9 order to compel a third person (in-  
10 cluding a governmental organization)  
11 to do or abstain from doing any act as  
12 an explicit or implicit condition for  
13 the release of the individual seized or  
14 detained.

15 “(III) A violent attack upon an  
16 internationally protected person (as  
17 defined in section 1116(b)(4) of title  
18 18, United States Code) or upon the  
19 liberty of such a person.

20 “(IV) An assassination.

21 “(V) The use of any—

22 “(aa) biological agent, chem-  
23 ical agent, or nuclear weapon or  
24 device, or

1                   “(bb) explosive, firearm, or  
2                   other weapon (other than for  
3                   mere personal monetary gain),  
4                   with intent to endanger, directly, or  
5                   indirectly, the safety of one or more  
6                   individuals or to cause substantial  
7                   damage to property.

8                   “(VI) A threat, attempt, or con-  
9                   spiracy to do any of the foregoing.

10                   “(iii) ENGAGE IN TERRORISM ACTIV-  
11                   ITY DEFINED.—As used in this Act, the  
12                   term ‘engage in terrorism activity’ means  
13                   to commit, in an individual capacity or as  
14                   a member of an organization, an act of ter-  
15                   rorism activity or an act which the actor  
16                   knows, or reasonably should know, affords  
17                   material support to any individual, organi-  
18                   zation, or government which the actor  
19                   knows or reasonably should know has com-  
20                   mitted or plans to commit terrorism activ-  
21                   ity, including any of the following acts:

22                   “(I) The preparation or planning  
23                   of terrorism activity.

1           “(II) The gathering of informa-  
2           tion on potential targets for terrorism  
3           activity.

4           “(III) The providing of any type  
5           of material support, including a safe  
6           house, transportation, communica-  
7           tions, funds, false documentation or  
8           identification, weapons, explosives, or  
9           training.

10          “(IV) The soliciting of funds or  
11          other things of value for terrorism ac-  
12          tivity or for any terrorist organization.

13          “(V) The solicitation of any indi-  
14          vidual for membership in a terrorist  
15          organization, terrorist government, or  
16          to engage in a terrorism activity.

17          “(iv) TERRORIST ORGANIZATION DE-  
18          FINED.—As used in this Act, the term ‘ter-  
19          rorist organization’ means any organiza-  
20          tion engaged, or which has a significant  
21          subgroup which engages, in terrorism ac-  
22          tivity, regardless of any legitimate activi-  
23          ties conducted by the organization or its  
24          subgroups.

1                   “(v) **TERRORISM DEFINED.**—As used  
2                   in this Act, the term ‘terrorism’ means  
3                   premeditated, politically motivated violence  
4                   perpetrated against noncombatant tar-  
5                   gets.”.

6           (b) Section 241(a)(4)(B) of the Immigration and Na-  
7           tionality Act (8 U.S.C. 1251(a)(4)(B)) is amended to read  
8           as follows:

9                   “(B) **TERRORISM ACTIVITIES.**—Any alien who  
10           has engaged, is engaged, or at any time after entry  
11           engages in any terrorism activity (as defined in sec-  
12           tion 212(a)(3)(B)).”.

13           (c) Section 291 of the Immigration and Nationality  
14           Act (8 U.S.C. 1361) is amended by adding after “custody  
15           of the Service.” this new sentence: “The limited produc-  
16           tion authorized by this provision shall not extend to the  
17           records of any other agency or department of the Govern-  
18           ment or to any documents that do not pertain to the re-  
19           spondent’s entry.”.

20           (d) Section 242(b)(3) of the Immigration and Nation-  
21           ality Act (8 U.S.C. 1252(b)(3)) is amended by inserting  
22           after “Government” the following: “. In the case of an  
23           alien who is not lawfully admitted for permanent residence  
24           and notwithstanding the provisions of any other law, rea-  
25           sonable opportunity shall not comprehend access to classi-

1 fied information, whether or not introduced in evidence  
2 against him. The provisions and requirements of 18  
3 U.S.C. 3504 and 50 U.S.C. 1801 et seq. shall not apply  
4 in such cases.”

5 **SEC. 203. ACCESS TO CERTAIN CONFIDENTIAL INS FILES**  
6 **THROUGH COURT ORDER.**

7 (a) Section 245A(c)(5) of the Immigration and Na-  
8 tionality Act (8 U.S.C. 1255a(c)(5)) is amended by—

9 (1) inserting “(i)” after “except the Attorney  
10 General”; and

11 (2) inserting after “Title 13” the following:  
12 “and

13 “(ii) may authorize an application to  
14 a Federal court of competent jurisdiction  
15 for, and a judge of such court may grant,  
16 an order authorizing disclosure of informa-  
17 tion contained in the application of the  
18 alien to be used:

19 “(I) for identification of the alien  
20 when there is reason to believe that  
21 the alien has been killed or severely  
22 incapacitated; or

23 “(II) for criminal law enforce-  
24 ment purposes against the alien whose  
25 application is to be disclosed if the al-

1           leged criminal activity occurred after  
2           the legalization application was filed  
3           and such activity poses either an im-  
4           mediate risk to life or to national se-  
5           curity or would be prosecutable as an  
6           aggravated felony, but without regard  
7           to the length of sentence that could be  
8           imposed on the applicant.”.

9           (b)(1) Section 210(b)(5) of the Immigration and Na-  
10          tionality Act (8 U.S.C. 1160(b)(5)) is amended by insert-  
11          ing “, except as allowed by a court order issued pursuant  
12          to paragraph (6) of this subsection” after “consent of the  
13          alien”.

14          (2) Section 210(b)(6) of the Immigration and Nation-  
15          ality Act (8 U.S.C. 1160 (b)(6)) is amended by inserting  
16          the following sentence before “Anyone who uses”: “Except  
17          the Attorney General may authorize an application to a  
18          Federal court of competent jurisdiction for, and a judge  
19          of such court may grant an order authorizing disclosure  
20          of information contained in the application of the alien  
21          to be used:

22                           “(E) for identification of the alien when  
23                           there is reason to believe that the alien has  
24                           been killed or severely incapacitated; or

1           “(F) for criminal law enforcement pur-  
 2           poses against the alien whose application is to  
 3           be disclosed if the alleged criminal activity oc-  
 4           curred after the special agricultural worker ap-  
 5           plication was filed and such activity poses either  
 6           an immediate risk to life or to national security  
 7           or would be prosecutable as an aggravated fel-  
 8           ony, but without regard to the length of sen-  
 9           tence that could be imposed on the applicant.”.

10   **TITLE III—CONTROLS OVER TERRORIST**  
 11                           **FUND-RAISING**

12   **SEC. 301. TERRORIST FUND-RAISING PROHIBITED.**

13           (a) Chapter 113B of title 18, United States Code,  
 14 is amended by adding at the end thereof the following new  
 15 section:

16   **“§ 2339B. Fund-raising for terrorist organizations**

17           “(a) FINDINGS AND PURPOSE.—

18                   “(1) The Congress hereby finds that—

19                           “(A) terrorism is a serious and deadly  
 20                           problem which threatens the interests of the  
 21                           United States both overseas and within our ter-  
 22                           ritory;

23                           “(B) the Nation’s security interests are  
 24                           gravely impacted by terrorist attacks carried  
 25                           out overseas against United States Government

1 facilities and officials, as well as against other  
2 American citizens present in foreign countries;

3 “(C) United States foreign policy interests  
4 are profoundly affected by terrorist acts over-  
5 seas directed against foreign governments and  
6 their people;

7 “(D) United States economic interests are  
8 significantly impacted by terrorist attacks car-  
9 ried out in foreign countries against United  
10 States citizens and businesses;

11 “(E) international cooperation is required  
12 for an effective response to terrorism, as dem-  
13 onstrated by the numerous multilateral conven-  
14 tions in force providing universal prosecutive ju-  
15 risdiction over persons involved in a variety of  
16 terrorist acts, e.g., hostage taking, murder of  
17 an internationally protected person, and aircraft  
18 piracy and sabotage;

19 “(F) some foreign terrorist organizations,  
20 acting through affiliated groups or individuals,  
21 raise significant funds within the United States  
22 or use the United States as a conduit for their  
23 receipt of funds raised in other nations; and

24 “(G) the provision of funds to organiza-  
25 tions that engage in terrorism serves to facili-

1           tate their terrorist endeavors, regardless of  
2           whether the funds, in whole or in part, are in-  
3           tended or claimed to be used for non-violent  
4           purposes.

5           “(2) The purpose of this section is to provide  
6           the Federal Government the fullest possible basis,  
7           consistent with the Constitution, to prevent persons  
8           within the United States or subject to the jurisdic-  
9           tion of the United States from providing funds, di-  
10          rectly or indirectly, to foreign organizations, includ-  
11          ing subordinate or affiliated persons, designated by  
12          the President as engaging in terrorism, unless au-  
13          thorized under this section.

14          “(b) AUTHORITY.—Notwithstanding any other provi-  
15          sion of law, the President is authorized, under such regu-  
16          lations as he may prescribe, to regulate or prohibit—

17                 “(1) fund-raising or the provision of funds for  
18                 use by or for the benefit of any foreign organization,  
19                 including persons assisting such organization in  
20                 fund-raising, that the President has designated pur-  
21                 suant to subsection (c) as being engaged in terror-  
22                 ism activities, or

23                 “(2) financial transactions with any such for-  
24                 eign organization,

1 within the United States or by any person subject to the  
2 jurisdiction of the United States anywhere.

3 “(c) DESIGNATION.—

4 “(1) Pursuant to the authority granted in sub-  
5 section (b), the President is authorized to designate  
6 any foreign organization based on finding that—

7 “(A) the organization engages in terrorism  
8 activity as defined in section 212(a)(3)(B) of  
9 the Immigration and Nationality Act (8 U.S.C.  
10 1182(a)(3)(B)); and

11 “(B) the organization’s terrorism activities  
12 threaten the national security, foreign policy, or  
13 economy of the United States.

14 “(2) Pursuant to the authority granted in sub-  
15 section (b), the President is also authorized to des-  
16 ignate persons which are raising funds for, or acting  
17 for or on behalf of, any organization designated pur-  
18 suant to subsection (c)(1) above.

19 “(3) If the President finds that the conditions  
20 which were the basis for any designation issued  
21 under this subsection have changed in such a man-  
22 ner as to warrant revocation of such designation, or  
23 that the national security, foreign relations, or eco-  
24 nomic interests of the United States so warrant, he  
25 may revoke such designation in whole or in part.

1           “(4) Any designation, or revocation thereof, is-  
2           sued pursuant to this subsection shall be published  
3           in the Federal Register and shall become effective  
4           immediately on publication.

5           “(5) Any revocation of a designation shall not  
6           affect any action or proceeding based on any con-  
7           duct committed prior to the effective date of such  
8           revocation.

9           “(6) Any finding made in any designation is-  
10          sued pursuant to paragraph (1) of this subsection  
11          that a foreign organization engages in terrorism ac-  
12          tivity shall be conclusive. No question concerning the  
13          validity of the issuance of such designation may be  
14          raised by a defendant in a criminal prosecution as  
15          a defense in or as an objection to any trial or hear-  
16          ing if such designation was issued and published in  
17          the Federal Register in accordance with this sub-  
18          section.

19          “(d) PROHIBITED ACTIVITIES.—

20                 “(1) Except as authorized pursuant to the pro-  
21                 cedures in subsection (e), it shall be unlawful for  
22                 any person within the United States, or any person  
23                 subject to the jurisdiction of the United States any-  
24                 where, to directly or indirectly, raise, receive or col-  
25                 lect on behalf of, or furnish, give, transmit, transfer

1 or provide funds to or for an organization or person  
2 designated by the President under subsection (c), or  
3 to attempt to do any of the foregoing.

4 “(2) It shall be unlawful for any person within  
5 the United States or any person subject to the juris-  
6 diction of the United States anywhere, acting for or  
7 on behalf of any organization or person designated  
8 under subsection (c), (A) to transmit, transfer, or  
9 receive any funds raised in violation of subsection  
10 (d)(1), or (B) to transmit, transfer or dispose of any  
11 funds in which any organization or person des-  
12 ignated pursuant to subsection (c) has an interest.

13 “(e) AUTHORIZED TRANSACTIONS.—

14 “(1) The Secretary shall publish regulations,  
15 consistent with the provisions of this subsection, set-  
16 ting forth the procedures to be followed by persons  
17 seeking to raise or provide funds for an organization  
18 designated under subsection (c)(1).

19 “(2) Any person within the United States, or  
20 any person subject to the jurisdiction of the United  
21 States anywhere, who seeks to solicit funds for or to  
22 transfer funds to any organization or person des-  
23 ignated under subsection (c) shall, regardless of  
24 whether it has an agency relationship with the des-  
25 ignated organization or person, first obtain a license

1 from the Secretary and may thereafter solicit funds  
2 or transfer funds to a designated organization or  
3 person only as permitted under the terms of a li-  
4 cense issued by the Secretary.

5 “(3) The Secretary shall grant a license only  
6 after the person establishes to the satisfaction of the  
7 Secretary that—

8 “(A) the funds are intended to be used ex-  
9 clusively for religious, charitable, literary, or  
10 educational purposes; and

11 “(B) all recipient organizations in any  
12 fund-raising chain have effective procedures in  
13 place to ensure that the funds (i) will be used  
14 exclusively for religious, charitable, literary, or  
15 educational purposes, and (ii) will not be used  
16 to offset a transfer of funds to be used in ter-  
17 rorist activity.

18 “(4) Any person granted a license shall main-  
19 tain books and records, as required by the Secretary,  
20 that establish the source of all funds it receives, ex-  
21 penses it incurs, and disbursements it makes. Such  
22 books and records shall be made available for inspec-  
23 tion within two business days of a request by the  
24 Secretary. Any person granted a license shall also  
25 have an agreement with any recipient organization

1 or person that such organization's or person's books  
2 and records, wherever located, must be made avail-  
3 able for inspection of the Secretary upon a request  
4 of the Secretary at a place and time agreeable to  
5 that organization or person and the Secretary.

6 “(5) The Secretary may also provide by regula-  
7 tion procedures for the licensing of transactions oth-  
8 erwise prohibited by this section in cases found by  
9 the Secretary to be consistent with the statement of  
10 purpose in subsection (a)(2).

11 “(f) SPECIAL REQUIREMENTS FOR FINANCIAL INSTI-  
12 TUTIONS.—

13 “(1) Except as authorized by the Secretary by  
14 means of directives, regulations, or licenses, any fi-  
15 nancial institution which becomes aware that it has  
16 possession of or control over any funds in which an  
17 organization or person designated under subsection  
18 (c) has an interest, shall—

19 “(A) retain possession of or maintain con-  
20 trol over such funds; and

21 “(B) report to the Secretary the existence  
22 of such funds in accordance with the regula-  
23 tions prescribed by the Secretary.

24 “(2) Any financial institution that fails to re-  
25 port to the Secretary the existence of such funds

1 shall be subject to a civil penalty of \$250 per day  
2 for each day that it fails to report to the Sec-  
3 retary—

4 “(A) in the case of funds being possessed  
5 or controlled at the time of the designation of  
6 the organization or person, within ten days  
7 after the designation; and

8 “(B) in the case of funds whose possession  
9 of or control over arose after the designation of  
10 the organization or person, within ten days  
11 after the financial institution obtained posses-  
12 sion of or control over the funds.

13 “(g) INVESTIGATIONS.—Any investigation emanating  
14 from a possible violation of this section, or of any license,  
15 order, or regulation issued pursuant to this section, shall  
16 be conducted by the Attorney General, except that inves-  
17 tigation relating to (1) a licensee’s compliance with the  
18 terms of a license issued by the Secretary pursuant to sub-  
19 section (e) of this section, (2) a financial institution’s com-  
20 pliance with the requirements of subsection (f) of this sec-  
21 tion, and (3) civil penalty proceedings authorized pursuant  
22 to subsection (i) of this section, shall be conducted in co-  
23 ordination with the Attorney General by the office within  
24 the Department of the Treasury responsible for licensing  
25 and civil penalty proceedings authorized by this section.

1 Any evidence of a criminal violation of this section arising  
2 in the course of an investigation by the Secretary or any  
3 other Federal agency shall be referred immediately to the  
4 Attorney General for further investigation. The Attorney  
5 General shall timely notify the Secretary of any action  
6 taken on referrals from the Secretary, and may refer in-  
7 vestigations to the Secretary for remedial licensing or civil  
8 penalty action.

9 “(h) RECORDKEEPING AND REPORTING; CIVIL PRO-  
10 CEDURES.—

11 “(1) Notwithstanding any other provision of  
12 law, in exercising the authorities granted by this sec-  
13 tion, the Secretary and the Attorney General may  
14 require any person to keep a full record of, and to  
15 furnish under oath, in the form of reports or other-  
16 wise, complete information relative to any act or  
17 transaction referred to in this section either before,  
18 during, or after the completion thereof, or relative to  
19 any funds referred to in this section, or as may be  
20 necessary to enforce the terms of this section. In any  
21 case in which a report by a person could be required  
22 under this subsection, the Secretary or the Attorney  
23 General may require the production of any books of  
24 account, records, contracts, letters, memoranda, or  
25 other papers or documents, whether maintained in

1 hard copy or electronically, in the control or custody  
2 of such person.

3 “(2) Compliance with any regulation, instruc-  
4 tion, or direction issued under this section shall to  
5 the extent thereof be a full acquittance and dis-  
6 charge for all purposes of the obligation of the per-  
7 son making the same. No person shall be held liable  
8 in any court for or with respect to anything done or  
9 omitted in good faith in connection with the admin-  
10 istration of, or pursuant to and in reliance on, this  
11 section, or any regulation, instruction, or direction  
12 issued under this section.

13 “(3) In carrying out their function under this  
14 section, the Secretary and the Attorney General may  
15 hold hearings, sign and issue subpoenas, administer  
16 oaths, examine witnesses, and receive evidence.

17 “(4) In the case of contumacy by, or refusal to  
18 obey a subpoena issued to, any person, the Attorney  
19 General may invoke the aid of any court of the Unit-  
20 ed States within the jurisdiction of which the inves-  
21 tigation is carried on or of which the subpoenaed  
22 person is an inhabitant, or in which the subpoenaed  
23 person carries on business or may be found, to com-  
24 pel compliance with the subpoena. The court may  
25 issue an order requiring the subpoenaed person to

1 appear before the agency issuing the subpoena, or  
2 other order or direction, to produce records, if so or-  
3 dered, or to give testimony touching the matter  
4 under investigation. Any failure to obey the order of  
5 the court may be punished by the court as a con-  
6 tempt thereof. All process in any such case may be  
7 served in any judicial district in which such person  
8 may be found.

9 “(i) PENALTIES.—

10 “(1) Any person who knowingly violates sub-  
11 section (d) shall be fined under this title, or impris-  
12 oned for up to ten years, or both.

13 “(2)(A) Any person who fails to maintain or to  
14 make available to the Secretary upon his request or  
15 demand the books or records required by subsection  
16 (e), or by regulations promulgated thereunder, shall  
17 be subject to a civil penalty of \$50,000 or twice the  
18 amount of money which would have been docu-  
19 mented had the books and records been properly  
20 maintained, whichever is greater.

21 “(B) Any person who fails to take the actions  
22 required of financial institutions pursuant to sub-  
23 section (f)(1), or by regulations promulgated there-  
24 under, shall be subject to a civil penalty of \$50,000  
25 per violation, or twice the amount of money of which

1 the financial institution was required to retain pos-  
2 session or control, whichever is greater.

3 “(C) Except as otherwise specified in this sec-  
4 tion, any person who violates any license, order, di-  
5 rection, or regulation issued pursuant to this section  
6 shall be subject to a civil penalty of \$50,000 per vio-  
7 lation, or twice the value of the violation, whichever  
8 is greater.

9 “(3) Any person who intentionally fails to main-  
10 tain or to make available to the Secretary the books  
11 or records required by subsection (e), or by regula-  
12 tions promulgated thereunder, shall be fined under  
13 this title, or imprisoned for up to five years, or both.

14 “(4) Any organization convicted of an offense  
15 under (h) (1) or (3) of this section shall, upon con-  
16 viction, forfeit any charitable designation it might  
17 have received under the Internal Revenue Code.

18 “(j) INJUNCTION.—

19 “(1) Whenever it appears to the Secretary or  
20 the Attorney General that any person is engaged in,  
21 or is about to engage in, any act which constitutes,  
22 or would constitute, a violation of this section, the  
23 Attorney General may initiate civil action in a dis-  
24 trict court of the United States to enjoin such viola-  
25 tion.

1           “(2) A proceeding under this subsection is gov-  
2           erned by the Federal Rules of Civil Procedure, ex-  
3           cept that, if an indictment has been returned against  
4           the respondent, discovery is governed by the Federal  
5           Rules of Criminal Procedure.

6           “(k) EXTRATERRITORIAL JURISDICTION.—There is  
7           extraterritorial Federal jurisdiction over an offense under  
8           this section.

9           “(l) CLASSIFIED INFORMATION IN CIVIL PROCEED-  
10          INGS BROUGHT BY THE UNITED STATES.—

11           “(1) DISCOVERY OF CLASSIFIED INFORMATION  
12          BY DEFENDANTS.—A court, upon a sufficient show-  
13          ing, may authorize the United States to delete speci-  
14          fied items of classified information from documents  
15          to be introduced into evidence and/or made available  
16          to the defendant through discovery under the Fed-  
17          eral Rules of Civil Procedure, to substitute a sum-  
18          mary of the information for such classified docu-  
19          ments, or to substitute a statement admitting rel-  
20          evant facts that the classified information would  
21          tend to prove. The court shall permit the United  
22          States to make a request for such authorization in  
23          the form of a written statement to be inspected by  
24          the court alone. If the court enters an order grant-  
25          ing relief following such an ex parte showing, the en-

1        tire text of the statement of the United States shall  
2        be sealed and preserved in the records of the court  
3        to be made available to the appellate court in the  
4        event of an appeal. If the court enters an order de-  
5        nying relief to the United States under this provi-  
6        sion, the United States may take an immediate, in-  
7        terlocutory appeal in accordance with the provisions  
8        of paragraph (3) of this subsection. In the event of  
9        such an appeal, the entire text of the underlying  
10       written statement of the United States, together  
11       with any transcripts of arguments made ex parte to  
12       the court in connection therewith, shall be main-  
13       tained under seal and delivered to the appellate  
14       court.

15            “(2) INTRODUCTION OF CLASSIFIED INFORMA-  
16       TION; PRECAUTIONS BY COURT.—

17            “(A) EXHIBITS.—The United States, in  
18       order to prevent unnecessary or inadvertent dis-  
19       closure of classified information in a civil trial  
20       or other proceeding brought by the United  
21       States under this section, may petition the  
22       court ex parte to admit, in lieu of classified  
23       writings, recordings or photographs, one or  
24       more of the following: (i) copies of those items  
25       from which classified information has been de-

1           leted, (ii) stipulations admitting relevant facts  
2           that specific classified information would tend  
3           to prove, or (iii) a summary of the specific clas-  
4           sified information. The court shall grant such a  
5           motion of the United States if it finds that the  
6           redacted item, stipulation, or summary will pro-  
7           vide the defendant with substantially the same  
8           ability to make his defense as would disclosure  
9           of the specific classified information.

10           “(B) TAKING OF TRIAL TESTIMONY.—Dur-  
11           ing the examination of a witness in any civil  
12           proceeding brought by the United States under  
13           this section, the United States may object to  
14           any question or line of inquiry that may require  
15           the witness to disclose classified information not  
16           previously found to be admissible. Following  
17           such an objection, the court shall take suitable  
18           action to determine whether the response is ad-  
19           missible and, in doing so, shall take precautions  
20           to guard against the compromise of any classi-  
21           fied information. Such action may include per-  
22           mitting the United States to provide the court,  
23           ex parte, with a proffer of the witness’s re-  
24           sponse to the question or line of inquiry, and  
25           requiring the defendant to provide the court

1 with a proffer of the nature of the information  
2 he seeks to elicit.

3 “(C) APPEAL.—If the court enters an  
4 order denying relief to the United States under  
5 this subsection, the United States may take an  
6 immediate interlocutory appeal in accordance  
7 with paragraph (3) of this subsection.

8 “(3) INTERLOCUTORY APPEAL.—

9 “(A) An interlocutory appeal by the United  
10 States shall lie to a court of appeals from a de-  
11 cision or order of a district court authorizing  
12 the disclosure of classified information, impos-  
13 ing sanctions for nondisclosure of classified in-  
14 formation, or refusing a protective order sought  
15 by the United States to prevent the disclosure  
16 of classified information.

17 “(B) An appeal taken pursuant to this sec-  
18 tion either before or during trial shall be expe-  
19 dited by the court of appeals. Prior to trial, an  
20 appeal shall be taken within ten days after the  
21 decision or order appealed from and the trial  
22 shall not commence until the appeal is resolved.  
23 If an appeal is taken during trial, the trial  
24 court shall adjourn the trial until the appeal is  
25 resolved and the court of appeals (1) shall hear

1 argument on such appeal within four days of  
2 the adjournment of the trial, (2) may dispense  
3 with written briefs other than the supporting  
4 materials previously submitted to the trial  
5 court, (3) shall render its decision within four  
6 days of argument on appeal, and (4) may dis-  
7 pense with the issuance of a written opinion in  
8 rendering its decision. Such appeal and decision  
9 shall not affect the right of the defendant, in a  
10 subsequent appeal from a final judgment, to  
11 claim as error reversal by the trial court on re-  
12 mand of a ruling appealed from during trial.

13 “(4) Nothing in this subsection shall prevent  
14 the United States from seeking protective orders  
15 and/or asserting privileges ordinarily available to the  
16 United States to protect against the disclosure of  
17 classified information, including the invocation of the  
18 military and State secrets privilege.

19 “(m) DEFINITIONS.—As used in this section, the  
20 term—

21 “(1) ‘classified information’ means any infor-  
22 mation or material that has been determined by the  
23 United States Government pursuant to an Executive  
24 order, statute, or regulation, to require protection  
25 against unauthorized disclosure for reasons of na-

1 tional security and any restricted data, as defined in  
2 paragraph r. of section 11 of the Atomic Energy Act  
3 of 1954 (42 U.S.C. 2014(y));

4 “(2) ‘financial institution’ has the meaning pre-  
5 scribed in section 5312(a)(2) of title 31, United  
6 States Code, including any regulations promulgated  
7 thereunder;

8 “(3) ‘funds’ includes coin or currency of the  
9 United States or any other country, traveler’s  
10 checks, personal checks, bank checks, money orders,  
11 stocks, bonds, debentures, drafts, letters of credit,  
12 any other negotiable instrument, and any electronic  
13 representation of any of the foregoing;

14 “(4) ‘national security’ means the national de-  
15 fense and foreign relations of the United States;

16 “(5) ‘person’ includes an individual, partner-  
17 ship, association, group, corporation, or other orga-  
18 nization;

19 “(6) ‘Secretary’ means the Secretary of the  
20 Treasury; and

21 “(7) ‘United States’, when used in a geographi-  
22 cal sense, includes all commonwealths, territories,  
23 and possessions of the United States.”.

1 (b) TECHNICAL AMENDMENT.—The analysis for  
2 chapter 113B of title 18, United States Code, is amended  
3 by adding at the end thereof the following:

“2339B. Fund-raising for terrorist organizations”.

4 (c) Section 212(a)(3)(B)(i) of the Immigration and  
5 Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)), as amended  
6 by section 202(a) of this Act, is further amended by in-  
7 serting after the phrase “Palestine Liberation Organiza-  
8 tion” the following: “, an organization designated by the  
9 President under section 2339B of title 18, United States  
10 Code”.

11 (d) The provisions of section 2339B(k) of title 18,  
12 United States Code (relating to classified information in  
13 civil proceedings brought by the United States), shall also  
14 be applicable to civil proceedings brought by the United  
15 States under the International Emergency Economic Pow-  
16 ers Act (50 U.S.C. 1701 et seq.).

17 **TITLE IV—CONVENTION ON THE**  
18 **MARKING OF PLASTIC EXPLOSIVES**

19 **SEC. 401. SHORT TITLE.**

20 This title may be cited as the “Marking of Plastic  
21 Explosives for Detection Act.”.

22 **SEC. 402. FINDINGS AND PURPOSES.**

23 (a) FINDINGS.—The Congress finds that—

1           (1) plastic explosives were used by terrorists in  
2 the bombings of Pan Am flight 103 in December  
3 1988 and UTA flight 772 in September 1989;

4           (2) plastic explosives can be used with little  
5 likelihood of detection for acts of unlawful inter-  
6 ference with civil aviation, maritime navigation, and  
7 other modes of transportation;

8           (3) the criminal use of plastic explosives places  
9 innocent lives in jeopardy, endangers national secu-  
10 rity, affects domestic tranquillity, and gravely affects  
11 interstate and foreign commerce;

12           (4) the marking of plastic explosives for the  
13 purpose of detection would contribute significantly to  
14 the prevention and punishment of such unlawful  
15 acts; and

16           (5) for the purpose of deterring and detecting  
17 such unlawful acts, the Convention on the Marking  
18 of Plastic Explosives for the Purpose of Detection,  
19 Done at Montreal on 1 March 1991, requires each  
20 contracting State to adopt appropriate measures to  
21 ensure that plastic explosives are duly marked and  
22 controlled.

23           (b) PURPOSE.—The purpose of this Act is to fully  
24 implement the Convention on the Marking of Plastic Ex-

1 plosives for the Purpose of Detection, Done at Montreal  
2 on 1 March 1991.

3 **SEC. 403. DEFINITIONS.**

4 Section 841 of title 18, United States Code, is  
5 amended by adding at the end the following new sub-  
6 sections:

7 “(o) ‘Convention on the Marking of Plastic Explo-  
8 sives’ means the Convention on the Marking of Plastic Ex-  
9 plosives for the Purpose of Detection, Done at Montreal  
10 on 1 March 1991.

11 “(p) ‘Detection agent’ means any one of the sub-  
12 stances specified in this subsection when introduced into  
13 a plastic explosive or formulated in such explosive as a  
14 part of the manufacturing process in such a manner as  
15 to achieve homogeneous distribution in the finished explo-  
16 sive, including—

17 “(1) Ethylene glycol dinitrate (EGDN),  
18  $C_2H_4(NO_3)_2$ , molecular weight 152, when the mini-  
19 mum concentration in the finished explosive is 0.2  
20 percent by mass;

21 “(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB),  
22  $C_6H_{12}(NO_2)_2$ , molecular weight 176, when the mini-  
23 mum concentration in the finished explosive is 0.1  
24 percent by mass;

1           “(3)     Para-Mononitrotoluene     (p-MNT),  
2     C<sub>7</sub>H<sub>7</sub>NO<sub>2</sub>, molecular weight 137, when the minimum  
3     concentration in the finished explosive is 0.5 percent  
4     by mass;

5           “(4)     Ortho-Mononitrotoluene     (o-MNT),  
6     C<sub>7</sub>H<sub>7</sub>NO<sub>2</sub>, molecular weight 137, when the minimum  
7     concentration in the finished explosive is 0.5 percent  
8     by mass; and

9           “(5) any other substance in the concentration  
10     specified by the Secretary, after consultation with  
11     the Secretary of State and the Secretary of Defense,  
12     which has been added to the table in part 2 of the  
13     Technical Annex to the Convention on the Marking  
14     of Plastic Explosives.

15          “(q) ‘Plastic explosive’ means an explosive material  
16     in flexible or elastic sheet form formulated with one or  
17     more high explosives which in their pure form have a  
18     vapor pressure less than 10<sup>-4</sup> Pa at a temperature of  
19     25°C., is formulated with a binder material, and is as a  
20     mixture malleable or flexible at normal room tempera-  
21     ture.”.

1 **SEC. 404. REQUIREMENT OF DETECTION AGENTS FOR**  
2 **PLASTIC EXPLOSIVES.**

3 Section 842 of title 18, United States Code, is  
4 amended by adding after subsection (k) the following new  
5 subsections:

6 “(l) It shall be unlawful for any person to manufac-  
7 ture any plastic explosive which does not contain a detec-  
8 tion agent.

9 “(m)(1) it shall be unlawful for any person to import  
10 or bring into the United States, or export from the United  
11 States, any plastic explosive which does not contain a de-  
12 tection agent.

13 “(2) This subsection does not apply to the importa-  
14 tion or bringing into the United States, or the exportation  
15 from the United States, of any plastic explosive which was  
16 imported, brought into, or manufactured in the United  
17 States prior to the effective date of the Marking of Plastic  
18 Explosives for Detection Act by or on behalf of any agency  
19 of the United States performing military or police func-  
20 tions (including any military Reserve component) or by or  
21 on behalf of the National Guard of any State, not later  
22 than fifteen years after the date of entry into force of the  
23 Convention on the Marking of Plastic Explosives, with re-  
24 spect to the United States.

1       “(n)(1) It shall be unlawful for any person to ship,  
2 transport, transfer, receive, or possess any plastic explo-  
3 sive which does not contain a detection agent.

4       “(2) This subsection does not apply to—

5           “(A) the shipment, transportation, transfer, re-  
6 ceipt, or possession of any plastic explosive, which  
7 was imported, brought into, or manufactured in the  
8 United States prior to the effective date of this Act  
9 by any person during a period not exceeding three  
10 years after the effective date of this Act; or

11           “(B) the shipment, transportation, transfer, re-  
12 ceipt, or possession of any plastic explosive, which  
13 was imported, brought into, or manufactured in the  
14 United States prior to the effective date of this Act  
15 by or on behalf of any agency of the United States  
16 performing a military or police function (including  
17 any military reserve component) or by or on behalf  
18 of the National Guard of any State, not later than  
19 fifteen years after the date of entry into force of the  
20 Convention on the Marking of Plastic Explosives,  
21 with respect to the United States.

22       “(o) It shall be unlawful for any person, other than  
23 an agency of the United States (including any military re-  
24 serve component) or the National Guard of any State, pos-  
25 sessed any plastic explosive on the effective date of this

1 Act, to fail to report to the Secretary within one hundred  
2 twenty days from the effective date of this Act the quan-  
3 tity of such explosives possessed, the manufacturer or im-  
4 porter, any marks of identification on such explosives, and  
5 such other information as the Secretary may by regula-  
6 tions prescribe.”.

7 **SEC. 405. CRIMINAL SANCTIONS.**

8 Section 844(a) of title 18, United States Code, is  
9 amended to read as follows:

10 “(a) Any person who violates subsections (a) through  
11 (i) or (1) through (o) of section 842 of this chapter shall  
12 be fined under this title or imprisoned not more than ten  
13 years, or both.”.

14 **SEC. 406. EXCEPTIONS.**

15 Section 845 of title 18, United States Code, is  
16 amended—

17 (1) in subsection (a), by inserting “(l), (m), (n),  
18 or (o) of section 842 and subsections” after “sub-  
19 sections”;

20 (2) by adding at the end of subsection (a)(1)  
21 “and which pertains to safety”; and

22 (3) by adding at the end the following new sub-  
23 section:

24 “(c) It is an affirmative defense against any proceed-  
25 ing involving sections 842 (l) through (o) if the proponent

1 proves by a preponderance of the evidence that the plastic  
2 explosive—

3 “(1) consisted of a small amount of plastic ex-  
4 plosive intended for and utilized solely in lawful—

5 “(A) research, development, or testing of  
6 new or modified explosive materials;

7 “(B) training in explosives detection or de-  
8 velopment or testing of explosives detection  
9 equipment; or

10 “(C) forensic science purposes; or

11 “(2) was plastic explosive which, within three  
12 years after the date of entry into force of the Con-  
13 vention on the Marking of Plastic Explosives, with  
14 respect to the United States, will be or is incor-  
15 porated in a military device within the territory of  
16 the United States and remains an integral part of  
17 such military device, or is intended to be, or is incor-  
18 porated in, and remains an integral part of a mili-  
19 tary device that is intended to become, or has be-  
20 come, the property of any agency of the United  
21 States performing military or police functions (in-  
22 cluding any military reserve component) or the Na-  
23 tional Guard of any State, wherever such device is  
24 located. For purposes of this subsection, the term  
25 ‘military device’ includes, but is not restricted to,

1 shells, bombs, projectiles, mines, missiles, rockets,  
2 shaped charges, grenades, perforators, and similar  
3 devices lawfully manufactured exclusively for mili-  
4 tary or police purposes.”.

5 **SEC. 407. INVESTIGATIVE AUTHORITY.**

6 Section 846 of title 18, United States Code, is  
7 amended—

8 (1) by inserting in the last sentence before the  
9 “subsection” the phrase “subsection (m) or (n) of  
10 section 842 or;”, and

11 (2) by adding at the end the following: “The  
12 Attorney General shall exercise authority over viola-  
13 tions of subsection (m) or (n) of section 842 only  
14 when they are committed by a member of a terrorist  
15 or revolutionary group. In any matter involving a  
16 terrorist or revolutionary group or individual, as de-  
17 termined by the Attorney General, the Attorney  
18 General shall have primary investigative responsibil-  
19 ity and the Secretary shall assist the Attorney Gen-  
20 eral as requested.”.

21 **SEC. 408. EFFECTIVE DATE.**

22 The amendments made by this title shall take effect  
23 one year after the date of the enactment of this Act.

1           **TITLE V—NUCLEAR MATERIALS**

2   **SEC. 501. EXPANSION OF NUCLEAR MATERIALS PROHIBI-**  
3           **TIONS.**

4           (a)(1) FINDINGS.—The Congress finds and declares:

5               (A) Nuclear materials, including byproduct ma-  
6           terials, can be used to create radioactive dispersal  
7           devices which are capable of causing serious bodily  
8           injury as well as substantial damage to property and  
9           the environment.

10               (B) The potential use of nuclear materials, in-  
11           cluding byproduct materials, enhances the threat  
12           posed by terrorist activities and thereby has a great-  
13           er effect on the security interests of the United  
14           States.

15               (C) Due to the widespread hazards presented  
16           by the threat of nuclear contamination, as well as  
17           nuclear bombs, the United States has a strong inter-  
18           est in assuring that persons who are engaged in the  
19           illegal acquisition and use of nuclear materials, in-  
20           cluding byproduct materials, are prosecuted for their  
21           offenses.

22               (D) The threat that nuclear materials will be  
23           obtained and used by terrorist and other criminal or-  
24           ganizations has increased substantially since the en-  
25           actment in 1982 of the legislation which imple-

1 mented the Convention on the Physical Protection of  
2 Nuclear Material, codified at section 831 of title 18,  
3 United States Code.

4 (E) The successful efforts to obtain agreements  
5 from other countries to dismantle nuclear weapons  
6 have resulted in increased packaging and transpor-  
7 tation of nuclear materials, thereby decreasing the  
8 security of such materials by increasing the oppor-  
9 tunity for unlawful diversion and theft.

10 (F) The illicit trafficking in the relatively more  
11 common, commercially available and usable nuclear  
12 and byproduct materials poses a potential to cause  
13 significant loss of life and/or environmental damage.

14 (G) Reported trafficking incidents in the early  
15 1990's suggest that the individuals involved in traf-  
16 ficking these materials from Eurasia and Eastern  
17 Europe frequently conducted their black market  
18 sales of these materials within the Federal Republic  
19 of Germany, the Baltic States, and to a lesser extent  
20 in the Middle European countries.

21 (H) The international community has become  
22 increasingly concerned over the illegal possession of  
23 nuclear and nuclear byproduct materials.

24 (I) The potentially disastrous ramifications of  
25 increased access to nuclear and nuclear byproduct

1 materials pose such a significant future threat that  
2 the United States must use all lawful methods avail-  
3 able to combat the illegal use of such materials.

4 (J) The United States has an interest in en-  
5 couraging United States corporations to do business  
6 in the countries which comprised the former Soviet  
7 Union, as well as in other developing democracies;  
8 protection of such United States corporations from  
9 threats created by the unlawful use of nuclear mate-  
10 rials is important to the success of the effort to en-  
11 courage such business ventures, and to further the  
12 foreign relations and commerce of the United States.

13 (K) The nature of nuclear contamination is  
14 such that it may affect the health, environment, and  
15 property of United States nationals even if the acts  
16 which constitute the illegal activity occur outside the  
17 territory of the United States, and are primarily di-  
18 rected toward non-United States nationals.

19 (L) There is presently no Federal criminal stat-  
20 ute which provides adequate protection to United  
21 States interests from non-weapons grade, yet haz-  
22 ardous radioactive material, and from the illegal di-  
23 version of nuclear materials which are held for other  
24 than peaceful purposes.

1           (2) PURPOSE.—The purpose of the Act is to provide  
2 Federal law enforcement the necessary tools and fullest  
3 possible basis allowed under the Constitution of the  
4 United States to combat the threat of nuclear contamina-  
5 tion and proliferation which may result from illegal posses-  
6 sion and use of radioactive materials.

7           (b) EXPANSION OF SCOPE AND JURISDICTIONAL  
8 BASES.—Section 831 of title 18, United States Code, is  
9 amended by—

10           (1) in subsection (a), striking “nuclear mate-  
11 rial” each time it appears and inserting each time  
12 “nuclear material or nuclear byproduct material”;

13           (2) in subsection (a)(1)(A), inserting “or the  
14 environment” after “property”;

15           (3) amending subsection (a)(1)(B) to read as  
16 follows:

17           “(B)(i) circumstances exist which are likely  
18 to cause the death of or serious bodily injury to  
19 any person or substantial damage to property  
20 or the environment; or (ii) such circumstances  
21 are represented to the defendant to exist;”;

22           (4) in subsection (a)(6), inserting “or the envi-  
23 ronment” after “property”;

24           (5) amending subsection (c)(2) to read as fol-  
25 lows:

1           “(2) an offender or a victim is a national of the  
2 United States or a United States corporation or  
3 other legal entity;”;

4           (6) in subsection (c)(3), striking “at the time of  
5 the offense the nuclear material is in use, storage,  
6 or transport, for peaceful purposes, and”;

7           (7) striking “or” at the end of subsection  
8 (c)(3);

9           (8) in subsection (c)(4), striking “nuclear mate-  
10 rial for peaceful purposes” and inserting “nuclear  
11 material or nuclear byproduct material”;

12           (9) striking the period at the end of subsection  
13 (c)(4) and inserting “; or”;

14           (10) adding at the end of subsection (c) a new  
15 paragraph as follows:

16           “(5) the governmental entity under subsection  
17 (a)(5) is the United States or the threat under sub-  
18 section (a)(6) is directed at the United States.”;

19           (11) in subsection (f)(1)(A), striking “with an  
20 isotopic concentration not in excess of 80 percent  
21 plutonium 238”;

22           (12) inserting at the beginning of subsection  
23 (f)(1)(C) “enriched uranium, defined as”;

24           (13) redesignating subsections (f)(2)–(4) as  
25 (f)(3)–(5);

1           (14) inserting after subsection (f)(1) the follow-  
2 ing new paragraph:

3           “(2) the term ‘nuclear byproduct material’  
4 means any material containing any radioactive iso-  
5 tope created through an irradiation process in the  
6 operation of a nuclear reactor or accelerator;”;

7           (15) striking “and” at the end of subsection  
8 (f)(4), as redesignated;

9           (16) striking the period at the end of subsection  
10 (f)(5), as redesignated, and inserting a semicolon;  
11 and

12           (17) adding at the end of subsection (f) the fol-  
13 lowing new paragraphs:

14           “(6) the term ‘national of the United States’  
15 has the meaning prescribed in section 101(a)(22) of  
16 the Immigration and Nationality Act (8 U.S.C.  
17 1101(a)(22)); and

18           “(7) the term ‘United States corporation or  
19 other legal entity’ means any corporation or other  
20 entity organized under the laws of the United States  
21 or any State, district, commonwealth, territory or  
22 possession of the United States.’”.

1 **TITLE VI—PROCEDURAL AND TECHNICAL**  
2 **CORRECTIONS AND IMPROVEMENTS**

3 **SEC. 601. CORRECTION TO MATERIAL SUPPORT PROVI-**  
4 **SION.**

5 Section 120005 of Public Law 103-322, September  
6 13, 1994, is amended to read at the time of its enactment  
7 on September 13, 1994, as follows:

8 “(a) OFFENSE.—Chapter 113A of title 18, United  
9 States Code, is amended by adding the following new sec-  
10 tion:

11 **“§ 2339A. Providing material support to terrorists**

12 “(a) DEFINITION.—In this section, ‘material support  
13 or resources’ means currency or other financial securities,  
14 financial services, lodging, training, safehouses, false doc-  
15 umentation or identification, communications equipment,  
16 facilities, weapons, lethal substances, explosives, person-  
17 nel, transportation, and other physical assets, but does not  
18 include humanitarian assistance to persons not directly in-  
19 volved in such violations.

20 “(b) OFFENSE.—A person who, within the United  
21 States, provides material support or resources or conceals  
22 or disguises the nature, location, source, or ownership of  
23 material support or resources, knowing or intending that  
24 they are to be used in preparation for, in carrying out,  
25 a violation of section 32, 37, 351, 844(f) or (i), 1114,

1 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or  
2 2332a of this title or section 46502 of title 49, or in prepa-  
3 ration for or carrying out the concealment or an escape  
4 from the commission of any such violation, shall be fined  
5 under this title, imprisoned not more than ten years, or  
6 both.”.

7 **SEC. 602. EXPANSION OF WEAPONS OF MASS DESTRUCTION**  
8 **STATUTE.**

9 Section 2332a of title 18, United States Code, is  
10 amended by—

11 (1) in subsection (a), inserting “threatens,” be-  
12 fore “attempts or conspires to use, a weapon of  
13 mass destruction”;

14 (2) by redesignating subsection (b) as sub-  
15 section (c); and

16 (3) by adding the following new subsection:

17 “(b) Any national of the United States who outside  
18 of the United States uses, or threatens, attempts or con-  
19 spires to use, a weapon of mass destruction shall be im-  
20 prisoned for any term of years or for life, and if death  
21 results, shall be punished by death or imprisonment for  
22 any term of years or for life.”.

1 **SEC. 603. ADDITION OF TERRORIST OFFENSES TO THE**  
2 **RICO STATUTE.**

3 (a) Section 1961(1)(B) of title 18 of the United  
4 States Code is amended by—

5 (1) inserting after “Section” the following: “32  
6 (relating to the destruction of aircraft), section 37  
7 (relating to violence at international airports), sec-  
8 tion 115 (relating to influencing, impeding, or retali-  
9 ating against a Federal official by threatening or in-  
10 juring a family member), section”;

11 (2) inserting after “section 224 (relating to  
12 sports bribery),” the following: “section 351 (relat-  
13 ing to Congressional or Cabinet officer assassina-  
14 tion),”;

15 (3) inserting after “section 664 (relating to em-  
16 bezzlement from pension and welfare funds),” the  
17 following: “section 831 (relating to prohibited trans-  
18 actions involving nuclear materials), section 844 (f)  
19 or (i) (relating to destruction by explosives or fire of  
20 government property or property affecting interstate  
21 or foreign commerce),”;

22 (4) inserting after “sections 891–894 (relating  
23 to extortionate credit transactions),” the following:  
24 “section 956 (relating to conspiracy to kill, kidnap,  
25 maim, or injure certain property in a foreign coun-  
26 try),”;

1           (5) inserting after “section 1084 (relating to  
2 the transmission of gambling information),” the fol-  
3 lowing: “section 1111 (relating to murder), section  
4 1114 (relating to murder of United States law en-  
5 forcement officials), section 1116 (relating to mur-  
6 der of foreign officials, official guests, or internation-  
7 ally protected persons), section 1203 (relating to  
8 hostage taking),”;

9           (6) inserting after “section 1344 (relating to fi-  
10 nancial institution fraud),” the following: “section  
11 1361 (relating to willful injury of government prop-  
12 erty within the special maritime and territorial juris-  
13 diction),”;

14           (7) inserting after “section 1513 (relating to re-  
15 taliating against a witness, victim, or an inform-  
16 ant),” the following: “section 1751 (relating to Pres-  
17 idential assassination),”;

18           (8) inserting after “section 1958 (relating to  
19 use of interstate commerce facilities in the commis-  
20 sion of murder-for-hire),” the following: “section  
21 2280 (relating to violence against maritime naviga-  
22 tion), section 2281 (relating to violence against mar-  
23 itime fixed platforms),”; and

24           (9) inserting after “2321 (relating to traffick-  
25 ing in certain motor vehicles or motor vehicle

1 parts),” the following: “section 2332 (relating to ter-  
2 rorist acts abroad against United States nationals),  
3 section 2332a (relating to use of weapons of mass  
4 destruction), section 2332b (relating to acts of ter-  
5 rorism transcending national boundaries), section  
6 2339A (relating to providing material support to ter-  
7 rorists),”.

8 (b) Section 1961(1) of title 18 of the United States  
9 Code is amended by striking “or” before “(E)”, and in-  
10 serting at the end thereof the following: “or (F) section  
11 46502 of title 49, United States Code;”.

12 **SEC. 604. ADDITION OF TERRORISM OFFENSES TO THE**  
13 **MONEY LAUNDERING STATUTE.**

14 (a) Section 1956(c)(7)(B)(ii) of title 18, United  
15 States Code, is amended by striking “or extortion;” and  
16 inserting “extortion, murder, or destruction of property by  
17 means of explosive or fire;”.

18 (b) Section 1956(c)(7)(D) of title 18, United States  
19 Code, is amended by—

20 (1) inserting after “an offense under” the fol-  
21 lowing: “section 32 (relating to the destruction of  
22 aircraft), section 37 (relating to violence at inter-  
23 national airports), section 115 (relating to influenc-  
24 ing, impeding or retaliating against a Federal offi-  
25 cial by threatening or injuring a family member),”;

1           (2) inserting after “section 215 (relating to  
2           commissions or gifts for procuring loans),” the fol-  
3           lowing: “section 351 (relating to Congressional or  
4           Cabinet officer assassination),”;

5           (3) inserting after “section 798 (relating to es-  
6           pionage),” the following: “section 831 (relating to  
7           prohibited transactions involving nuclear materials),  
8           section 844 (f) or (i) (relating to destruction by ex-  
9           plosives or fire of Government property or property  
10          affecting interstate or foreign commerce),”;

11          (4) inserting after “section 875 (relating to  
12          interstate communications),” the following: “section  
13          956 (relating to conspiracy to kill, kidnap, maim, or  
14          injure certain property in a foreign country),”;

15          (5) inserting after “section 1032 (relating to  
16          concealment of assets from conservator, receiver, or  
17          liquidating agent of financial institution),” the fol-  
18          lowing: “section 1111 (relating to murder), section  
19          1114 (relating to murder of United States law en-  
20          forcement officials), section 1116 (relating to mur-  
21          der of foreign officials, official guests, or internation-  
22          ally protected persons),”;

23          (6) inserting after “section 1203 (relating to  
24          hostage taking)” the following: “section 1361 (relat-  
25          ing to willful injury of Government property), sec-

1 tion 1363 (relating to destruction of property within  
2 the special maritime and territorial jurisdiction),”;

3 (7) inserting after “section 1708 (relating to  
4 theft from the mail” the following:”), section 1751  
5 (relating to Presidential assassination),”;

6 (8) inserting after “2114 (relating to bank and  
7 postal robbery and theft),” the following: “section  
8 2280 (relating to violence against maritime naviga-  
9 tion), section 2281 (relating to violence against mar-  
10 itime fixed platforms),”;

11 (9) striking “of this title” and inserting the fol-  
12 lowing: “section 2332 (relating to terrorist acts  
13 abroad against United States nationals), section  
14 2332a (relating to use of weapons of mass destruc-  
15 tion), section 2332b (relating to international terror-  
16 ist acts transcending national boundaries), 2339A  
17 (relating to providing material support to terrorists)  
18 of this title, section 46502 of title 49, United States  
19 Code,”.

20 **SEC. 605. AUTHORIZATION FOR INTERCEPTIONS OF COM-**  
21 **MUNICATIONS IN CERTAIN TERRORISM RE-**  
22 **LATED OFFENSES.**

23 (a) Section 2516(1) of title 18, United States Code,  
24 is amended by—

1 (1) striking “and” at the end of subparagraph  
2 (n);

3 (2) redesignating subparagraph (o) as subpara-  
4 graph (q); and

5 (3) inserting these two new paragraphs after  
6 paragraph (n):

7 “(o) any violation of section 956 or section 960 of  
8 title 18, United States Code (relating to certain actions  
9 against foreign nations);

10 “(p) any violation of section 46502 of title 49, United  
11 States Code; and”.

12 (b) Section 2516(1)(c) of title 18, United States  
13 Code, is amended by inserting before “or section 1992 (re-  
14 lating to wrecking trains)” the following: “section 2332  
15 (relating to terrorist acts abroad), section 2332a (relating  
16 to weapons of mass destruction, section 2332b (relating  
17 to acts of terrorism transcending national boundaries),  
18 section 2339A (relating to providing material support to  
19 terrorists), section 37 (relating to violence at international  
20 airports),”.

21 **SEC. 606. CLARIFICATION OF MARITIME VIOLENCE JURIS-**  
22 **DICTION.**

23 Section 2280(B)(1)(A) of title 18, United States  
24 Code, is amended by—

1           (1) in clause (ii), striking “and the activity is  
2 not prohibited as a crime by the State in which the  
3 activity takes place”; and

4           (2) in clause (iii), striking “the activity takes  
5 place on a ship flying the flag of a foreign country  
6 or outside of the United States,”.

7 **SEC. 607. EXPANSION OF FEDERAL JURISDICTION OVER**  
8 **BOMB THREATS.**

9           Section 844(e) of title 18, United States Code, is  
10 amended by—

11           (1) inserting “(1)” before “Whoever”; and

12           (2) adding at the end thereof this new para-  
13 graph:

14           “(2) Whoever willfully makes any threat, or  
15 maliciously conveys false information knowing the  
16 same to be false, concerning an attempt or alleged  
17 attempt being made, or to be made to violate sub-  
18 sections (f) or (i) of this section or section 81 of this  
19 title shall be fined under this title or imprisoned for  
20 not more than five years, or both.

21 **SEC. 608. INCREASED PENALTY FOR EXPLOSIVE CONSPIR-**  
22 **ACIES.**

23           Section 844 of title 18, United States Code, is  
24 amended by adding at the end the following new sub-  
25 section:



1 (c)(1) Section 115(a)(1)(A) of title 18, United States  
2 Code, is amended by inserting “or conspires” after “at-  
3 tempts”.

4 (2) Section 115(a)(2) of title 18, United States Code,  
5 as amended by section 609, is further amended by insert-  
6 ing “or conspires” after “attempts”.

7 (3) Section 115(b)(2) of title 18, United States Code,  
8 is amended by striking both times it appears “or at-  
9 tempted kidnapping” and inserting both times “, at-  
10 tempted kidnapping or conspiracy to kidnap”.

11 (4)(A) Section 115(b)(3) of title 18, United States  
12 Code, is amended by striking “or attempted murder” and  
13 inserting “, attempted murder or conspiracy to murder”.

14 (B) Section 115(b)(3) of title 18, United States Code,  
15 is further amended by striking “and 1113” and inserting  
16 “, 1113 and 1117”.

17 (d) Section 175(a) of title 18, United States Code,  
18 is amended by inserting “, or conspires to do so,” after  
19 “any organization to do so,”.

20 (e) Section 1203(a) of title 18, United States Code,  
21 is amended by inserting “or conspires” after “attempts”.

22 (f) Section 2280(a)(1)(H) of title 18, United States  
23 Code, is amended by inserting “or conspires” after “at-  
24 tempts”.

1 (g) Section 2281(a)(1)(F) of title 18, United States  
2 Code, is amended by inserting “or conspires” after “at-  
3 tempts”.

4 (h)(1) Section 46502(a)(2) of title 49, United States  
5 Code, is amended by inserting “or conspiring” after “at-  
6 tempting”.

7 (2) Section 46502(b)(1) of title 49, United States  
8 Code, is amended by inserting “or conspiring to commit”  
9 after “committing”.

## 10 **TITLE VII—ANTITERRORISM ASSISTANCE**

### 11 **SEC. 701. FINDINGS.**

12 Congress finds that in order to improve the effective-  
13 ness and cost efficiency of the Antiterrorism Training As-  
14 sistance Program, which is administered and coordinated  
15 by the Department of State to increase the antiterrorism  
16 capabilities of friendly countries, more flexibility is needed  
17 in providing trainers and courses overseas and to provide  
18 personnel needed to enhance the administration and eval-  
19 uation of the courses.

### 20 **SEC. 702. ANTITERRORISM ASSISTANCE AMENDMENTS.**

21 Section 573 of chapter 8 (relating to antiterrorism  
22 assistance), of the Foreign Assistance Act of 1961 (22  
23 U.S.C. 2349aa2) is amended by:

24 (1) striking “30 days” in subsection (d)(1)(A)  
25 and inserting in lieu thereof “180 days”;

1 (2) striking the “add” after subsection  
2 (d)(1)(B);

3 (3) striking subsection (d)(1)(B);

4 (4) inserting “and” after subsection (d)(1)(A);

5 (5) redesignating subsection (d)(1)(C) as sub-  
6 section (d)(1)(B);

7 (6) amending subsection (d)(2) to read as fol-  
8 lows:

9 “(2) Personnel of the United States Govern-  
10 ment authorized to advise foreign countries on anti-  
11 terrorism matters shall carry out their responsibil-  
12 ities within the United States when determined most  
13 effective or outside the United States for periods not  
14 to exceed 180 consecutive calendar days.”; and

15 (7) striking subsection (f).

16 **TITLE VIII—SUBSTANTIVE INVESTIGATIVE**  
17 **ENHANCEMENTS**

18 **SEC. 801. PEN REGISTERS AND TRAP AND TRACE DEVICES**  
19 **IN FOREIGN COUNTERINTELLIGENCE AND**  
20 **COUNTERTERRORISM INVESTIGATIONS.**

21 (a) Chapter 206, title 18, United States Code, is  
22 amended—

23 (1) by redesignating section 3127 as section  
24 3128; and

25 (2) by adding the following new section 3127:

1 **“§3127. Pen register or a trap and trace device**  
2 **in foreign counterintelligence and**  
3 **counterterrorism investigations**

4 “(a) Notwithstanding any other law, the provisions  
5 of this chapter shall be applicable to foreign counterintel-  
6 ligence and international terrorism investigations con-  
7 ducted by the Federal Bureau of Investigation.

8 “(b) An application under this section for an order  
9 or an extension of an order under section 3123 of this  
10 title shall include—

11 “(1) the identity of the attorney for the Govern-  
12 ment and the fact that the investigation is being  
13 conducted by the Federal Bureau of Investigation;  
14 and

15 “(2) a certification by the applicant that the in-  
16 formation likely to be obtained is relevant to an on-  
17 going foreign counterintelligence or international ter-  
18 rorism investigation being conducted by the Federal  
19 Bureau of Investigation.

20 “(c) All applications and orders under this section  
21 shall be maintained by the Federal Bureau of Investiga-  
22 tion.”.

23 (b) CLERICAL AMENDMENT.—The table of sections  
24 at the beginning of Chapter 206 is amended—

25 (1) to renumber section 3128 as redesignated;  
26 and

1 (2) by adding after the item relating to section  
2 3126 the following:

“3127. Pen register or a trap and trace device in foreign counterintelligence and  
counterterrorism investigations.”

3 **SEC. 802. DISCLOSURE OF INFORMATION AND CONSUMER**  
4 **REPORTS TO FBI FOR FOREIGN COUNTER-**  
5 **INTELLIGENCE PURPOSES.**

6 (a) IN GENERAL.—The Fair Credit Reporting Act  
7 (15 U.S.C. 1681 et seq.) is amended by adding after sec-  
8 tion 623 the following new section:

9 **“§ 624. Disclosures to Federal Bureau of Investiga-**  
10 **tion for foreign counterintelligence pur-**  
11 **poses**

12 “(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Not-  
13 withstanding section 604 or any other provision of this  
14 title, a consumer reporting agency shall furnish to the  
15 Federal Bureau of Investigation the names and addresses  
16 of all financial institutions (as that term is defined in sec-  
17 tion 1101 of the Right to Financial Privacy Act of 1978)  
18 at which the consumer maintains or has maintained an  
19 account, to the extent that information is in the files of  
20 the agency, when presented with a written request for that  
21 information, signed by the Director of the Federal Bureau  
22 of Investigation, or the Director’s designee (who shall be  
23 an individual with the rank and title of Deputy Assistant  
24 Director or above), which certifies compliance with this

1 section. The Director or the Director’s designee may make  
2 such a certification only if the Director or the Director’s  
3 designee has determined in writing that—

4 “(1) such information is necessary for the con-  
5 duct of an authorized foreign counterintelligence in-  
6 vestigation; and

7 “(2) there are specific and articulable facts giv-  
8 ing reason to believe that the consumer—

9 “(A) is a foreign power (as defined in sec-  
10 tion 101 of the Foreign Intelligence Surveil-  
11 lance Act (50 U.S.C. 1801) or a person who is  
12 not a United States person (as defined in such  
13 section 101) and is an official of a foreign  
14 power; or

15 “(B) is an agent of a foreign power and is  
16 engaging or has engaged in international terror-  
17 ism (as that term is defined by 18 U.S.C.  
18 2331) or clandestine intelligence activities that  
19 involve a violation of criminal statutes of the  
20 United States.

21 “(b) IDENTIFYING INFORMATION.—Notwithstanding  
22 the provisions of section 604 or any other provision of this  
23 title, a consumer reporting agency shall furnish identifying  
24 information respecting a consumer, limited to name, ad-  
25 dress, former addresses, places of employment, or former

1 places of employment, to the Federal Bureau of Investiga-  
2 tion when presented with written request, signed by Direc-  
3 tor or the Director's authorized designee, which certifies  
4 compliance with this subsection. The Director or the Di-  
5 rector's authorized designee may make such a certification  
6 only if the Director or the Director's authorized designee  
7 has determined in writing that—

8           “(1) such information is necessary for the con-  
9           duct of an authorized foreign counterintelligence in-  
10          vestigation; and

11           “(2) there is information giving reason to be-  
12          lieve that the consumer has been, or is about to be,  
13          in contact with a foreign power or an agent of a for-  
14          eign power (as defined in section 101 of the Foreign  
15          Intelligence Surveillance Act (50 U.S.C. 1801)).

16          “(c) COURT ORDER FOR DISCLOSURE OF CONSUMER  
17          REPORTS.—Notwithstanding section 604 or any other  
18          provision of this title, if requested in writing by the Direc-  
19          tor of the Federal Bureau of Investigation, or authorized  
20          designee of the Director, a court may issue an order ex  
21          parte directing a consumer reporting agency to furnish a  
22          consumer report to the Federal Bureau of Investigation,  
23          upon a showing in camera that—

1           “(1) the consumer report is necessary for the  
2           conduct of an authorized foreign counterintelligence  
3           investigation; and

4           “(2) there are specific and articulable facts giving  
5           reason to believe that the consumer whose  
6           consumer report is sought—

7                   “(A) is an agent of a foreign power; and

8                   “(B) is engaging or has engaged in inter-  
9                   national terrorism (as that term is defined in  
10                  18 U.S.C. 2331) or clandestine intelligence ac-  
11                  tivities that involve a violation of criminal stat-  
12                  utes of the United States.

13           The terms of an order issued under this subsection  
14           shall not disclose that the order is issued for pur-  
15           poses of a foreign counterintelligence investigation.

16           “(d) CONFIDENTIALITY.—No consumer reporting  
17           agency or officer, employee, or agent of a consumer report-  
18           ing agency shall disclose to any person, other than those  
19           officers, employees, or agents of a consumer reporting  
20           agency necessary to fulfill the requirement to disclose in-  
21           formation to the Federal Bureau of Investigation under  
22           this section, that the Federal Bureau of Investigation has  
23           sought or obtained the identity of financial institutions or  
24           a consumer report respecting any consumer under sub-  
25           section (a), (b), or (c) and no consumer reporting agency

1 or officer, employee, or agent of a consumer reporting  
2 agency shall include in any consumer report any informa-  
3 tion that would indicate that the Federal Bureau of Inves-  
4 tigation has sought or obtained such information or a  
5 consumer report.

6       “(e) PAYMENT OF FEES.—The Federal Bureau of  
7 Investigation shall, subject to the availability of appropria-  
8 tions, pay to a consumer reporting agency assembling or  
9 providing reports or information in accordance with proce-  
10 dures established under this section, a fee for reimburse-  
11 ment for such costs as are reasonably necessary and which  
12 have been directly incurred in searching, reproducing or  
13 transporting books, papers, records, or other data required  
14 or requested to be produced under this section.

15       “(f) LIMIT ON DISSEMINATION.—The Federal Bu-  
16 reau of Investigation may not disseminate information ob-  
17 tained pursuant to this section outside of the Federal Bu-  
18 reau of Investigation, except as may be necessary for the  
19 approval or conduct of a foreign counterintelligence inves-  
20 tigation, or, where the information concerns a person sub-  
21 ject to the Uniform Code of Military Justice, to appro-  
22 priate investigative authorities within the military depart-  
23 ment concerned as may be necessary for the conduct of  
24 a joint foreign counterintelligence investigation.

1       “(g) RULES OF CONSTRUCTION.—Nothing in this  
2 section shall be construed to prohibit information from  
3 being furnished by the Federal Bureau of Investigation  
4 pursuant to a subpoena or court order, or in connection  
5 with a judicial or administrative proceeding to enforce the  
6 provisions of this Act. Nothing in this section shall be con-  
7 strued to authorize or permit the withholding of informa-  
8 tion from the Congress.

9       “(h) REPORTS TO CONGRESS.—On a semiannual  
10 basis, the Attorney General of the United States shall fully  
11 inform the Permanent Select Committee on Intelligence  
12 and the Committee on Banking and Financial Services of  
13 the House of Representatives, and the Select Committee  
14 on Intelligence and the Committee on Banking, Housing,  
15 and Urban Affairs of the Senate concerning all requests  
16 made pursuant to subsections (a), (b), and (c).

17       “(i) DAMAGES.—Any agency or department of the  
18 United States obtaining or disclosing any consumer re-  
19 ports, records, or information contained therein in viola-  
20 tion of this section is liable to the consumer to whom such  
21 consumer reports, records, or information relate in an  
22 amount equal to the sum of—

23               “(1) \$100, without regard to the volume of  
24 consumer reports, records, or information involved;

1           “(2) any actual damages sustained by the  
2 consumer as a result of the disclosure;

3           “(3) if the violation is found to have been will-  
4 ful or intentional, such punitive damages as a court  
5 may allow; and

6           “(4) in the case of any successful action to en-  
7 force liability under this subsection, the costs of the  
8 action, together with reasonable attorney fees, as de-  
9 termined by the court.

10          “(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a  
11 court determines that any agency or department of the  
12 United States has violated any provision of this section  
13 and the court finds that the circumstances surrounding  
14 the violation raise questions of whether or not an officer  
15 or employee of the agency or department acted willfully  
16 or intentionally with respect to the violation, the agency  
17 or department shall promptly initiate a proceeding to de-  
18 termine whether or not disciplinary action is warranted  
19 against the officer or employee who was responsible for  
20 the violation.

21          “(k) GOOD FAITH EXCEPTION.—Notwithstanding  
22 any other provision of this title, any consumer reporting  
23 agency or agent or employee thereof making disclosure of  
24 consumer reports or identifying information pursuant to  
25 this subsection in good-faith reliance upon a certification

1 of the Federal Bureau of Investigation pursuant to provi-  
2 sions of this section shall not be liable to any person for  
3 such disclosure under this title, the constitution of any  
4 State, or any law or regulation of any State or any politi-  
5 cal subdivision of any State.

6 “(l) LIMITATION OF REMEDIES.—Notwithstanding  
7 any other provision of this title, the remedies and sanc-  
8 tions set forth in this section shall be the only judicial  
9 remedies and sanctions for violation of this section.

10 “(m) INJUNCTIVE RELIEF.—In addition to any other  
11 remedy contained in this section, injunctive relief shall be  
12 available to require compliance with the procedures of this  
13 section. In the event of any successful action under this  
14 subsection, costs together with reasonable attorney fees,  
15 as determined by the court, may be recovered.”

16 (b) CLERICAL AMENDMENT.—The table of sections  
17 at the beginning of the Fair Credit Reporting Act (15  
18 U.S.C. 1681a et seq.) is amended by adding after the item  
19 relating to section 623 the following:

“624. Disclosures to Federal Bureau of Investigation for foreign counterintel-  
ligence purposes.”

1 **SEC. 803. STUDY AND REQUIREMENTS FOR TAGGING OF EX-**  
2 **PLOSIVE MATERIALS, AND STUDY AND REC-**  
3 **COMMENDATIONS FOR RENDERING EXPLO-**  
4 **SIVE COMPONENTS INERT AND IMPOSING**  
5 **CONTROLS ON PRECURSORS OF EXPLOSIVES.**

6 (a) The Secretary of the Treasury shall conduct a  
7 study and make recommendations concerning—

8 (1) the tagging of explosive materials for pur-  
9 poses of detection and identification;

10 (2) whether common chemicals used to manu-  
11 facture explosive materials can be rendered inert and  
12 whether it is feasible to require it; and

13 (3) whether controls can be imposed on certain  
14 precursor chemicals used to manufacture explosive  
15 materials and whether it is feasible to require it.

16 In conducting the study, the Secretary shall consult  
17 with other Federal, State and local officials with expertise  
18 in this area and such other individuals as shall be deemed  
19 necessary. Such study shall be complete within twelve  
20 months after the enactment of this Act and shall be sub-  
21 mitted to the Congress and made available to the public.  
22 Such study may include, if appropriate, recommendations  
23 for legislation.

24 (b) There are authorized to be appropriated for the  
25 study and recommendations contained in paragraph (a)  
26 such sums as may be necessary.

1 (c) Section 842, of title 18, United States Code, is  
2 amended by inserting after subsection (k), a new sub-  
3 section (l) which reads as follows:

4 “(l) It shall be unlawful for any person to manufac-  
5 ture, import, ship, transport, receive, possess, transfer, or  
6 distribute any explosive material that does not contain a  
7 tracer element as prescribed by the Secretary pursuant to  
8 regulation, knowing or having reasonable cause to believe  
9 that the explosive material does not contain the required  
10 tracer element.”.

11 (d) Section 844, of title 18, United States Code, is  
12 amended by inserting after “(a) through (i)” the phrase  
13 “and (l)”.

14 (e) Section 846, of title 18, United States Code, is  
15 amended by designating the present section as “(a),” and  
16 by adding a new subsection (b) reading as follows: “(b)  
17 to facilitate the enforcement of this chapter, the Secretary  
18 may provide by regulation for the addition of tracer ele-  
19 ments to explosive materials manufactured in or imported  
20 into the United States. Tracer elements to be added to  
21 explosive materials under provisions of this subsection  
22 shall be of such character and in such quantity as the Sec-  
23 retary may authorize or require, and such as will not sub-  
24 stantially impair the quality of the explosive materials for

1 their intended lawful use, be unreasonably unsafe, or have  
2 a substantially adverse effect on the environment.”.

3 (f) The penalties provided for herein, shall not take  
4 effect until the later of one year from the date of enact-  
5 ment of this Act or ninety days from the date of promulga-  
6 tion of the regulations provided for herein.

7 **SEC. 804. ACCESS TO RECORDS OF COMMON CARRIERS,**  
8 **PUBLIC ACCOMMODATION FACILITIES, PHYS-**  
9 **ICAL STORAGE FACILITIES AND VEHICLE**  
10 **RENTAL FACILITIES IN FOREIGN COUNTER-**  
11 **INTELLIGENCE AND COUNTERTERRORISM**  
12 **CASES.**

13 Title 18, United States Code, is amended by inserting  
14 after chapter 121 the following new chapter:

15 **“CHAPTER 122—ACCESS TO CERTAIN RECORDS**

16 **“§ 2720. Access to records of common carriers, public**  
17 **accommodation facilities, physical storage facilities and ve-**  
18 **hicle rental facilities in counterintelligence and**  
19 **counterterrorism cases**

20 **“(a) Any common carrier, public accommodation fa-**  
21 **cility, physical storage facility or vehicle rental facility**  
22 **shall comply with a request for records in its possession**  
23 **made pursuant to this section by the Federal Bureau of**  
24 **Investigation when the Director or designee (whose rank**  
25 **shall be no lower than Assistant Special Agent in Charge)**

1 certifies in writing to the common carrier, public accom-  
2 modation facility, physical storage facility or vehicle rental  
3 facility that such records are sought for foreign counter-  
4 intelligence purposes and that there are specific and  
5 articulable facts giving reason to believe that the person  
6 to whom the records sought pertain, is a foreign power  
7 or an agent of a foreign power as defined in section 101  
8 of the Foreign Intelligence Surveillance Act (50 U.S.C.  
9 1801).

10 “(b) No common carrier, public accommodation facil-  
11 ity, physical storage facility or vehicle rental facility or any  
12 officer, employee or agent of such common carrier, public  
13 accommodation facility, physical storage facility or vehicle  
14 rental facility shall disclose to any person, other than  
15 those officers, agents or employees of the common carrier,  
16 public accommodation facility, physical storage facility or  
17 vehicle rental facility necessary to fulfill the requirement  
18 to disclose the information to the Federal Bureau of Inves-  
19 tigation under this section, that the Federal Bureau of  
20 Investigation has sought or obtained the records re-  
21 quested.

22 “(c) As used in this chapter—

23 “(1) the term ‘common carrier’ means a loco-  
24 motive, a rail carrier, a bus carrying passengers, a  
25 water common carrier, an air common carrier, or a

1 private commercial interstate carrier for the delivery  
2 of packages and other objects;

3 “(2) the term ‘public accommodation facility’  
4 means any inn, hotel, motel or other establishment  
5 which provides lodging to transient guests;

6 “(3) the term ‘physical storage facility’ means  
7 any business or entity which provides space for the  
8 storage of goods or materials, or services related to  
9 the storage of goods or materials to the public or  
10 any segment thereof; and

11 “(4) the term ‘vehicle rental facility’ means any  
12 person or entity which provides vehicles for rent,  
13 lease, loan or other similar use, to the public or any  
14 segment thereof.”.

15 **SEC. 805. LIMITATION OF STATUTORY EXCLUSIONARY**  
16 **RULE.**

17 Section 2515 of title 18, United States Code, is  
18 amended by adding at the end the following: “This section  
19 shall not apply to the disclosure by the United States in  
20 a criminal trial or hearing or before a grand jury of the  
21 contents of a wire or oral communication, or evidence de-  
22 rived therefrom, unless the violation of this chapter in-  
23 volved bad faith by law enforcement.”

1 **SEC. 806. AUTHORITY FOR WIRETAPS IN ANY TERRORISM-**  
2 **RELATED OR EXPLOSIVES FELONY.**

3 Section 2516(1) of title 18, United States Code, is  
4 amended—

5 (1) by inserting after the words “section 224  
6 (bribery in sporting contests)”, the words “section  
7 842 (relating to explosives violations)”.

8 (2) by striking “and” at the end of  
9 paragraph (n);

10 (3) by striking the period at the end of para-  
11 graph (o) and inserting “; and”; and

12 (4) by adding a new paragraph (p) as follows:

13 “(p) any other felony under the laws of the  
14 United States if the Attorney General, the Deputy  
15 Attorney General, or the Assistant Attorney General  
16 for the Criminal Division (or an official acting in  
17 any such capacity) certifies to the court under seal  
18 that there is reason to believe the felony involves or  
19 may involve domestic terrorism or international ter-  
20 rorism (as those terms are defined in 18 U.S.C.  
21 2331).”.

22 Section 2510(12) of title 18, United States Code, is  
23 amended—

24 (1) by striking “or” at the end of subpara-  
25 graph (B);

1           (2) by inserting “or” at the end of subpara-  
2 graph (C); and

3           (3) by adding a new subparagraph (D), as  
4 follows:

5                   “(D) information stored in a communica-  
6 tions system used for the electronic storage and  
7 transfer of funds;”

8       Section 2510(16) of title 18, United States Code, is  
9 amended—

10           (1) by inserting “or” at the end of subpara-  
11 graph (D);

12           (2) by striking “or” at the end of subparagraph  
13 (E); and

14           (3) by striking subparagraph (F).

15 **SEC. 807. TEMPORARY EMERGENCY WIRETAP AUTHORITY**  
16 **INVOLVING TERRORISTIC CRIMES.**

17       (a) Section 2518(7)(a)(iii) of title 18, United States  
18 Code, is amended by inserting “or domestic terrorism or  
19 international terrorism (as those terms are defined in 18  
20 U.S.C. 2331)” after “organized crime”.

21       (b) Section 2331 of title 18, United States Code, is  
22 amended by inserting the following words after sub-  
23 section (4)—

24                   “(5) the term ‘domestic terrorism’ means any  
25 activities that involve violent acts or acts dangerous

1 to human life that are a violation of the criminal  
2 laws of the United States or of any State and which  
3 appear to be intended to intimidate or coerce a civil-  
4 ian population or to influence the policy of a govern-  
5 ment by intimidation or coercion; or to affect the  
6 conduct of a government by assassination or kidnap-  
7 ping.”.

8 **SEC. 808. EXPANDED AUTHORITY FOR ROVING WIRETAPS.**

9 Section 2518(11) of title 18, United States Code, is  
10 amended to read as follows:

11 “(11) The requirements of subsections (1)(b)(ii) and  
12 (3)(d) of this section relating to the specification of facili-  
13 ties from which or the place where the communication is  
14 to be intercepted do not apply if in the case of an applica-  
15 tion with respect to the interception of wire, oral or elec-  
16 tronic communications—

17 “(a) the application is by a Federal investiga-  
18 tive or law enforcement officer, and is approved by  
19 the Attorney General, the Deputy Attorney General,  
20 the Associate Attorney General, or an Assistant At-  
21 torney General (or an official acting in any such ca-  
22 pacity);

23 “(b) the application contains a full and com-  
24 plete statement as to why such specification is not  
25 practical and identifies the person committing the

1 offense and whose communications are to be inter-  
2 cepted; and

3 “(c) the judge finds that such specification is  
4 not practical.”.

5 **SEC. 809. ENHANCED ACCESS TO TELEPHONE BILLING**  
6 **RECORDS.**

7 (a) Section 2709(b) of title 18, United States Code,  
8 is amended—

9 (1) in subparagraph 1(A), by inserting “local  
10 and long distance” before “toll billing records”; and

11 (2) by adding at the end a new paragraph (3),  
12 as follows:

13 “(3) request the name, address, length of serv-  
14 ice, and local and long distance toll billing records  
15 of a person or entity if the Director (or designee in  
16 a position not lower than Deputy Assistant Director)  
17 certifies in writing to the wire or electronic commu-  
18 nication service provider to which the request is  
19 made that the information sought is relevant to an  
20 authorized domestic terrorism (as that term is de-  
21 fined in section 107 of this Act) investigation.”.

22 (b) Section 2703(c)(1)(C) of title 18, United States  
23 Code, is amended by inserting “local and long distance”  
24 before “telephone toll billing records”.

1 **SEC. 810. REQUIREMENT TO PRESERVE EVIDENCE.**

2 Section 2703 of title 18, United States Code, is  
3 amended by adding a new subsection (f), as follows:

4 “(f) REQUIREMENT TO PRESERVE EVIDENCE.—A  
5 provider of wire or electronic communication services or  
6 a remote computing service, upon the request of a govern-  
7 mental entity, shall take all necessary steps to preserve  
8 records and other evidence in its possession pending the  
9 issuance of a court order or other process. Such records  
10 shall be retained for a period of ninety days, which period  
11 shall be extended for an additional ninety-day period upon  
12 a renewed request by the governmental entity.”.

13 **SEC. 811. PERMISSION TO REQUEST MILITARY ASSISTANCE**  
14 **WITH RESPECT TO OFFENSES INVOLVING**  
15 **CHEMICAL AND BIOLOGICAL WEAPONS.**

16 (a) Section 175 of title 18, United States Code, is  
17 amended by adding a new subsection (c), as follows:

18 “(c)(1) MILITARY ASSISTANCE.—Notwithstanding  
19 any other provision of law, the Attorney General may re-  
20 quest that the Secretary of Defense provide technical as-  
21 sistance in support of Department of Justice activities re-  
22 lating to the enforcement of this section in situations in-  
23 volving biological weapon emergencies. Department of De-  
24 fense resources, including civilian personnel and members  
25 of the uniformed services, may be used to provide such  
26 technical assistance if:

1           “(A) The Secretary of Defense and the Attor-  
2           ney General determine that an emergency situation  
3           involving biological weapons of mass destruction ex-  
4           ists; and

5           “(B) The Secretary of Defense determines that  
6           the provision of such assistance will not adversely af-  
7           fect the military preparedness of the United States.

8           “(2) As used in this section, ‘emergency situation’  
9           means a circumstance—

10           “(A) that poses a serious threat to the interests  
11           of the United States; and

12           “(B) in which—

13           “(i) enforcement of the law would be seri-  
14           ously impaired if the assistance were not pro-  
15           vided;

16           “(ii) military technical assistance and ex-  
17           pertise is needed to counter the threat posed by  
18           the biological agent involved; and

19           “(iii) civilian law enforcement expertise is  
20           not available to provide the required technical  
21           assistance.

22           “(3) As used in this section, ‘technical assistance’  
23           means the provision of equipment and technical expertise  
24           to law enforcement officials in the investigation of viola-  
25           tions of this section, such as technical assistance in con-

1 ducting searches that seek evidence or instrumentalities  
2 of violations of this section, technical assistance in taking  
3 and collecting evidence related to violations of this section,  
4 and technical assistance in disarming and disabling indi-  
5 viduals in possession of contraband under this section. It  
6 does not include authority to apprehend or arrest.

7 “(4) The Secretary of Defense may require reim-  
8 bursement as a condition of assistance under this section.

9 “(5) The Attorney General may delegate the Attorney  
10 General’s function under this subsection only to a Deputy,  
11 Associate, or Assistant Attorney General.”.

12 (b) Chapter 113B of title 18, United States Code,  
13 is amended by adding after section 2332a the following  
14 new section:

15 **“§ 2332b. Use of chemical weapons**

16 “(a) OFFENSE.—A person who without lawful au-  
17 thority uses, or attempts or conspires to use, a chemical  
18 weapon—

19 “(1) against a national of the United States  
20 while such national is outside of the United States;

21 “(2) against any person within the United  
22 States; or

23 “(3) against any property that is owned, leased  
24 or used by the United States or by any department

1 or agency of the United States, whether the property  
2 is within or outside of the United States,  
3 shall be imprisoned for any term of years or for life, and  
4 if death results, shall be punished by death or imprisoned  
5 for any term of years or for life.

6 “(b) DEFINITIONS.—For purposes of this section—

7 “(1) the term ‘national of the United States’  
8 has the meaning given in section 101(a)(22) of the  
9 Immigration and Nationality Act (8 U.S.C.  
10 1101(a)(22)); and

11 “(2) the term ‘chemical weapon’ means any  
12 weapon that is designed to cause death or serious  
13 bodily injury through the release, dissemination, or  
14 impact of toxic or poisonous chemicals or their pre-  
15 cursors.

16 “(c)(1) MILITARY ASSISTANCE.—Notwithstanding  
17 any other provision of law, the Attorney General may re-  
18 quest that the Secretary of Defense provide technical as-  
19 sistance in support of Department of Justice activities re-  
20 lating to the enforcement of this section in situations in-  
21 volving chemical weapon emergencies. Department of De-  
22 fense resources, including civilian personnel and members  
23 of the uniformed services, may be used to provide such  
24 technical assistance if:

1           “(A) The Secretary of Defense and the Attor-  
2           ney General determine that an emergency situation  
3           involving chemical weapons of mass destruction ex-  
4           ists; and

5           “(B) The Secretary of Defense determines that  
6           the provision of such assistance will not adversely af-  
7           fect the military preparedness of the United States.

8           “(2) As used in this section, ‘emergency situation’  
9           means a circumstance—

10           “(A) that poses a serious threat to the interests  
11           of the United States; and

12           “(B) in which—

13           “(i) enforcement of the law would be seri-  
14           ously impaired if the assistance were not pro-  
15           vided;

16           “(ii) military technical assistance and ex-  
17           pertise is needed to counter the threat posed by  
18           the chemical agent involved; and

19           “(iii) civilian law enforcement expertise is  
20           not available to provide the required technical  
21           assistance.

22           “(3) As used in this section, ‘technical assistance’  
23           means the provision of equipment and technical expertise  
24           to law enforcement officials in the investigation of viola-  
25           tions of this section, such as technical assistance in con-

1 ducting searches that seek evidence or instrumentalities  
2 of violations of this section, technical assistance in taking  
3 and collecting evidence related to violations of this section,  
4 and technical assistance in disarming and disabling indi-  
5 viduals in possession of contraband under this section. It  
6 does not include authority to apprehend or arrest.

7 “(4) The Secretary of Defense may require reim-  
8 bursement as a condition of assistance under this section.

9 “(5) The Attorney General may delegate the Attorney  
10 General’s function under this subsection only to a Deputy,  
11 Associate, or Assistant Attorney General.”.

12 (c) CLERICAL AMENDMENT.—The chapter analysis  
13 for chapter 113B of title 18, United States Code, is  
14 amended by adding after the item relating to section  
15 2332a the following:

“2332b. Use of chemical weapons”.

16 (d) Section 2332a of title 18, United States Code,  
17 is amended by inserting between the words “A person  
18 who” and “uses, or attempts”, the words “without lawful  
19 authority”, at the beginning of subsection (a).

20 **SEC. 812. GENERAL REWARD AUTHORITY OF THE ATTOR-**  
21 **NEY GENERAL.**

22 Section 3059B of title 18, United States Code, is  
23 hereby amended by adding the following section:

24 “(a) Notwithstanding any other provision of law, the  
25 Attorney General may pay rewards and receive from any

1 department or agency, funds for the payment of rewards  
2 under this section, to any individual who assists the De-  
3 partment of Justice in performing its functions.

4 “(b) If the reward exceeds \$100,000, the Attorney  
5 General, within thirty (30) days of having authorized the  
6 payment of such a reward, shall give notice to the respec-  
7 tive Chairmen of the Committees on Appropriations and  
8 the Committees on the Judiciary of the Senate and the  
9 House of Representatives.

10 “(c) A determination made by the Attorney General  
11 as to whether to authorize an award under this section  
12 and as to the amount of any reward authorized shall be  
13 final and conclusive, and no court shall have power or ju-  
14 risdiction to review it.”.

15 **TITLE IX—SUBSTANTIVE PROSECUTIVE**  
16 **ENHANCEMENT**

17 **SEC. 901. POSSESSION OF STOLEN EXPLOSIVES.**

18 Section 842(h) of title 18, United States Code, is  
19 amended to read as follows:

20 “(h) It shall be unlawful for any person to receive,  
21 possess, transport, ship, conceal, store, barter, sell, dispose  
22 of, or pledge or accept as security for a loan, any stolen  
23 explosive materials which are moving as, which are part  
24 of, which constitute, or which have been shipped or trans-  
25 ported in, interstate or foreign commerce, either before or

1 after such materials were stolen, knowing or having rea-  
2 sonable cause to believe that the explosive materials were  
3 stolen.”.

4 **SEC. 902. PROTECTION OF FEDERAL EMPLOYEES ON AC-**  
5 **COUNT OF THE PERFORMANCE OF THEIR OF-**  
6 **FICIAL DUTIES.**

7 (a) Section 1114 of title 18, United States Code, is  
8 amended to read as follows:

9 **“§ 1114. Protection of officers and employees of the**  
10 **United States.**

11 “(a) Whoever kills or attempts to kill any United  
12 States official, United States judge, Federal law enforce-  
13 ment officer, or member of the uniformed services, or any  
14 other officer or employee of the United States or any agen-  
15 cy of the executive, legislative, or judicial branch thereof,  
16 while such officer or employee is engaged in or on account  
17 of the performance of official duties, or any person assist-  
18 ing such an official, judge, officer, or employee in, or on  
19 account of the person’s assistance in, the performance of  
20 such duties shall be punished, in the case of murder, as  
21 provided under section 1111, or in the case of man-  
22 slaughter, as provided under section 1112, except that any  
23 such person who is found guilty of attempted murder shall  
24 be imprisoned for not more than twenty years.

1       “(b) As used in this section, the terms ‘United States  
2 official’, ‘United States judge’, and ‘Federal law enforce-  
3 ment officer’ have the meanings prescribed in section 115  
4 of this title.”.

5       (b) Section 115(a)(2) of title 18, United States Code,  
6 is amended by inserting “, or threatens to assault, kidnap,  
7 or murder, any person who formerly served as a person  
8 designated in paragraph (1), or” after “assaults, kidnaps,  
9 or murders, or attempts to kidnap or murder”.

## 10                   **TITLE X—CRIMINAL PENALTIES**

### 11 **SEC. 1001. MANDATORY PENALTY FOR TRANSFERRING A** 12                   **FIREARM KNOWING THAT IT WILL BE USED** 13                   **TO COMMIT A CRIME OF VIOLENCE.**

14       Section 924(h) of title 18, United States Code, is  
15 amended by—

16           (1) inserting “or having reasonable cause to be-  
17 lieve” after “knowingly”, and

18           (2) striking “not more than” and inserting “not  
19 less than”.

### 20 **SEC. 1002. MANDATORY PENALTY FOR TRANSFERRING AN** 21                   **EXPLOSIVE MATERIAL KNOWING THAT IT** 22                   **WILL BE USED TO COMMIT A CRIME OF VIO-** 23                   **LENCE.**

24       Section 844 of title 18, United States Code, is  
25 amended by adding at the end, the following—



1 **TITLE XI—FUNDING**

2 **SEC. 1101. CIVIL MONETARY PENALTY SURCHARGE AND**  
3 **TELECOMMUNICATIONS CARRIER COMPLI-**  
4 **ANCE PAYMENTS.**

5 Public Law 103–414, October 25, 1994, 108 Stat.  
6 4279, is amended by inserting at its conclusion a new title  
7 IV, as follows:

8 **“TITLE IV—CIVIL MONETARY PENALTY**  
9 **SURCHARGE AND TELECOMMUNI-**  
10 **CATIONS CARRIER COMPLIANCE PAY-**  
11 **MENTS**

12 **“SEC. 401. CIVIL MONETARY PENALTY SURCHARGE.**

13 “(a) IMPOSITION.—Notwithstanding any other provi-  
14 sion of law, and subject to section 402(c) of this title, a  
15 surcharge of 40 percent of the principal amount of a civil  
16 monetary penalty shall be added to each civil monetary  
17 penalty at the time it is assessed by the United States  
18 or an agency thereof.

19 “(b) APPLICATION OF PAYMENTS.—Payments relat-  
20 ing to a civil monetary penalty shall be applied in the fol-  
21 lowing order: (1) to costs; (2) to principal; (3) to sur-  
22 charges required by subsection (a) of this section; and (4)  
23 to interest.

24 “(c) EFFECTIVE DATES.—(1) A surcharge under  
25 subsection (a) of this section shall be added to all civil

1 monetary penalties assessed on or after October 1, 1995,  
2 or the date of enactment of this title, whichever is later.

3 “(2) The authority to add a surcharge under this sec-  
4 tion shall terminate on October 1, 1998.

5 “(d) LIMITATION.—The provisions of this section  
6 shall not apply to any civil monetary penalty assessed  
7 under title 26, United States Code.

8 **“SEC. 402. DEPARTMENT OF JUSTICE TELECOMMUNI-**  
9 **CATIONS CARRIER COMPLIANCE FUND.**

10 “(a) ESTABLISHMENT OF FUND.—There is hereby  
11 established in the United States Treasury a fund to be  
12 known as the Department of Justice Telecommunications  
13 Carrier Compliance Fund (hereinafter referred to as ‘the  
14 Fund’), which shall be available to the Attorney General  
15 to the extent and in the amounts authorized by subsection  
16 (c) of this section to make payments to telecommuni-  
17 cations carriers, as authorized by section 109 of the Com-  
18 munications Assistance for Law Enforcement Act.

19 “(b) OFFSETTING COLLECTIONS.—Notwithstanding  
20 section 3302 of title 31, United States Code, the Attorney  
21 General may credit surcharges added pursuant to section  
22 401 of this title to the Fund as offsetting collections.

23 “(c) REQUIREMENTS FOR APPROPRIATIONS OFF-  
24 SET.—(1) Surcharges added pursuant to section 401 of

1 this title are authorized only to the extent and in the  
2 amounts provided for in advance in appropriations acts.

3 “(2)(A) Collections credited to the Fund are author-  
4 ized to be appropriated in such amounts as may be nec-  
5 essary, but not to exceed \$100,000,000 in fiscal year  
6 1996, \$305,000,000 in fiscal year 1997, and \$80,000,000  
7 in fiscal year 1998.

8 “(B) Amounts described in subparagraph (A) of this  
9 paragraph are authorized to be appropriated without fiscal  
10 year limitation.

11 “(d) TERMINATION.—(1) The Attorney General may  
12 terminate the Fund at such time as the Attorney General  
13 determines that the Fund is no longer necessary.

14 “(2) Any balance in the Fund at the time of its termi-  
15 nation shall be deposited in the general fund of the Treas-  
16 ury.

17 “(3) A decision of the Attorney General to terminate  
18 the Fund shall not be subject to judicial review.

19 **“SEC. 403. DEFINITIONS.**

20 “For purposes of this title, the terms ‘agency’ and  
21 ‘civil monetary penalty’ have the meanings given to them  
22 by section 3 of the Federal Civil Penalties Inflation Ad-  
23 justment Act of 1990, Public Law 101–410, Oct. 5, 1990,  
24 104 Stat. 890 (28 U.S.C. 2461 note).”.

25 S 761 PCS—2

- 1 S 761 PCS—3
- 2 S 761 PCS—4
- 3 S 761 PCS—5
- 4 S 761 PCS—6
- 5 S 761 PCS—7
- 6 S 761 PCS—8
- 7 S 761 PCS—9
- 8 S 761 PCS—10