

Public Law 101-647  
101st Congress

An Act

To control crime.

Nov. 29, 1990

[S. 3266]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Crime Control  
Act of 1990.

18 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crime Control Act of 1990".

**TITLE I—INTERNATIONAL MONEY  
LAUNDERING**

SEC. 101. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

31 USC 5311  
note.

Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

## SEC. 102. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

Establishment.

(a) **ELECTRONIC SCANNING TASK FORCE.**—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of \$10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member);

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology, and

(C) Representatives from each of the following:

(i) the Bureau of Engraving and Printing,

(ii) the Federal Reserve Board, and

(iii) the United States Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) **REPORT TO THE CONGRESS.**—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress

that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

**SEC. 103. CONFORMING AMENDMENT RELATING TO THE EQUITABLE TRANSFER OF FORFEITED PROPERTY TO A PARTICIPATING FOREIGN NATION.**

Section 981(i) of title 18, United States Code, is amended—

(1) by striking out the matter before paragraph (1);

(2) by realigning paragraphs (1) through (5) 2 ems to the left, so that the left margins of such paragraphs are flush;

(3) by striking out “(1) Notwithstanding” in paragraph (1) and all that follows through the end of the second sentence of that paragraph and inserting in lieu thereof the following:

“(i)(1) Whenever property is civilly or criminally forfeited under this chapter, the Attorney General or the Secretary of the Treasury, as the case may be, may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

“(A) has been agreed to by the Secretary of State;

“(B) is authorized in an international agreement between the United States and the foreign country; and

“(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.”;

(4) by inserting after “Attorney General” in the third and fifth sentences of paragraph (1) the following: “or the Secretary of the Treasury”; and

(5) by striking out the last sentence of paragraph (1).

**SEC. 104. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO “INSIDER” EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.**

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting “or of section 1956 or 1957 of title 18, United States Code” after “any provision of subchapter II of chapter 53 of title 31, United States Code”.

**SEC. 105. CLARIFICATION OF DEFINITION OF “MONETARY INSTRUMENTS”.**

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

“(5) the term ‘monetary instruments’ means (i) coin or currency of the United States or of any other country, travelers’ checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery.”.

**SEC. 106. MONEY LAUNDERING AMENDMENTS.**

Section 1956(c)(1) of title 18, United States Code, is amended by striking “State or Federal” and inserting “State, Federal, or foreign”.

**SEC. 107. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out “section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)” and inserting in lieu thereof “a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)”.

**SEC. 108. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.**

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: “For the purpose of the offense described in subparagraph (B), the defendant’s knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant’s subsequent statements or actions indicate that the defendant believed such representations to be true.”; and

(2) in paragraph (3) by striking “For purposes of this paragraph” and inserting “For purposes of this paragraph and paragraph (2)”.

Victims of Child Abuse Act of 1990.  
Courts.  
Legal services.  
42 USC 13001  
note.

## **TITLE II—VICTIMS OF CHILD ABUSE ACT OF 1990**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Victims of Child Abuse Act of 1990”.

Grant programs.

### **Subtitle A—Improving Investigation and Prosecution of Child Abuse Cases**

42 USC 13001.

**SEC. 211. FINDINGS.**

The Congress finds that—

(1) over 2,000,000 reports of suspected child abuse and neglect are made each year, and drug abuse is associated with a significant portion of these;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(4) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(5) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.



## SEC. 212. AUTHORITY OF THE DIRECTOR TO MAKE GRANTS.

42 USC 13002.

(a) **IN GENERAL.**—The Director of the Office of Victims of Crime (hereinafter in this subtitle referred to as the “Director”), in consultation with officials of the Department of Health and Human Services, shall make grants to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) **GRANT CRITERIA.**—(1) The Director shall establish the criteria to be used in evaluating applications for grants under this section consistent with sections 262, 293, and 296 of subpart II of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).

(2) In general, the grant criteria established pursuant to paragraph (1) may require that a program include any of the following elements:

(A) A written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services.

(B) An appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect (referred to as the “counseling center”).

(C) Referral of all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse.

(D) Joint initial investigative interviews of child victims by personnel from law enforcement, health, and social service agencies.

(E) A requirement that, to the extent practicable, the same agency representative who conducts an initial interview conduct all subsequent interviews.

(F) A requirement that, to the extent practicable, all interviews and meetings with a child victim occur at the counseling center.

(G) Coordination of each step of the investigation process to minimize the number of interviews that a child victim must attend.

(H) Designation of a director for the multidisciplinary program.

(I) Assignment of a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child’s family, throughout each step of judicial proceedings.

(J) Such other criteria as the Director shall establish by regulation.

(c) **DISTRIBUTION OF GRANTS.**—In awarding grants under this section, the Director shall ensure that grants are distributed to both large and small States and to rural, suburban, and urban jurisdictions.

## SEC. 213. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

42 USC 13003.

(a) **IN GENERAL.**—The Director shall make grants to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) **GRANTEE ORGANIZATIONS.**—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated

with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

(c) **GRANT CRITERIA.**—

(1) The Director shall establish the criteria to be used for evaluating applications for grants under this section, consistent with sections 262, 293, and 296 of subpart II of title II of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5665 et seq.).

(2) The grant criteria established pursuant to paragraph (1) shall require that a program provide training and technical assistance that includes information regarding improved child interview techniques, thorough investigative methods, inter-agency coordination and effective presentation of evidence in court, including the use of alternative courtroom procedures described in this title.

42 USC 13004.

**SEC. 214. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this chapter—

(1) \$20,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

(b) **USE OF FUNDS.**—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under section 212.

Grant programs.

## **Subtitle B—Court-Appointed Special Advocate Program**

42 USC 13011.

**SEC. 215. FINDINGS.**

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical assistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

42 USC 13012.

**SEC. 216. PURPOSE.**

The purpose of this chapter is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

42 USC 13013.

**SEC. 217. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.**

(a) **IN GENERAL.**—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall make grants to expand the court-appointed special advocate program.

(b) **GRANTEE ORGANIZATIONS.**—

(1) An organization to which a grant is made pursuant to subsection (a) shall be a national organization that has broad membership among court-appointed special advocates and has demonstrated experience in grant administration of court-appointed special advocate programs and in providing training

and technical assistance to court-appointed special advocate program; or (2) may be a local public or not-for-profit agency that has demonstrated the willingness to initiate or expand a court-appointed special advocate program.

(2) An organization described in paragraph (1)(a) that receives a grant may be authorized to make subgrants and enter into contracts with public and not-for-profit agencies to initiate and to expand the court-appointed special advocate program. Should a grant be made to a national organization for this purpose, the Administrator shall specify an amount not exceeding 5 percent that can be used for administrative purposes by the national organization.

(c) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section, consistent with sections 262, 293, and 296 of subpart II of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association. Such criteria may include the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court-appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough

review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

42 USC 13014.

**SEC. 218. AUTHORIZATION OF APPROPRIATIONS.**

(a) **AUTHORIZATION.**—There are authorized to be appropriated to carry out this chapter—

(1) \$5,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this subtitle in each of fiscal years 1992, 1993, and 1994.

(b) **LIMITATION.**—No funds are authorized to be appropriated for a fiscal year to carry out this subtitle unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

Grant programs.

### **Subtitle C—Child Abuse Training Programs for Judicial Personnel and Practitioners**

42 USC 13021.

**SEC. 221. FINDINGS AND PURPOSE.**

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

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) **PURPOSE.**—The purpose of this chapter is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

**SEC. 222. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.**

42 USC 13022.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall make grants for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

**SEC. 223. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.**

42 USC 13023.

(a) **GRANTS TO DEVELOP MODEL PROGRAMS.**—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) **GRANTS TO JUVENILE AND FAMILY COURTS.**—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide or contract for, the implementation of—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with subtitle A.

(c) **GRANT CRITERIA.**—The Administrator shall make grants under subsections (a) and (b) consistent with section 262, 293, and 296 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).



42 USC 13024.

## SEC. 224. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this chapter—

(1) \$10,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992, 1993, and 1994.

(b) **USE OF FUNDS.**—Of the amounts appropriated in subsection (a), not less than 80 percent shall be used for grants under section 223(b).

(c) **LIMITATION.**—No funds are authorized to be appropriated for a fiscal year to carry out this subtitle unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

## Subtitle D—Federal Victims' Protections and Rights

## SEC. 225. CHILD VICTIMS' RIGHTS.

(a) **IN GENERAL.**—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new rule:

**“§ 3509. Child victims' and child witnesses' rights**

“(a) **DEFINITIONS.**—For purposes of this section—

“(1) the term ‘adult attendant’ means an adult described in subsection (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

“(2) the term ‘child’ means a person who is under the age of 18, who is or is alleged to be—

“(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

“(B) a witness to a crime committed against another person;

“(3) the term ‘child abuse’ means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;

“(4) the term ‘physical injury’ includes lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;

“(5) the term ‘mental injury’ means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response, or cognition;

“(6) the term ‘exploitation’ means child pornography or child prostitution;

“(7) the term ‘multidisciplinary child abuse team’ means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

“(8) the term ‘sexual abuse’ includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually



explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

“(9) the term ‘sexually explicit conduct’ means actual or simulated—

“(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

“(B) bestiality;

“(C) masturbation;

“(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

“(E) sadistic or masochistic abuse;

“(10) the term ‘sex crime’ means an act of sexual abuse that is a criminal act;

“(11) the term ‘exploitation’ means child pornography or child prostitution;

“(12) the term ‘negligent treatment’ means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

“(13) the term ‘child abuse’ does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

“(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.—

“(1) CHILD’S LIVE TESTIMONY BY 2-WAY CLOSED CIRCUIT TELEVISION.—

“(A) In a proceeding involving an alleged offense against a child, the attorney for the government, the child’s attorney, or a guardian ad litem appointed under subdivision (h) may apply for an order that the child’s testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

“(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:

“(i) The child is unable to testify because of fear.

“(ii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.

“(iii) The child suffers a mental or other infirmity.

“(iv) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

“(C) The court shall support a ruling on the child’s inability to testify with findings on the record. In determining whether the impact on an individual child of one or more of the factors described in subparagraph (B) is so substantial

as to justify an order under subparagraph (A), the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the child attendant, the prosecutor, the child's attorney, the guardian ad litem, and the defense counsel present.

"(D) If the court orders the taking of testimony by television, the attorney for the government and the attorney for the defendant not including an attorney pro se for a party shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (h);

"(ii) persons necessary to operate the closed-circuit television equipment;

"(iii) a judicial officer, appointed by the court; and

"(iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, and the voice of the judge.

"(2) VIDEOTAPED DEPOSITION OF CHILD.—(A) In a proceeding involving an alleged offense against a child, the attorney for the government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

"(I) The child will be unable to testify because of fear.

"(II) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(III) The child suffers a mental or other infirmity.

"(IV) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only

other persons who may be permitted to be present at the proceeding are—

“(I) the attorney for the Government;

“(II) the attorney for the defendant;

“(III) the child’s attorney or guardian ad litem appointed under subdivision (h);

“(IV) persons necessary to operate the videotape equipment;

“(V) subject to clause (iv), the defendant; and

“(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

“(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant’s image into the room in which the child is testifying, and the child’s testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant’s attorney during the deposition.

“(v) HANDLING OF VIDEOTAPE.—The complete record of the examination of the child, including the image and voices of all persons who in any way participate in the examination, shall be made and preserved on video tape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and the defendant’s attorney during ordinary business hours.

Records.

“(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child’s videotaped deposition in lieu of the child’s testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

“(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

“(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

“(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court review. The videotape shall

Records.

become part of the court record and be kept by the court until it is destroyed.

“(c) COMPETENCY EXAMINATIONS.—

“(1) EFFECT OF FEDERAL RULES OF EVIDENCE.—Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

“(2) PRESUMPTION.—A child is presumed to be competent.

“(3) REQUIREMENT OF WRITTEN MOTION.—A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

“(4) REQUIREMENT OF COMPELLING REASONS.—A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

“(5) PERSONS PERMITTED TO BE PRESENT.—The only persons who may be permitted to be present at a competency examination are—

“(A) the judge;

“(B) the attorney for the government;

“(C) the attorney for the defendant;

“(D) a court reporter; and

“(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

“(6) NOT BEFORE JURY.—A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

“(7) DIRECT EXAMINATION OF CHILD.—Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the Government and the attorney for the defendant including a party acting as an attorney pro se. The court may permit an attorney but not a party acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

“(8) APPROPRIATE QUESTIONS.—The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

“(9) PSYCHOLOGICAL AND PSYCHIATRIC EXAMINATIONS.—Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

“(d) PRIVACY PROTECTION.—

“(1) CONFIDENTIALITY OF INFORMATION.—(A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—

“(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

“(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons

who, by reason of their participation in the proceeding, have reason to know such information.

“(B) Subparagraph (A) applies to—

“(i) all employees of the Government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

“(ii) employees of the court;

“(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

“(iv) members of the jury.

“(2) FILING UNDER SEAL.—All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

“(A) the complete paper to be kept under seal; and

“(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

Public  
information.

“(3) PROTECTIVE ORDERS.—(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

“(B) A protective order issued under subparagraph (A) may—

“(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

“(ii) provide for any other measures that may be necessary to protect the privacy of the child.

“(4) DISCLOSURE OF INFORMATION.—This subdivision does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

“(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the government's specific compelling interest.

“(f) VICTIM IMPACT STATEMENT.—In preparing the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, the probation officer shall request information from the



multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subdivision (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

“(g) USE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.—

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relations.

“(1) IN GENERAL.—A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the government shall consult with the multidisciplinary child abuse team as appropriate.

“(2) ROLE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.—The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including—

“(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

“(B) telephone consultation services in emergencies and in other situations;

“(C) medical evaluations related to abuse or neglect;

“(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

“(E) expert medical, psychological, and related professional testimony;

“(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

“(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

“(h) GUARDIAN AD LITEM.—

“(1) IN GENERAL.—The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

“(2) DUTIES OF GUARDIAN AD LITEM.—A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. (The extent of access to grand jury materials is



limited to the access routinely provided to victims and their representatives.) A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

“(3) IMMUNITIES.—A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian’s lawful duties described in subpart (2).

“(i) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child’s hand or allow the child to sit on the adult attendant’s lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child’s testimony or otherwise prompt the child. The image of the child attendant, for the time the child is testifying or being deposed, shall be recorded on videotape.

“(j) SPEEDY TRIAL.—In a proceeding in which a child is called to give testimony, on motion by the attorney for the Government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child’s well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

“(k) EXTENSION OF CHILD STATUTE OF LIMITATIONS.—No statute of limitation that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subsection, a criminal action is pending until its final adjudication in the trial court.

“(l) TESTIMONIAL AIDS.—The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.”

(b) VIOLATION OF RULE REGARDING DISCLOSURE.—

(1) PUNISHMENT AS CONTEMPT.—Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**"§ 403. Protection of the privacy of child victims and child witnesses**

"A knowing or intentional violation of the privacy protection accorded by section 3509 of this title is a criminal contempt punishable by not more than one year's imprisonment, or a fine under this title, or both."

(2) **TECHNICAL AMENDMENT.**—The table of sections at the beginning of chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"403. Protection of the privacy of child victims and child witnesses."

42 USC 13031.

**SEC. 226. CHILD ABUSE REPORTING.**

(a) **IN GENERAL.**—A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d).

(b) **COVERED PROFESSIONALS.**—Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, alcohol or drug treatment personnel, and persons performing a healing role or practicing the healing arts.

(2) Psychologists, psychiatrists, and mental health professionals.

(3) Social workers, licensed or unlicensed marriage, family, and individual counselors.

(4) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(5) Child care workers and administrators.

(6) Law enforcement personnel, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(7) Foster parents.

(8) Commercial film and photo processors.

(c) **DEFINITIONS.**—For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;

(2) the term "physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;

(3) the term "mental injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

(4) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to

engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(5) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse;

(6) the term "exploitation" means child pornography or child prostitution;

(7) the term "negligent treatment" means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(8) the term "child abuse" shall not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

(d) **AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.**—For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

Federal  
buildings and  
facilities.

(e) **REPORTING FORM.**—In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

Federal  
buildings and  
facilities.

(f) **IMMUNITY FOR GOOD FAITH REPORTING AND ASSOCIATED ACTIONS.**—All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defend-

ant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses. Immunity shall not be accorded to persons acting in bad faith.

(g) **CRIMINAL PENALTY FOR FAILURE TO REPORT.**—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**“§ 2258. Failure to report child abuse**

“A person who, while engaged in a professional capacity or activity described in subsection (b) of section 226 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.”

(2) The chapter analysis for chapter 110, United States Code, is amended—

(A) by amending the catchline to read as follows:

**“CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN”;**

and

(B) by adding at the end thereof the following new item:

“2258. Failure to report child abuse.”

(3) The item relating to chapter 110 in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

“110. Sexual exploitation and other abuse of children ..... 2251”.

(h) **TRAINING OF PROSPECTIVE REPORTERS.**—All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

## **Subtitle E—Child Care Worker Employee Background Checks**

42 USC 13041.

### **SEC. 231. REQUIREMENT FOR BACKGROUND CHECKS.**

(a) **IN GENERAL.**—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this chapter, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term “child care services” means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in

teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) **CRIMINAL HISTORY CHECK.**—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) **APPLICABLE CRIMINAL HISTORIES.**—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) **EMPLOYMENT APPLICATIONS.**—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) **ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.**—Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.



Intergovernmental  
relations.

## Subtitle F—Grants for Televised Testimony

### SEC. 241. GRANTS FOR CLOSED-CIRCUIT TELEVISIONING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in part N—

(A) in the heading by striking “PART N” and inserting “PART O”, and

(B) by redesignating section 1401 as 1501, and

(2) by inserting after part M the following:

#### “PART N—GRANTS FOR CLOSED-CIRCUIT TELEVISIONING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE

##### “FUNCTION OF THE DIRECTOR

“SEC. 1401. The Director shall provide funds to eligible States and units of local government pursuant to this part.

##### “DESCRIPTION OF GRANT PROGRAM

“SEC. 1402. The Director is authorized to make grants to States, for the use of States and units of local government in the States to provide equipment and personnel training for the closed-circuit televising and video taping of the testimony of children in criminal proceedings for the violation of laws relating to the abuse of children.

##### “APPLICATIONS TO RECEIVE GRANTS

“SEC. 1403. To request a grant under section 1402, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

“(1) a certification that Federal funds made available under section 1402 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of such funds, be made available for criminal proceedings for the violation of laws relating to the abuse of children;

“(2) a certification that funds required to pay the non-Federal portion of the cost of equipment and personnel training for which such grant is made shall be in addition to funds that would otherwise be made available by the recipients of grant funds for criminal proceedings for the violation of laws relating to the abuse of children;

“(3) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

100 Stat.  
3207-41.

42 USC 3797.

42 USC 3796aa.

42 USC  
3796aa-1.

42 USC  
3796aa-2.



"(4) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

#### "REVIEW OF APPLICATIONS

"SEC. 1404. (a) The Bureau shall provide financial assistance to each State applicant under section 1402 of this title to provide equipment and personnel training for the closed-circuit televising and video taping of the testimony of children in criminal proceedings for the violation of laws relating to the abuse of children, upon determining that—

42 USC  
3796aa-3.

"(1) there is in effect in such State a law that permits the closed-circuit televising and video taping of testimony of children in criminal proceedings for the violation of laws relating to the abuse of children;

"(2) such State law shall meet the following criteria:

"(A) the judges determination that a child witness will be traumatized by the presence of the defendant must be made on a case-by-case basis;

"(B) the trauma suffered must be more than de minimis;

"(C) the child witness must give his/her statements under oath;

"(D) the child witness must submit to cross-examination; and

"(E) the finder of fact must be permitted to observe the demeanor of the child witness in making his or her statement and the defendant must be able to contemporaneously communicate with his defense attorney;

"(3) the application submitted under section 1402 or amendment to such application is consistent with the requirements of this title; and

"(4) before the approval of such application and any amendment thereto the Bureau has made an affirmative finding in writing that such equipment and personnel training has been reviewed in accordance with section 1403 of this title.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1403 shall be deemed approved, in whole or in part, by the Bureau not later than 60 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

#### "ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

"SEC. 1405. (a) The total amount appropriated for this part in any fiscal year shall be set aside for section 1402 and allocated to States as follows:

42 USC  
3796aa-4.

"(1) \$50,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each participating

State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, in such State for the purpose specified in section 1402 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government in the preceding fiscal year for prosecution of child abuse offenses bears to the aggregate amount of funds expended by the State and all units of local government in such State in such preceding fiscal year for prosecution of child abuse offenses.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any use other than a use specified in an approved application.

"(d) If the Director determines, on the basis information available to the Director during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1402 of this title, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

#### "REPORTS

42 USC  
3796aa-5.

"SEC. 1406. (a) Each State which receives a grant under this title shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State application submitted under section 1403 of this title; and

"(2) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than 90 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under this title to such State for such fiscal year; and

"(2) a summary of the information provided in compliance with subsection (a)(1).

## "EXPENDITURE OF GRANTS; RECORDS

"SEC. 1407. (a) A grant made under this part may not be expended for more than 75 percent of the cost of the identified uses, in the aggregate, for which such grant is received to carry out section 1402, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

Indians.  
42 USC  
3796aa-6.

"(b) Not more than 10 percent of a grant made under this part may be used for costs incurred to administer such grant.

"(c)(1) Each State which receives a grant under this title shall keep, and shall require units of local government which receive any part of such grant to keep, such records as the Director may require by rule to facilitate an effective audit.

"(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States which receive grants, and of units of local government which receive any part of a grant made under this part if, in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

## "STATE OFFICE

"SEC. 1408. (a) The chief executive of each participating State shall designate a State office for purposes of—

42 USC  
3796aa-7.

"(1) preparing an application to obtain funds under section 1402 of this title; and

"(2) administering funds received under this part from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

## "DEFINITIONS

"SEC. 1409. For purposes of this part—

42 USC  
3796aa-8.

"(1) the term 'child' means an individual under the age of 18 years; and

"(2) the term 'abuse' means physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child."

(b) TECHNICAL AMENDMENTS.—(1) Section 402(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "part E" and inserting "parts E and N".

42 USC 3742.

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking "and M" and inserting "M, and N".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "or M" and inserting "M, or N".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by striking "or 1308" and inserting "1308, or 1408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) by striking the items relating to part M and sections 1301 through 1312, as added by section 1552(b)(5) of the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570; 100 Stat. 3207-46), and

(B) by striking the items relating to part N and section 1401, and inserting the following new items:

**"PART N—GRANTS FOR CLOSED-CIRCUIT TELEVISIONING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE**

"Sec. 1401. Function of Director.

"Sec. 1402. Description of grant program.

"Sec. 1403. Application to receive grants.

"Sec. 1404. Review of applications.

"Sec. 1405. Allocation and distribution of funds under formula grants.

"Sec. 1406. Reports.

"Sec. 1407. Expenditure of grants; records.

"Sec. 1408. State office.

"Sec. 1409. Definitions.

**"PART O—TRANSITION—EFFECTIVE DATE—REPEALER**

"Sec. 1501. Continuation of rules, authorities, and proceedings."

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking "and M" and inserting "M, and N";

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) the following:

"(6) There is authorized to be appropriated \$25,000,000 for each of the fiscal years 1991, 1992, and 1993 to carry out the programs under part N of this title."; and

(2) in subsection (b) by striking "and M" and inserting "M, and N".

## **Subtitle G—Treatment for Juvenile Offenders Who Are Victims of Child Abuse Or Neglect**

### **AUTHORITY TO MAKE GRANTS**

42 USC 13051.

**SEC. 251.** The Administrator, in consultation with the Secretary of Health and Human Services, shall make grants to public and non-profit private organizations to develop, establish, and support projects which—

(1) provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families so as to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;

(2) based upon the best interests of juvenile offenders who receive treatment for abuse or neglect, provide transitional services (including individual, group, and family counseling) to such juvenile offenders—

(A) to strengthen the relationships of such juvenile offenders with their families and to encourage the resolution of intrafamily problems related to the abuse or neglect;

- (B) to facilitate their alternative placement; or
- (C) to prepare juveniles aged 16 years of age and older to live independently; or
- (3) carry out research, including surveys of existing transitional services, identification of exemplary treatment modalities, and evaluation of treatment and transitional services provided with grants made under this section.

#### ADMINISTRATIVE REQUIREMENTS

SEC. 252. The Administrator shall administer this subtitle subject to the requirements of sections 262, 293, and 296 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a, 5673, 5676). 42 USC 13052.

#### PRIORITY

SEC. 253. In making grants under section 690, the Administrator— 42 USC 13053.

- (1) shall give priority to applicants that have experience in treating juveniles who are the victims of abuse or neglect; and
- (2) may not disapprove an application solely because the applicant proposes to provide treatment or transitional services to juveniles who are adjudicated delinquent for having committed offenses which are not serious crimes.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 254. (a) Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle— 42 USC 13054.

- (1) \$15,000,000 for fiscal year 1991; and
- (2) such sums as may be necessary for fiscal years 1992 and 1993.

(b) No amount is authorized to be appropriated for a fiscal year to carry out this subtitle unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611-5676) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

(c) From the amount appropriated to carry out this subtitle in any fiscal year, the Administrator shall use—

- (1) not less than 85 percent to make grants under section 731 for treatment and transitional services;
- (2) not to exceed 10 percent for grants under section 731 for research; and
- (3) not to exceed 5 percent for salaries and expenses of the Office of Juvenile Justice and Delinquency Prevention related to administering this subtitle.

#### DEFINITIONS

SEC. 255. For the purpose of this subtitle— 42 USC 13055.

- (1) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention; and
- (2) the term "juvenile" means an individual who is less than 18 years of age.



Child Protection  
Restoration and  
Penalties  
Enhancement  
Act of 1990.

## TITLE III—CHILD PROTECTION RESTORATION AND PENALTIES ENHANCEMENT ACT OF 1990

### SEC. 301. SHORT TITLE.

18 USC 2251  
note.

(a) **SHORT TITLE.**—This title may be cited as the “Child Protection Restoration and Penalties Enhancement Act of 1990”.

(b) **EFFECTIVE DATE.**—Section 2257(a)(1) of title 18, United States Code, is amended by striking “February 6, 1978” and inserting “November 1, 1990”.

## Subtitle A—Restoration of Recordkeeping Requirement

### SEC. 311. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

“(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

“(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

Regulations.

“(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

“(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

“(f) It shall be unlawful—

“(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

“(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

“(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

“(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

“(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

“(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

“(g) The Attorney General shall issue appropriate regulations to carry out this section. Regulations.

“(h) As used in this section—

“(1) the term ‘actual sexually explicit conduct’ means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title;

“(2) ‘identification document’ has the meaning given that term in section 1028(d) of this title;

“(3) the term ‘produces’ means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted; and

“(4) the term ‘performer’ includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

“(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.” Law enforcement. Penalties.

#### SEC. 312. EFFECTIVE DATE.

Subsections (d), (f), (g), (h), and (i) of section 2257 of title 18, United States Code, as added by this title shall take effect 90 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by subsections (d), (f), (g), (h), and (i) of section 2257 within 60 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 and of any regulation issued pursuant thereto shall take effect 90 days after the date of the enactment of this Act.

18 USC 2257 note.

## Subtitle B—Sexual Abuse Penalties

#### SEC. 321. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall amend existing guidelines for sentences involving sexual crimes against children,

28 USC 994 note.

including offenses contained in chapter 109A of title 18, so that more substantial penalties may be imposed if the Commission determines current penalties are inadequate.

**SEC. 322. SEXUAL ABUSE OF A MINOR.**

Section 2243(a) of title 18, United States Code, is amended by striking "five years" and inserting "15 years".

**SEC. 323. CERTAIN ACTIVITIES RELATING TO VISUAL DEPICTIONS.**

(a) Section 2252 of title 18, United States Code, is amended—

(1) by striking out "or" at the end of subsection (a)(1); and

(2) by striking out "shall be punished as provided in subsection (b) of this section" in subsection (a)(2) and all that follows through the end of subsection (b) and inserting the following:

"(3) either—

"(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly sells or possesses with intent to sell any visual depiction; or

"(B) knowingly sells or possesses with intent to sell any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means, including by computer, if—

"(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(ii) such visual depiction is of such conduct; or

"(4) either—

"(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly possesses 3 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction; or

"(B) knowingly possesses 3 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if—

"(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(ii) such visual depiction is of such conduct;

shall be punished as provided in subsection (b) of this section.

"(b)(1) Whoever violates paragraph (1), (2), or (3) of subsection (a) shall be fined under this title or imprisoned not more than ten years, or both, but, if such person has a prior conviction under this section, such person shall be fined under this title and imprisoned for not less than five years nor more than fifteen years.

"(2) Whoever violates paragraph (4) of subsection (a) shall be fined under this title or imprisoned for not more than five years, or both."

(b) Paragraph (2) of subsection 2252(a) of title 18, United States Code, is amended by striking "that has been transported or shipped in interstate or foreign commerce by any means including by computer or mailed" and inserting "that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer,"

(c) Section 1460 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct," and

(2) so that subsection (b) reads as follows:

"(b) For the purposes of this section, the term 'visual depiction' includes undeveloped film and videotape but does not include mere words."

## TITLE IV—OFFENSES INVOLVING CHILDREN

### SEC. 401. SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

"(1) TO WHOM APPLICABLE.—If—

"(A) the victim of an offense under this section has not attained the age of eighteen years; and

"(B) the offender—

"(i) has attained such age; and

"(ii) is not—

"(I) a parent;

"(II) a grandparent;

"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

"(2) GUIDELINES.—The United States Sentencing Commission is directed to amend the existing guidelines for the offense of 'kidnapping, abduction, or unlawful restraint,' by including the following additional specific offense characteristics: If the victim was intentionally maltreated (i.e., denied either food or medical care) to a life-threatening degree, increase by 4 levels; if the victim was sexually exploited (i.e., abused, used involuntarily for pornographic purposes) increase by 3 levels; if the victim was placed in the care or custody of another person who does not have a legal right to such care or custody of the child either in exchange for money or other consideration, increase by 3 levels; if the defendant allowed the child to be subjected to any

of the conduct specified in this section by another person, then increase by 2 levels.”.

Victims' Rights  
and Restitution  
Act of 1990.

## TITLE V—PROTECTION OF CRIME VICTIMS

42 USC 10601  
note.

### SEC. 501. SHORT TITLE.

This title may be cited as the “Victims’ Rights and Restitution Act of 1990”.

42 USC 10606.

### SEC. 502. VICTIMS’ RIGHTS.

(a) **BEST EFFORTS TO ACCORD RIGHTS.**—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) **RIGHTS OF CRIME VICTIMS.**—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim’s dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) **NO CAUSE OF ACTION OR DEFENSE.**—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

42 USC 10607.

### SEC. 503. SERVICES TO VICTIMS.

(a) **DESIGNATION OF RESPONSIBLE OFFICIALS.**—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) **IDENTIFICATION OF VICTIMS.**—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) **DESCRIPTION OF SERVICES.**—(1) A responsible official shall—



(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the witness is either required to attend or, under section 1102(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender;

(B) the escape, work release, furlough, or any other form of release from custody of the offender; and

(C) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) **NO CAUSE OF ACTION OR DEFENSE.**—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) **DEFINITIONS.**—For the purposes of this section—

(1) the term “responsible official” means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term “victim” means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

#### SEC. 504. VICTIMS OF CRIME.

42 USC 10601.

Section 1402(c)(1)(B)(i) of the Victims of Crime Act of 1984 is amended by striking “1991” and inserting “1990”.

#### SEC. 505. EXTENSION OF DEADLINE FOR CERTAIN PROVISIONS IN VICTIMS OF CRIME ACT.

Section 7129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 10601 note) is amended by striking “1990” and inserting “1991”.

42 USC 10606  
note.

#### SEC. 506. SENSE OF CONGRESS WITH RESPECT TO VICTIMS OF CRIME.

It is the sense of Congress that the States should make every effort to adopt the following goals of the Victims of Crime Bill of Rights:

(1) Victims of crime should be treated with compassion, respect and dignity throughout the criminal justice process.

(2) Victims of crime should be reasonably protected from the accused throughout the criminal justice process.

(3) Victims of crime should have a statutorily designated advisory role in decisions involving prosecutorial discretion, such as the decision to plea-bargain.

(4) Victims of crime should have the right to a reasonable assurance that the accused will be tried in an expeditious manner.

(5) A victim of crime should have the right to be present at all proceedings related to the offense against him, unless the victim is to testify and the court determines that the victim's testimony would be materially prejudiced by hearing other testimony at the trial.

(6) Victims of crime should have the right to information about the conviction, sentencing and imprisonment of the person who committed the crime against them.

(7) Victims of crime should be compensated for the damage resulting from the crime to the fullest extent possible by the person convicted of the crime.

(8) Victims of crime should have a statutorily designated advisory role in deciding the early release status of the person convicted of the crime against them.

(9) A victim of crime should never be forced to endure again the emotional and physical consequences of the original crime.

## **TITLE VI—LAW ENFORCEMENT AGENCIES**

### **Subtitle A—Maintaining Funding for State and Local Law Enforcement Agencies**

#### **SEC. 601. MAINTAINING FUNDING FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES.**

(a) Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162), is amended by striking "1990" and inserting in lieu thereof "1991". 42 USC 3754.

(b) IMPROVING THE EFFECTIVENESS OF COURT PROCESS.—Paragraph (10) of section 501 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows: 42 USC 3751.

"(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender and judicial resources, and implementing court delay reduction programs;"

### **Subtitle B—National Crime Information Center Project 2000**

National Law  
Enforcement  
Cooperation Act  
of 1990.  
28 USC 534 note.

#### **SEC. 611. SHORT TITLE.**

This section may be cited as the "National Law Enforcement Cooperation Act of 1990".

#### **SEC. 612. FINDINGS.**

The Congress finds that—

(1) cooperation among Federal, State and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

(2) the National Crime Information Center, which links more than 16,000 Federal, State and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

(3) major improvements to the National Crime Information Center are needed because the current system is more than twenty years old; carries much greater volumes of enforcement information; and at this time is unable to incorporate technological advances that would significantly improve its performance; and

(4) the Federal Bureau of Investigation, working with State and local law enforcement agencies and private organizations, has developed a promising plan, "NCIC 2000", to make the necessary upgrades to the National Crime Information Center that should meet the needs of United States law enforcement agencies into the next century.

**SEC. 613. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated the following sums to implement the "NCIC 2000" project:

- (1) \$17,000,000 for fiscal year 1991;
- (2) \$25,000,000 for fiscal year 1992;
- (3) \$22,000,000 for fiscal year 1993;
- (4) \$9,000,000 for fiscal year 1994; and
- (5) such sums as may be necessary for fiscal year 1995.

**SEC. 614. REPORT.**

By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.

## **TITLE VII—FEDERAL LAW ENFORCEMENT AND JUDICIAL ASSISTANCE**

**SEC. 701. ADDITIONAL AUTHORIZATIONS.**

There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following sums (which shall be in addition to any other appropriations):

- (1) For the Federal Bureau of Investigation, \$98,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;
- (2) For the Drug Enforcement Administration, \$100,500,000 which shall include—

(A) not to exceed \$10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals;

(B) not to exceed \$37,500,000 for assigning not fewer than 250 agents and necessary support personnel to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries; and

(C) not to exceed \$15,000,000 to expand DEA State and local task forces, including payment of State and local overtime equipment and personnel costs;

- (3) For the United States courts, \$9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed \$2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States attorneys, \$24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

- (5) For defender services, \$8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of

arrests and investigations conducted by State and local law enforcement agencies;

(6) For the United States marshals, \$9,000,000; and

(7) For the Immigration and Naturalization Service United States Border Patrol, \$45,000,000 to be allocated as follows:

(A) \$15,000,000 for the hiring, training, and equipping of no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) \$25,000,000 for INS criminal investigations and the expeditious deportation of criminal aliens from detention; and

(C) \$5,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems, and 4-wheel drive law enforcement vehicles for the United States Border Patrol.

## TITLE VIII—RURAL DRUG ENFORCEMENT

### SEC. 801. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended by section 241 of this Act, is amended—

- (1) by redesignating part O as part P;
- (2) by redesignating section 1501 as section 1601; and
- (3) by inserting after part N the following:

42 USC 3797.

### “Part O—Rural Drug Enforcement Assistance

#### “RURAL DRUG ENFORCEMENT ASSISTANCE

“SEC. 1501. (a) Of the total amount appropriated for this section in any fiscal year: 42 USC 3796bb.

“(1) 50 percent shall be allocated to and shared equally among rural States as described in subsection (b); and

“(2) 50 percent shall be allocated to the remaining States for use in nonmetropolitan areas within those States, as follows:

“(A) \$100,000 to each nonrural State; and

“(B) of the total funds remaining after the allocation in subparagraph (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

“(b) For the purpose of this section, the term ‘rural State’ means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.

#### “OTHER REQUIREMENTS

“SEC. 1502. Subparts 1 and 3 of part E of this title shall apply with respect to funds appropriated to carry out this part, in the same manner as such subparts apply to funds appropriated to carry out part E, except that—

42 USC  
3796bb-1.

“(1) section 506(a) of this title shall not apply with respect to this part; and



"(2) in addition to satisfying the requirements of section 503(a), each application for a grant under this part shall include in its application a statement specifying how such grant will be coordinated with a grant received under section 506 of this title for the same fiscal year."

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated \$20,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992 and 1993, to carry out part O."

(c) **TECHNICAL AMENDMENTS.**—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking "and N" and inserting "N, and O".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) as amended by section 241 of this Act, is amended by striking "or N" and inserting ", N, or O".

(3) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended by section 241 of this Act, is amended by striking the matter relating to part O and inserting the following:

**"PART O—RURAL DRUG ENFORCEMENT ASSISTANCE**

"Sec. 1401. Rural drug enforcement assistance.

"Sec. 1402. Other Requirements.

**"PART P—TRANSITION; EFFECTIVE DATE; REPEALER**

"Sec. 1501. Continuation of rules, authorities, and proceedings."

## **TITLE IX—MANDATORY DETENTION**

### **SEC. 901. SHORT TITLE.**

This title may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

### **SEC. 902. MANDATORY DETENTION.**

(a) **PENDING SENTENCE.**—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community."

(b) **PENDING APPEAL.**—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer";

Mandatory  
Detention for  
Offenders  
Convicted of  
Serious Crimes  
Act.  
18 USC 3141  
note.

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

“(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.”.

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: “A person subject to detention pursuant to section 3143(a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143(a)(1) or (b)(1), may be ordered released, under appropriate conditions, by the judicial officer, if it is clearly shown that there are exceptional reasons why such person’s detention would not be appropriate.”.

## TITLE X—JUVENILE JUSTICE

### SEC. 1001. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISPELLED WORD.—Subsection (a) of section 3143 of title 18, United States Code, is amended by striking “waiting” and inserting “awaiting”.

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking “section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)” and inserting “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”.

### SEC. 1002. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT PERTAINING TO CHILDREN.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

21 USC 845, 859.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

21 USC 859.

(A) in subsection (a), by striking “section 405A” and inserting “section 419”; and

(B) in subsection (b) by striking “section 405A” and inserting “section 419”.

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

21 USC 845a,  
860.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

21 USC 845b,  
861.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

21 USC 853a,  
862.

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking “(as such terms are defined for purposes of the Controlled Substances Act)”.

21 USC 862.

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking “section 405, 405A, or 405B” and inserting “section 418, 419, or 420”.

(2) Section 401(c) of the Controlled Substances Act is amended by striking “section 405, 405A, or 405B” and inserting “section 418, 419, or 420”.

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

“418. Distribution to persons under age twenty-one.

“419. Distribution or manufacturing in or near schools and colleges.

“420. Employment of persons under 18 years of age.

“421. Denial of Federal benefits to drug traffickers and possessors.”.

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking “of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))”; and

(ii) striking “of that Act (21 U.S.C. 841(b)(1)(A))”;

(B) in subsection (c), by striking “as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)”;

(C) in subsection (j)(4), by striking “as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)”.

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

“405. Civil penalty for possession of small amounts of certain controlled substances.”.

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

“518. Expedited procedures for seized conveyances.

“519. Production control of controlled substances.”.

SEC. 1003. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by this Act) is amended—

(1) in subsection (a), by striking “punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by

21 USC 841.

21 USC 844a.

21 USC 844a.

21 USC 881-1,  
888.

21 USC 881a,  
889.

Ante, p. 4827.

section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by this Act) is amended— *Ante, p. 4827.*

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by this Act) is amended— *Ante, p. 4827.*

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

## TITLE XI—SHORT-BARRELED SHOTGUNS

### SEC. 1101. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by—

(1) inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for ten years," after "sentenced to imprisonment for five years,"; and

(2) by inserting "or a destructive device," after "a machine-gun," wherever the term "machine gun" appears in section 924(c)(1).

## TITLE XII—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

### SEC. 1201. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of \$1,000,".

**SEC. 1202. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.**

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

**SEC. 1203. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.**

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

**SEC. 1204. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.**

(a) **LARGE AMOUNTS.**—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

- (1) striking out "or" at the end of subparagraph (F);
- (2) inserting "or" at the end of subparagraph (G); and
- (3) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers."

(b) **SMALL AMOUNTS.**—Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by—

- (1) striking out "or" at the end of subparagraph (F);
- (2) inserting "or" at the end of subparagraph (G); and
- (3) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers."

**SEC. 1205. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.**

(a) Section 232 of title 18, United States Code, is amended by adding a new paragraph, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States."

(b) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(c) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:



"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(d) Section 666(d) of title 18, United States Code, is amended—

- (1) by striking out "and" at the end of paragraph (2);
- (2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(e) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(f) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(g) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(h) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(i) Section 1952(b) of title 18, United States Code, is amended—

- (1) by inserting "(i)" after "As used in this section"; and
- (2) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(j) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(k) Section 1958(b) of title 18, United States Code, is amended—

- (1) by striking out "and" at the end of paragraph (1);
- (2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and
- (3) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(l) Section 2313 of title 18, United States Code, is amended—

- (1) by inserting "(a)" before "Whoever"; and
- (2) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(m) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(n) Section 5032 of title 18, United States Code, is amended—

(1) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

**SEC. 1206. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.**

(a) Section 45 of title 18, United States Code, is repealed.

(b) The table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

**SEC. 1207. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.**

(a) Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(b) Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

**SEC. 1208. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.**

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

**SEC. 1209. CLARIFICATION OF ONE-YEAR PERIOD.**

Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

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

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one-year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense."

**SEC. 1210. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.**

(a) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service".

(b) Section 1714 of title 18, United States Code, is repealed and the item for such section in the table of sections at the beginning of chapter 83 of title 18 is repealed.

(c) Section 1718 of title 18, United States Code, is repealed and the item for such section in the table of sections at the beginning of chapter 83 of title 18 is likewise repealed.

**SEC. 1211. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.**

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further,*"

**SEC. 1212. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.**

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale," and inserting in lieu thereof "if the property is not disposed of by marshal's sale".

**SEC. 1213. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.**

Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

**SEC. 1214. MANDATORY MINIMUM SENTENCES FOR DRUG OFFENSES INVOLVING MINORS.**

**DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES.**—(1) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) as redesignated by this Act, is amended—

*Ante*, p. 4827.

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) as redesignated by this Act, is amended—

(A) in paragraph (1)(B) by striking ", or a fine up to three times that" through "or both"; and

(B) by inserting after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a person shall be sentenced under this subsection to a term of imprisonment of not less than three years".

(3) Section 419(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) as redesignated by this Act, is amended—

*Ante*, p. 4827.

(A) in the first sentence by inserting "mandatory minimum" after "any";

(B) in the first sentence by striking "subsection (b) of"; and

(C) by striking the second sentence and inserting "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

## TITLE XIII—PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS

### SEC. 1301. PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS.

(a) **PAYMENT.**—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsections (c) and (d) by striking “(b)” each place it appears and inserting “(c)”,

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively,

(3) by inserting after subsection (a) the following:

“(b) In accordance with regulations issued pursuant to this part, in any case in which the Bureau determines that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, a benefit of up to \$100,000, adjusted in accordance with subsection (g), to such officer: *Provided*, That the total annual benefits paid under this section may not exceed \$5,000,000. For the purposes of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary: *Provided further*, That these benefit payments are subject to the availability of appropriations and that each beneficiary's payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.”, and

(4) by adding at the end thereof the following:

“(j)(1) No benefit is payable under this part with respect to the death of a public safety officer if a benefit is paid under this part with respect to the disability of such officer.

“(2) No benefit is payable under this part with respect to the disability of a public safety officer if a benefit is payable under this part with respect to the death of such public safety officer.”.

(b) **LIMITATIONS.**—Paragraphs (1), (2), (3), and (4) of section 1202 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) are each amended by inserting “or catastrophic injury” after “death”.

42 USC 3796b.

(c) **DEFINITION.**—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796c) is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following:

“(1) ‘catastrophic injury’ means consequences of an injury that permanently prevent an individual from performing any gainful work;”.

### SEC. 1302. RESCUE SQUAD AND AMBULANCE PERSONNEL.

Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended in paragraph (2) (relating to the definition of firefighter) by—

(1) adding “.” after “ambulance crew”; and

(2) striking “who was responding to a fire, rescue or police emergency.”.

## SEC. 1303. EFFECTIVE DATE.

42 USC 3796  
note.

EFFECTIVE DATE.—The amendments made by this title shall take effect upon enactment and shall not apply with respect to injuries occurring before the effective date of such amendments.

**TITLE XIV—MONEY LAUNDERING**

## SEC. 1401. CRIMINAL FORFEITURE IN CASES INVOLVING CMIR VIOLATIONS.

Section 982(a) of title 18, United States Code, is amended by inserting “, 5316” after “5313(a)”.

## SEC. 1402. DEFINITION OF “FINANCIAL TRANSACTION”.

Section 1956(c)(4) of title 18, United States Code, is amended by—

(1) inserting “(A)” before “a transaction” the first place it appears and inserting “(B)” before “a transaction” the second place it appears; and

(2) inserting “(i)” before “involving” the first place it appears and inserting “(ii)” before “involving” the second place it appears.

## SEC. 1403. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting the following before the period: “unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of \$100,000 or more in any twelve month period”.

## SEC. 1404. ENVIRONMENTAL CRIMES AS MONEY LAUNDERING PREDICATES.

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

(1) striking “or” before “(D)”; and

(2) inserting “; or” and the following before the period:

“ENVIRONMENTAL CRIMES

“(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.)”.

(b) Section 1956(e) of title 18, United States Code, is amended by adding at the end the following sentence: “Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.

**TITLE XV—DRUG-FREE SCHOOL ZONES**20 USC 3192  
note.**SEC. 1501. DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS.**

(a) **IN GENERAL.**—The Attorney General shall develop a model program of strategies and tactics for establishing and maintaining drug-free school zones.

(b) **ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.**—The program required by subsection (a) shall be designed to provide State and local law enforcement agencies with materials, training, and other assistance to establish, enforce, and evaluate the effectiveness of drug-free school zone enforcement efforts.

(c) **PROGRAM CRITERIA.**—The program required by subsection (a) shall—

(1) define the criminal justice community's role in creating and maintaining drug-free school zones;

(2) develop a framework for law enforcement collaboration with the school system and community resource network;

(3) identify a core law enforcement drug demand reduction program plan;

(4) provide materials and technical assistance for demarcating and establishing drug-free school zones;

(5) create a coordinated publicity plan with the school system and community resource network;

(6) identify and develop model drug-free school zone law enforcement strategies and tactics;

(7) develop a model coordinated strategy for prosecuting violations within the zones;

(8) create a uniform framework for monitoring and evaluating the effectiveness of drug-free school zones to determine which strategies and tactics succeed under various conditions and constraints; and

(9) provide support materials and exemplary program overviews.

(d) **PREFERRED APPROACHES.**—In establishing the program required by subsection (a), the Attorney General shall prefer approaches to drug-free school zone enforcement that unite the criminal justice community, the education community, and the network of community resources in meaningful collaboration to reduce the availability of and demand for drugs in a drug-free school zone.

(e) **REPORT.**—At the conclusion of the program required by subsection (a), the Attorney General shall submit a report to Congress describing the strategies and tactics that are found to be successful in establishing, enforcing, and maintaining drug-free school zones.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,500,000 for fiscal year 1991.

**SEC. 1502. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.**

Section 405A of the Controlled Substances Act (21 U.S.C. 845a) as redesignated by this Act, is amended—

(1) in subsection (a) by—

(A) striking “playground,”; and

(B) inserting “or a playground,” after “university,”; and

(2) in subsection (b) by—

(A) striking “playground,”; and

(B) inserting “or a playground,” after “university,”.

*Ante*, p. 4827.



## SEC. 1503. STRENGTHENING OF DRUG-FREE SCHOOL ZONES.

(a) GENERAL AUTHORITY.—Paragraph (8) of section 5122(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(a)) is amended by striking the period and inserting the following: “, which shall include—

“(A) the determination, with the assistance of municipal authorities and local law enforcement agencies, as appropriate, of the geographical boundaries of schools within the State and the posting of signs identifying school properties as drug-free school zones;

“(B) drug-abuse education and prevention programs and enforcement policies designed to eliminate the illicit use of alcohol and drugs in such zones;

“(C) assisting teachers, administrators, athletic directors, and other school personnel in cooperating fully with law enforcement officials to punish violations of laws relating to illegal drugs;

“(D) informing the community—

“(i) of the content and intent of laws relating to school safety and laws relating to illegal drugs as they affect schoolchildren; and

“(ii) of the perimeters of the drug-free school zones;

“(E) employing the services of the local or substate regional advisory council on drug abuse education and prevention established or designated by the local application submitted under section 5126(a) as a resource for advice and support with respect to implementation of such zones; and

“(F) communication to students, teachers, athletic directors, and other school personnel by administrators that activities that are illicit and harmful to the health and well-being of the students will not be tolerated within schools and their surrounding environments.”

(b) CONFORMING AMENDMENT.—Subsection (a) of section 5137 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3217) is amended by inserting before the period at the end of the first sentence the following: “as described in section 5122(a)(8)”.

## SEC. 1504. DRUG ABUSE RESISTANCE EDUCATION AND REPLICATION OF SUCCESSFUL DRUG EDUCATION PROGRAMS.

Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended—

(1) in subsection (a), by striking “50 percent” and inserting “42.5 percent”;

(2) in paragraph (1) of subsection (b), by striking “50 percent” and inserting “42.5 percent”; and

(3) by adding at the end the following:

“(c) DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.—(1) Not less than 10 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to local educational agencies in consortium with entities which have experience in assisting school districts to provide instruction to students grades kindergarten through 6 to recognize and resist pressures that influence such students to use controlled substances, as defined in Schedules I and II of section 202 of the Controlled Substances Act the possession or distribution of which is unlawful under such Act, or beverage alcohol, such as Project Drug

Abuse Resistance Education, that meet the requirements of paragraph (2).

"(2) A local educational agency in consortium with an entity shall not be eligible for a grant under paragraph (1) unless such local educational agency in consortium with an entity will use assistance provided under such grant to provide or arrange for the provisions of services that shall include—

"(A) drug abuse resistance education instruction for students grades kindergarten through 6 that is designed to teach students to recognize and resist pressures to experiment that influence such children to use controlled substances, as defined under paragraph (1), or beverage alcohol, including instruction in the following areas—

"(i) drug use and misuse;

"(ii) understanding the consequences of drug abuse;

"(iii) resistance techniques;

"(iv) assertive response styles;

"(v) managing stress without taking drugs;

"(vi) decisionmaking and risk taking;

"(vii) media influences on drug use;

"(viii) positive alternatives to drug abuse behavior;

"(ix) interpersonal and communication skills;

"(x) self-esteem building activities; and

"(xi) resistance to peer pressure and gang pressure;

"(B) provisions for parental involvement;

"(C) classroom instruction by uniformed law enforcement officials;

"(D) the use of positive student leaders to influence younger students not to use drugs;

"(E) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

"(F) the awarding of a certificate of achievement to each student who participates in a drug abuse resistance education program.

"(3) Amounts received under paragraph (1) by any local educational agency or entity shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in paragraph (2).

"(d) REPLICATION OF SUCCESSFUL DRUG EDUCATION PROGRAMS.—Not less than 5 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to local educational agencies or consortia of local educational agencies and private nonprofit entities to provide drug abuse education, prevention, or counseling services to students in kindergarten through grade 12.

"(e) ELIGIBILITY.—A local educational agency or consortium described in subsection (a) shall not be eligible for a grant under this section unless such agency or consortium agrees—

"(1) to use assistance provided under such grant to provide or arrange for the provision of programs offering drug abuse education, prevention, or counseling to students of compulsory school age, including—

"(A) programs to provide drug abuse counseling in the schools by trained personnel;

"(B) programs that stress the use of peers to combat student abuse of drugs and alcohol;

“(C) programs that stress parental and community involvement in combating student abuse of drugs and alcohol; and

“(D) other appropriate programs;

“(2) that programs provided with assistance under the grant shall be designed to prevent or eliminate student abuse of drugs or alcohol;

“(3) to use assistance provided under the grant to expand or replicate a program that has a demonstrated record of success at either the State or local level in preventing or eliminating student abuse of drugs or alcohol; and

“(4) to ensure that the program to be expanded or replicated is appropriate for the students to be served, based on an assessment of their most important needs.

“(f) APPLICATION.—A local educational agency or consortium described in subsection (a) that desires to receive a grant under this section shall submit an application to the chief executive office of the State at such time, in such manner, and containing or accompanied by such information and assurances as such officer may reasonably require. Each such application shall contain—

“(1) a discussion of why the particular program to be assisted under the grant is appropriate for and responds to the particular needs of the students to be served;

“(2) a complete description of the success of the program to be assisted under the grant in reducing or eliminating drug or alcohol abuse among students of compulsory school age;

“(3) an assurance that the consortium concerned will provide assistance, in cash or in kind, for the program assisted under the grant in an amount equal to not less than 10 percent of the amount provided under the grant; and

“(4) an assurance that funds received under the grant shall be used to supplement, not supplant, the amount of other Federal, State, and local funds expended for support of programs of the type described in subsection (b).”.

#### SEC. 1505. SUPPORT OF SCHOOL-BASED RECREATIONAL ACTIVITIES.

Section 5125(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (16);

(2) by redesignating paragraph (13) the second place it appears as paragraph (14);

(3) by striking “and” at the end of paragraph (14) (as redesignated by paragraph (2) of this section); and

(4) by inserting after paragraph (14) the following:

“(15) in the case of a local educational agency that determines that it provides sufficient drug and alcohol abuse education during regular school hours, after-school programs that provide drug and alcohol abuse education for school-aged children, including children who are unsupervised after school, and that may include school-sponsored sports, recreational, educational, or instructional activities (local educational agency may make grants or contracts with nonprofit community-based organizations that offer sports, recreation, education, or child care programs); and”.

**SEC. 1506. SUPPORT OF SCHOOL-BASED DRUG ABUSE COUNSELING PROGRAMS.**

(a) **GENERAL AUTHORITY.**—Part C of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3201) is amended to read as follows:

**“PART C—TRAINING OF TEACHERS,  
COUNSELORS, AND SCHOOL PERSONNEL**

20 USC 3201.

**“SEC. 5128. GRANTS FOR TRAINING OF TEACHERS.**

“(a) **IN GENERAL.**—From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teachers training programs in accordance with this section.

“(b) **USE OF FUNDS.**—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of elementary and secondary school teachers and administrators, and other elementary and secondary school personnel concerning drug and alcohol abuse education and prevention.

20 USC 3202.

**“SEC. 5129. GRANTS FOR TRAINING OF COUNSELORS.**

“(a) **IN GENERAL.**—

“(1) From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall give priority to making a substantial number of grants to qualified State educational agencies, local educational agencies, and institutions of higher education for programs to train counselors, social workers, psychologists, or nurses in accordance with this section.

“(2) The Secretary may also make a grant under this part to any private nonprofit agency that has an agreement with a local educational agency to provide training in drug abuse counseling for individuals who will provide such counseling in the schools of such local educational agency.

“(b) **USE OF FUNDS.**—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing or will provide drug abuse prevention, counseling, or referral services in elementary and secondary schools.

20 USC 3203.

**“SEC. 5130. APPLICATIONS.**

“(a) **IN GENERAL.**—Any State or local educational agency, institution of higher education, or consortium of such agencies or institutions that desires to receive a grant under this part in any fiscal year submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

“(b) **CONTENTS.**—Each application submitted under this section shall—

“(1) set forth the activities and programs to be carried out with funds paid under this part;

“(2) contain an estimate of the cost for the establishment and operation to such activities and programs;

“(3) provide assurances that the Federal funds made available under this section shall be used to supplement, and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds;

“(4) provide assurances of compliance with this part;

“(5) in the case of a grant under section 5129, contain a discussion of how the training to be assisted under the grant will assist the applicant to—

“(A) increase the number of school personnel who are trained to provide drug abuse counseling services; and

“(B) improve the quality of drug abuse counseling services offered by the applicant or the local educational agency concerned; and

“(6) include such other information and assurances as the Secretary reasonably determines to be necessary.”

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Subparagraph (A) of section 5111(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181(a)(2)) is amended by striking “\$35,000,000” and inserting “\$50,000,000”.

#### **SEC. 1507. ADDITIONAL REQUIREMENTS FOR LOCAL APPLICATIONS.**

Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended—

(1) by redesignating subparagraphs (N) and (O) as subparagraphs (P) and (Q), respectively; and

(2) by inserting after subparagraph (M) the following:

“(N) describe how, to the extent practicable, assistance provided under the grant will be used to provide drug abuse counseling services to children of all ages, including students in the elementary schools;

“(O) describe how, to the extent practicable, activities assisted under the grant will be coordinated with local law enforcement agencies in order to improve security on school grounds and in the surrounding community and to educate students about—

“(i) the dangers of drug use and drug-related violence;

“(ii) the penalties for possession of or trafficking in illegal drugs;

“(iii) techniques for resisting drug abuse; and

“(iv) the importance of cooperating with law enforcement officials in eliminating drug abuse and identifying individuals who supply drugs to students.”

#### **SEC. 1508. IDENTIFICATION OF FEDERALLY ASSISTED PROGRAMS.**

Part G of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3231 et seq.) is amended by adding at the end the following:

##### **“SEC. 5193. IDENTIFICATION OF FEDERALLY ASSISTED PROGRAMS.**

20 USC 3233.

“Every local recipient of funds under this title shall, in any publication or public announcement, clearly identify any program assisted under this title as a Federal program funded under the Drug-Free Schools and Communities Act of 1986.”



## SEC. 1509. TECHNICAL AMENDMENTS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Subsection (a) of section 2 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

20 USC 3181.

- (1) by redesignating paragraph (2) as paragraph (3); and
- (2) by striking paragraph (1) and inserting the following:
  - “(1) in paragraph (1), by inserting after “part C” the following: “and section 5136”; and
  - “(2) in paragraph (2)—

“(A) in subparagraph (A), by striking ‘and \$20,000,000’ and all that follows and inserting the following: ‘\$20,000,000 for the fiscal year 1990, and \$35,000,000 for each of the fiscal years 1991, 1992, and 1993.’; and

“(B) in subparagraph (B), by striking ‘\$230,000,000’ and inserting ‘\$215,000,000’; and”.

(b) **RESERVATIONS AND STATE ALLOTMENTS.**—Subsection (a) of section 5112 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182) is amended in the matter preceding paragraph (1) by inserting “, from” after “subsection (c)”.

(c) **RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.**—

(1) **CORRECTION OF PUNCTUATION.**—Section 5124(a)(4)(B) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194(a)(4)(B)) is amended by striking the comma at the end of clause (ii) and inserting a period.

20 USC 3194.

(2) **CORRECTION OF REFERENCE.**—Section 7(2) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended in subparagraph (A) by inserting “the first place it appears” before “the following”.

(d) **FEDERAL ACTIVITIES.**—Section 5132(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3212) is amended by striking “and” at the end of paragraph (5).

(e) **EMERGENCY GRANTS.**—The heading for section 5136 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3216) is amended to read as follows:

“SEC. 5136. EMERGENCY GRANTS.”.

(f) **CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS.**—Section 22(b) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

20 USC 3224a.

(1) in paragraph (1), by striking “Part D” and inserting “Part E”; and

20 USC 3196.

(2) in paragraph (2), by striking “5126(e)” and inserting “5126(a)”.

20 USC 3224b.

(g) **DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.**—Section 18 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended by striking “Part D” and inserting “Part E”.

## TITLE XVI—MISCELLANEOUS

### SEC. 1601. ENLARGEMENT OF FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended by striking out “the payment of awards for information or assistance leading to civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and

Corrupt Organizations statute (18 U.S.C. 1961 et seq.)" and inserting in lieu thereof "the payment of awards for information or assistance leading to a civil or criminal forfeiture under any law enforced or administered by the Department of Justice."

**SEC. 1602. AMENDMENT TO CLARIFY APPLICATION OF SENTENCING REFORM ACT TO ASSIMILATIVE CRIMES.**

Section 3551(a) of title 18, United States Code, is amended by inserting "including sections 13 and 1153 of this title," after "any Federal statute,".

**SEC. 1603. CONFORMING AMENDMENTS TO SUBSTITUTE A REFERENCE TO THE FDIC FOR THE NOW ABOLISHED FSLIC IN TWO BANKING OFFENSES.**

Sections 657 and 1006 of title 18, United States Code, are each amended by striking out "the Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "the Federal Deposit Insurance Corporation".

**SEC. 1604. CLARIFICATION OF APPLICABILITY OF 18 U.S.C. 1952 TO ALL MAILINGS IN FURTHERANCE OF UNLAWFUL ACTIVITY.**

Section 1952(a) of title 18, United States Code, is amended—

- (1) by inserting "the mail or" after "uses"; and
- (2) by striking out "including the mail,".

**SEC. 1605. ARREST OF FUGITIVE ABOUT TO ENTER UNITED STATES.**

Section 3184 of title 18, United States Code, is amended by inserting "or, if there is reason to believe the person will shortly enter the United States" after "if the whereabouts within the United States of the person charged are not known".

**SEC. 1606. CORRECTION TO REFERENCE TO NONEXISTENT AGENCIES IN 18 U.S.C. 1114.**

Section 1114 of title 18, United States Code, is amended—

- (1) by striking "secret service" and inserting "Secret Service";
- (2) by striking "any officer or employee of the Department of Health, Education, and Welfare," and inserting "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and
- (3) by striking "the Federal Savings and Loan Insurance Corporation,".

## **TITLE XVII—GENERAL PROVISIONS**

**SEC. 1701. SUPPORT OF FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.**

Section 4013 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(b)(1) The United States Marshals Service may designate districts that need additional support from private detention entities under subsection (a)(3) based on—

"(A) the number of Federal detainees in the district; and

"(B) the availability of appropriate Federal, State, and local government detention facilities.

"(2) In order to be eligible for a contract for the housing, care, and security of persons held in custody of the United States Marshals

pursuant to Federal law and funding under subsection (a)(3), a private entity shall—

“(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

“(B) meet the standards of the American Correctional Association;

“(C) comply with all applicable State and local laws and regulations;

“(D) have approved fire, security, escape, and riot plans; and

“(E) comply with any other regulations that the Marshals Service deems appropriate.

“(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3).”

Gun-Free School  
Zones Act of  
1990.  
18 USC 921 note.

SEC. 1702. GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) **SHORT TITLE.**—This section may be cited as the “Gun-Free School Zones Act of 1990”.

(b) **PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.**—

(1) **IN GENERAL.**—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:  
“(q)(1)(A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

“(B) Subparagraph (A) shall not apply to the possession of a firearm—

“(i) on private property not part of school grounds;

“(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

“(iii) which is—

“(I) not loaded; and

“(II) in a locked container, or a locked firearms rack which is on a motor vehicle;

“(iv) by an individual for use in a program approved by a school in the school zone;

“(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

“(vi) by a law enforcement officer acting in his or her official capacity; or

“(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

“(2)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

“(B) Subparagraph (A) shall not apply to the discharge of a firearm—

“(i) on private property not part of school grounds;

"(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

"(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

"(iv) by a law enforcement officer acting in his or her official capacity.

"(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun-free school zones as provided in this subsection."

(2) DEFINITIONS.—Section 921(a) of such title is amended by adding at the end thereof the following new paragraphs:

"(25) The term 'school zone' means—

"(A) in, or on the grounds of, a public, parochial or private school; or

"(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

"(26) The term 'school' means a school which provides elementary or secondary education, as determined under State law.

"(27) The term 'motor vehicle' has the meaning given such term in section 10102 of title 49, United States Code."

(3) PENALTY.—Section 924(a) of such title is amended by adding at the end thereof the following new paragraph:

"(4) Whoever violates section 922(q) shall be fined not more than \$5,000, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor."

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act.

18 USC 921 note.

(5) GUN-FREE ZONE SIGNS.—Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.

18 USC 922 note.

#### SEC. 1703. REPORT ON MANDATORY MINIMUM SENTENCING PROVISIONS.

(a) REPORT.—Not less than six months after the date of enactment of this Act, the United States Sentencing Commission shall transmit to the respective Judiciary Committees of the Senate and House of Representatives a report on mandatory minimum sentencing provisions in Federal law.

(b) COMPONENTS OF REPORT.—The report mandated by subsection (a) shall include:

(1) a compilation of all mandatory minimum sentencing provisions in Federal law;

(2) an assessment of the effect of mandatory minimum sentencing provisions on the goal of eliminating unwarranted sentencing disparity;

(3) a projection of the impact of mandatory minimum sentencing provisions on the Federal prison population;

(4) an assessment of the compatibility of mandatory minimum sentencing provisions and the sentencing guidelines system established by the Sentencing Reform Act of 1984;

(5) a description of the interaction between mandatory minimum sentencing provisions and plea agreements;

(6) a detailed empirical research study of the effect of mandatory minimum penalties in the Federal system;

(7) a discussion of mechanisms other than mandatory minimum sentencing laws by which Congress can express itself with respect to sentencing policy, such as:

(A) specific statutory instructions to the Sentencing Commission;

(B) general statutory instructions to the Sentencing Commission;

(C) increasing or decreasing the maximum sentence authorized for particular crimes;

(D) Sense of Congress resolutions; and

(8) any other information that the Commission would contribute to a thorough assessment of mandatory minimum sentencing provisions.

(c) AMENDMENT OF REPORT.—The Commission may amend or update the report mandated by subsection (a) at any time after its transmittal.

45 USC 446.

#### SEC. 1704. RAILROAD POLICE OFFICERS.

A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense, to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

## TITLE XVIII—CORRECTIONAL OPTIONS INCENTIVES AMENDMENTS

#### SEC. 1801. CORRECTIONAL OPTIONS GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subpart 2 of part E of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3760 et seq.) is amended—

(1) by inserting after the heading relating to subpart 2 the following:



## “CHAPTER A—GRANTS TO PUBLIC AND PRIVATE ENTITIES”.

- (2) in section 510 by striking “subpart” each place it appears and inserting “chapter”, 42 USC 3760.
- (3) in section 511— 42 USC 3761.
  - (A) in the heading by striking “DISCRETIONARY”, and
  - (B) by inserting “(other than chapter B of this subpart)” after “this part”,
- (4) in section 513— 42 USC 3763.
  - (A) in subsection (a)(1) by inserting “or 515” after “511”, and
  - (B) in subsection (b) by inserting “applicable” after “all the” each place it appears,
- (5) in section 514(2) by striking “public agency or private nonprofit organization within which the program or project has been conducted” and inserting “applicant that conducts such program or project”, 42 USC 3764.
- (6) by redesignating sections 513 and 514 as sections 517 and 518, respectively, and
- (7) by inserting after section 512 the following:

## “CHAPTER B—GRANTS TO PUBLIC AGENCIES

### “CORRECTIONAL OPTIONS GRANTS

“SEC. 515. (a) The Director, in consultation with the Director of the National Institute of Corrections, may make— 42 USC 3762a.

“(1) 4 grants in each fiscal year, in various geographical areas throughout the United States, to public agencies for correctional options (including the cost of construction) that provide alternatives to traditional modes of incarceration and offender release programs—

“(A) to provide more appropriate intervention for youthful offenders who are not career criminals, but who, without such intervention, are likely to become career criminals or more serious offenders;

Juvenile delinquency.

“(B) to provide a degree of security and discipline appropriate for the offender involved;

“(C) to provide diagnosis, and treatment and services (including counseling, substance abuse treatment, education, job training and placement assistance while under correctional supervision, and linkage to similar outside services), to increase the success rate of offenders who decide to pursue a course of lawful and productive conduct after release from legal restraint;

“(D) to reduce criminal recidivism by offenders who receive punishment through such alternatives;

“(E) to reduce the cost of correctional services and facilities by reducing criminal recidivism; and

“(F) to provide work that promotes development of industrial and service skills in connection with a correctional option;

“(2) grants to private nonprofit organizations—

“(A) for any of the purposes specified in subparagraphs (A) through (F) of paragraph (1);

“(B) to undertake educational and training programs for criminal justice personnel;

“(C) to provide technical assistance to States and local units of government; and

“(D) to carry out demonstration projects which, in view of previous research or experience, are likely to be a success in more than one jurisdiction;

in connection with a correctional option (excluding the cost of construction); and

“(3) grants to public agencies to establish, operate, and support boot camp prisons.

“(b) The selection of applicants to receive grants under subsection (a)(1) and (2) shall be based on their potential for developing or testing various innovative alternatives to traditional modes of incarceration and offender release programs. In selecting the applicants to receive grants under subsection (a)(3), the Director shall—

“(1) consider the overall quality of an applicant’s shock incarceration program, including the existence of substance abuse treatment, drug testing, counseling literacy education, vocational education, and job training programs during incarceration or after release; and

“(2) give priority to States that clearly demonstrate that the capacity of their correctional facilities is inadequate to accommodate the number of individuals who are convicted of offenses punishable by a term of imprisonment exceeding 1 year.

“(c) The Director shall consult with the Commission on Alternative Utilization of Military Facilities created by Public Law 100-456 in order to identify military facilities that may be used as sites for correctional programs receiving assistance under this chapter.

#### “ALLOCATION OF FUNDS; ADMINISTRATIVE PROVISIONS

42 USC 3762b.

“SEC. 516. (a) Of the total amount appropriated for this chapter in any fiscal year, 80 percent shall be used to make grants under section 515(a)(1), 10 percent for section 515(a)(2), and 10 percent for section 515(a)(3).

“(b) A grant made under section 515(a)(1) or (a)(3) may be made for an amount up to 75 percent of the cost of the correctional option contained in the approved application.

“(c) The Director shall—

Regulations.

“(1) not later than 90 days after funds are first appropriated to carry out this chapter, issue rules to carry out this chapter; and

“(2) not later than 180 days after funds are first appropriated to carry out this chapter—

Reports.

“(A) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing such rules; and

“(B) request applications for grants under this chapter.

#### “CHAPTER C—GENERAL REQUIREMENTS”.

(b) EVALUATION.—Section 520(a)(2) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766(a)(2)) is amended by striking “section 511” and inserting “sections 511 and 515”.

(c) **DEFINITION.**—Section 901(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

- (1) in paragraph (20) by striking “and” at the end,
- (2) in paragraph (21) by striking the period at the end, and
- (3) by adding at the end the following:

“(22) ‘correctional option’ includes community-based incarceration, weekend incarceration, boot camp prison, electronic monitoring of offenders, intensive probation, and any other innovative punishment designed to have the greatest impact on offenders who can be punished more effectively in an environment other than a traditional correctional facility; and

“(23) ‘boot camp prison’ includes a correctional facility in which inmates are required to participate in a highly regimented program that provides strict discipline, physical training, and hard labor, together with extensive rehabilitative activities and with educational, job training, and drug treatment support.”.

(d) **TECHNICAL AMENDMENTS.**—The table of contents of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

- (1) by inserting after the heading relating to subpart 2 of part E the following:

“Chapter A—Grants to Public and Private Entities”,

- (2) in the item relating to section 511 by striking “discretionary”, and

- (3) by striking the items relating to sections 513 and 514, and inserting the following:

“CHAPTER B—GRANTS TO PUBLIC AGENCIES

“Sec. 515. Correctional options grants.

“Sec. 516. Allocation of funds; administrative provisions.

“CHAPTER C—GENERAL REQUIREMENTS

“Sec. 517. Application requirements.

“Sec. 518. Period of award.”.

(e) **CONFORMING AMENDMENTS.**—Section 1001(a) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by inserting after paragraph (5) the following:

“(6) There are authorized to be appropriated \$220,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out chapter B of subpart 2 of part E of this title.”.

Appropriation  
authorization.

#### SEC. 1802. CONVEYANCE OF PROPERTY AND FACILITIES AT MILITARY INSTALLATIONS.

(a) **IN GENERAL.**—Chapter 159 of title 10, United States Code, is amended by adding at the end the following:

##### “§ 2693. Conveyance of certain property

“(a) Except as provided in subsection (b), before any real property or facility of the United States that is under the jurisdiction of any department, agency, or instrumentality of the Department of Defense is determined to be excess to the needs of such department, agency, or instrumentality, the Secretary shall—

- “(1) provide adequate notification of the availability of such real property or facility within the Department of Defense;

“(2) if the real property or facility remains available after such notification, notify the Attorney General of its availability; and

“(3) if the Attorney General certifies that a determination has been made by the Director of the Bureau of Justice Assistance within the Department of Justice to utilize the real property or facility under the correctional options program carried out under section 515 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, convey the real property or facility, without reimbursement, to the public agencies referred to in section 515(a)(1) or 515(a)(3) of title I of such Act for such utilization.

“(b) The provisions of this section shall not apply—

“(1) to real property and facilities to which title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) is applicable; and

“(2) during any portion of a fiscal year after four conveyances have been made under this section in such fiscal year.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

“2693. Conveyance of certain property.”

#### SEC. 1803. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.

(a) AMENDMENT.—Subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

##### “IMPROVEMENT OF CRIMINAL JUSTICE RECORDS

42 USC 3759.

“Sec. 509. (a) Subject to subsection (d), each State which receives funds under section 506 in a fiscal year shall allocate not less than 5 percent of such funds to the improvement of criminal justice records.

“(b) The improvement referred to in subsection (a) shall include—

“(1) the completion of criminal histories to include the final dispositions of all arrests for felony offenses;

“(2) the full automation of all criminal justice histories and fingerprint records; and

Reports.

“(3) the frequency and quality of criminal history reports to the Federal Bureau of Investigation.

“(c) The Director, in consultation with the Director of the Bureau of Justice Statistics, shall establish guidelines for the fulfillment of the requirements specified in subsections (a) and (b) of this section.

“(d) In accordance with such guidelines as the Director shall issue and on the request of a State, the Director may—

“(1) waive compliance with subsection (a) by such State; or

“(2) authorize such State to reduce the minimum amount such State is required to allocate under subsection (a); if the Director, in the discretion of the Director, finds that the quality of the State's criminal justice records does not warrant expending the amount allocated under subsection (a).”

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 508 the following:

“Sec. 509. Improvement of criminal justice records.”

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to any fiscal year beginning before the date of the enactment of this Act. 42 USC 3759 note.

**SEC. 1804. TESTING CERTAIN SEX OFFENDERS FOR HUMAN IMMUNODEFICIENCY VIRUS.**

Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a)(1) by striking “subsection (e)” and inserting “subsections (e) and (f)”,

(2) by redesignating subsection (f) as subsection (g), and

(3) by inserting after subsection (e) the following:

“(f)(1) For any fiscal year beginning more than 2 years after the effective date of this subsection—

“(A) 90 percent of the funds allocated under subsection (a), taking into consideration subsection (e) but without regard to this subsection, to a State described in paragraph (2) shall be distributed by the Director to such State; and

“(B) 10 percent of such amount shall be allocated equally among States that are not affected by the operation of subparagraph (A).

“(2) Paragraph (1)(A) refers to a State that does not have in effect, and does not enforce, in such fiscal year, a law that requires the State at the request of the victim of a sexual act—

“(A) to administer, to the defendant convicted under State law of such sexual act, a test to detect in such defendant the presence of the etiologic agent for acquired immune deficiency syndrome;

“(B) to disclose the results of such test to such defendant and to the victim of such sexual act; and

“(C) to provide to the victim of such sexual act counseling regarding HIV disease, HIV testing, in accordance with applicable law, and referral for appropriate health care and support services.

“(3) For purposes of this subsection—

“(A) the term ‘convicted’ includes adjudicated under juvenile proceedings; and

“(B) the term ‘sexual act’ has the meaning given such term in subparagraph (A) or (B) of section 2245(1) of title 18, United States Code.”.

## **TITLE XIX—ANABOLIC STEROIDS CONTROL ACT OF 1990**

Anabolic  
Steroids Control  
Act of 1990.

**SEC. 1901. SHORT TITLE.**

This Act may be cited as the “Anabolic Steroids Control Act of 1990”. 21 USC 801 note.

**SEC. 1902. ANABOLIC STEROID PENALTIES.**

(a) ADDITION OF ANABOLIC STEROIDS TO SCHEDULE III.—Schedule III of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end the following:

“(e) Anabolic steroids.”.

(b) **DEFINITION OF ANABOLIC STEROID.**—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

“(41)(A) The term ‘anabolic steroid’ means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes—

- “(i) boldenone,
- “(ii) chlorotestosterone,
- “(iii) clostebol,
- “(iv) dehydrochloromethyltestosterone,
- “(v) dihydrotestosterone,
- “(vi) drostanolone,
- “(vii) ethylestrenol,
- “(viii) fluoxymesterone,
- “(ix) formebolone,
- “(x) mesterolone,
- “(xi) methandienone,
- “(xii) methandranone,
- “(xiii) methandriol,
- “(xiv) methandrostenolone,
- “(xv) methenolone,
- “(xvi) methyltestosterone,
- “(xvii) mibolerone,
- “(xviii) nandrolone,
- “(xix) norethandrolone,
- “(xx) oxandrolone,
- “(xxi) oxymesterone,
- “(xxii) oxymetholone,
- “(xxiii) stanolone,
- “(xxiv) stanozolol,
- “(xxv) testolactone,
- “(xxvi) testosterone,
- “(xxvii) trenbolone, and

“(xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

“(B)(i) Except as provided in clause (ii), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration.

“(ii) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of subparagraph (A).”

21 USC 829 note.

(c) **EFFECT OF SCHEDULING ON PRESCRIPTIONS.**—Any prescription for anabolic steroids subject to refill on or after the date of enactment of the amendments made by this section may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C. 829(a)).

21 USC 802 note.

(d) **EFFECTIVE DATE.**—This section and the amendment made by this section shall take effect 90 days after the date of enactment of this Act.



## SEC. 1903. REGULATIONS BY ATTORNEY GENERAL.

21 USC 802 note.

(a) **ABUSE POTENTIAL.**—The Attorney General, upon the recommendation of the Secretary of Health and Human Services, may, by regulation, exempt any compound, mixture, or preparation containing a substance in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 2 of this Act) from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture or delivery system, it has no significant potential for abuse.

(b) **DRUGS FOR TREATMENT OF RARE DISEASES.**—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 2 of this Act) is—

(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

(2) does not have a significant potential for abuse, the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

(c) **DATE OF ISSUANCE OF REGULATIONS.**—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this Act, except that the regulations required under section 3(a) shall be issued not later than 180 days after the date of enactment of this Act.

## SEC. 1904. AMENDMENT TO THE FOOD, DRUG, AND COSMETIC ACT.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

“(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition, where such use has been authorized by the Secretary of Health and Human Services under section 505 and pursuant to the order of a physician, is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States Code, or both.

“(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

“(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such Act.

“(4) As used in this subsection the term ‘human growth hormone’ means somatrem, somatropin, or an analogue of either of them.

“(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.”.

## SEC. 1905. CONVICTION FOR VIOLATION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed.

Repeal.

21 USC 333a.

**SEC. 1906. DEMONSTRATION PROGRAMS REGARDING ANABOLIC STEROIDS.**

Section 508(b) of the Public Health Service Act (42 U.S.C. 290aa-6(b)) is amended—

(1) in paragraph (10)(B), by striking “and” after the semicolon at the end;

(2) in paragraph (11)(B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(12) develop and support innovative demonstration programs designed to identify and deter the improper use or abuse of anabolic steroids by students, especially students in secondary schools.”.

**SEC. 1907. CLERICAL CORRECTION.**

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting “(a)” before “It shall be unlawful” in the first undesignated paragraph.

## **TITLE XX—ASSET FORFEITURE**

**SEC. 2001. AMENDMENTS RELATING TO THE SPECIAL FORFEITURE FUND.**

(a) **ASSETS FORFEITURE FUND AMENDMENT.**—Section 524(c)(9) of title 28, United States Code, is amended—

(1) in the first sentence, by striking out “(9) There” and inserting in lieu thereof “(9)(A) There”; and

(2) by striking out the second sentence and inserting in lieu thereof the following:

“(B) Subject to subparagraph (C), in each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may transfer from the Fund not more than \$150,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988. Such transfers shall be made at the end of each quarter of the fiscal year involved and on a quarterly pro rata basis.

“(C) Transfers under subparagraph (B) may be made only from excess unobligated amounts and only to the extent that, as determined by the Attorney General, such transfers will not impair the future availability of amounts for the purposes under paragraph (1).

“(D) At the end of each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may retain in the Fund not more than \$15,000,000, or, if determined by the Attorney General to be necessary for asset-specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in preceding fiscal year.”.

(b) **SPECIAL FORFEITURE FUND AMENDMENT.**—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

“(b) **DEPOSITS.**—Deposits in the Fund shall be made by transfer from the Department of Justice Assets Forfeiture Fund in the manner provided in section 524(c)(9) of title 28, United States Code.”.

**SEC. 2002. CLARIFICATION OF ATTORNEY GENERAL'S AUTHORITY TO WARRANT CLEAR TITLE UPON TRANSFER OF FORFEITED PROPERTY.**

Section 524(c) of title 28, United States Code, is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following new paragraph:

“(10) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.”.

#### SEC. 2003. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting after “sell” the following: “, by public sale or any other commercially feasible means,”.

#### SEC. 2004. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting after “this title” each place it appears the following: “; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products”.

#### SEC. 2005. ADDITIONAL FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended to read as follows:

“(C) at the discretion of the Attorney General, the payment of awards for information or assistance leading to—

“(i) a civil or criminal forfeiture under the Controlled Substances Act or the Controlled Substances Import and Export Act;

“(ii) a criminal forfeiture under chapter 96 of title 18;

“(iii) a civil forfeiture under section 981 of title 18; or

“(iv) a criminal forfeiture under section 982 of title 18.”.

#### SEC. 2006. REPORT TO CONGRESS.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) in the matter before subparagraph (A), by striking out “two”;

(2) by striking out “and” at the end of subparagraph (A);

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “; and”; and

(4) by adding at the end the following new subparagraph:

“(C) a report for such fiscal year, containing audited financial statements, in the form prescribed by the Attorney General, in consultation with the Comptroller General, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions (by type of disposition).”.

#### SEC. 2007. FORFEITURE OF DRUG PARAPHERNALIA.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

“(10) Any drug paraphernalia (as defined in section 1822 of the Mail Order Drug Paraphernalia Control Act).”.

**SEC. 2008. FORFEITURE OF A FIREARM USED TO FACILITATE A DRUG OFFENSE.**

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

“(11) Any firearm (as defined in section 921 of title 18, United States Code) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.”.

**TITLE XXI—PERKINS GRANT EXPANSION****SEC. 2101. POLICE RECRUITMENT EDUCATION PROGRAM.**

(a) **AMENDMENT.**—Section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)) is amended—

- (1) by striking “or” at the end of subparagraph (D);
- (2) by striking the period at the end of subparagraph (E) and inserting “; or”; and
- (3) by adding at the end the following new subparagraph:  
“(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies.”.

(b) **CONFORMING AMENDMENT.**—Section 465(a)(3)(i) of such Act (20 U.S.C. 1087ee(a)(3)(i)) is amended by striking “(A) or (C)” and inserting “(A), (C), or (F)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply only to loans made on or after the date of enactment of this Act under part E of title IV of the Higher Education Act of 1965.

20 USC 1087ee  
note.

**TITLE XXII—FIREARMS PROVISIONS****SEC. 2201. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NON-RESIDENTS.**

Section 922(a)(5) of title 18, United States Code, is amended by striking “resides” the first place such term appears and all that follows through “(or other than that in which its place of business is located if the transferor is a corporation or other business entity);” and inserting “does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;”.

**SEC. 2202. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.**

(a) **IN GENERAL.**—Section 922(j) of title 18, United States Code, is amended by striking “or which constitutes,” and inserting “which constitutes, or which has been shipped or transported in,”.

(b) **ALTERATION OF SERIAL NUMBER OF FIREARM.**—Section 922(k) of title 18, United States Code, is amended by inserting “or to possess or receive any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce” after “altered”.

## SEC. 2203. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO SECTION 923(d)(1)(B).—Section 923(d)(1)(B) of title 18, United States Code, is amended by striking “(h)” and inserting “(n)”.

(b) AMENDMENT TO SECTION 925(a)(1).—Section 925(a)(1) of title 18, United States Code, is amended by inserting “possession,” before “or importation”.

(c) AMENDMENTS TO SECTION 925(c).—Section 925(c) of title 18, United States Code, is amended—

(1) by striking “conviction” the first and third places such term appears and inserting “disability”; and

(2) by striking “by reason of such a conviction”.

(d) AMENDMENTS TO SECTION 924(a).—Section 924(a) of title 18, United States Code, is amended by striking “, and shall become eligible for parole as the Parole Commission shall determine” each place such term appears. This amendment shall be effective with respect to any offense committed after November 1, 1987.

Effective date.  
18 USC 924 note.

## SEC. 2204. AMENDMENTS RELATING TO THE DOMESTIC ASSEMBLY OF NONIMPORTABLE FIREARMS.

(a) SEMIAUTOMATIC RIFLE DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(28) The term ‘semiautomatic rifle’ means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.”.

(b) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

“(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

“(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

“(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Secretary.”.

(c) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking “or (k)” and inserting “(k), or (q)”.

## SEC. 2205. PROHIBITION AGAINST POSSESSION OF FIREARMS IN FEDERAL COURT FACILITIES.

(a) PROHIBITION.—Section 930 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting “(other than a Federal court facility)” before the second comma;

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following:

“(d)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

“(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (c).”;

(4) in subsection (f) (as so redesignated by paragraph (2) of this subsection), by adding at the end the following:

“(3) The term ‘Federal court facility’ means the courtroom, judges’ chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.”; and

(5) in subsection (g) (as so redesignated by paragraph (2) of this subsection)—

(A) by inserting “and notice of subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility,” after the first comma;

(B) by inserting “or (d)” before “with respect to”; and

(C) by inserting “or (d), as the case may be” before the period.

18 USC 930 note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to conduct engaged in after the date of the enactment of this Act.

## **TITLE XXIII—CHEMICAL DIVERSION AND TRAFFICKING**

### **SEC. 2301. CHEMICAL DIVERSION AND TRAFFICKING.**

(a) **NEW LISTED PRECURSOR CHEMICALS.**—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by adding at the end the following:

“(M) Methylamine.

“(N) Ethylamine.

“(O) D-lysergic acid.

“(P) Propionic anhydride.

“(Q) Insosafrole.

“(R) Safrole.

“(S) Piperonal.

“(T) N-Methylephedrine.

“(U) N-ethylephedrine.

“(V) N-methylpseudoephedrine.

“(W) N-ethylpseudoephedrine.

“(X) Hydriotic acid.

“(Y) Any salt, optical isomer, or salt of an optical isomer of the chemicals listed in subparagraphs (M) through (X) of this paragraph.”.

(b) **CONFORMING REPEAL.**—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by striking subparagraph (E).

## **TITLE XXIV—DRUG PARAPHERNALIA**

### **SEC. 2401. DRUG PARAPHERNALIA.**

(a) **IN GENERAL.**—The Controlled Substances Act is amended by adding at the end of part D the following:



**"DRUG PARAPHERNALIA****"SEC. 422. (a) It is unlawful for any person—**

21 USC 863.

**"(1) to sell or offer for sale drug paraphernalia;****"(2) to use the mails or any other facility of interstate commerce to transport drug paraphernalia; or****"(3) to import or export drug paraphernalia."****(b) TRANSFER OF REMAINING EXISTING PROVISIONS RELATING TO DRUG PARAPHERNALIA.—Subsections (b) through (f) of section 1822 of the Anti-Drug Abuse Act of 1986 (21 U.S.C. 857) are transferred to appear as subsections (b) through (f) of the section 422 added to the Controlled Substances Act by this section.**

21 USC 857, 863.

**(c) TECHNICAL CORRECTIONS TO TRANSFERRED PROVISIONS.—The provisions of law transferred by subsection (b) are amended—**

21 USC 863.

**(1) in subsection (b), by striking "not more than \$100,000" and inserting "under title 18, United States Code"; and****(2) in subsection (f), by striking "This subtitle" and inserting "This section".****(d) CONFORMING REPEAL.—Subtitle O of title I of the Anti-Drug Abuse Act of 1986 is repealed.**

21 USC 801 note, 857 and note.

**TITLE XXV—BANKING LAW  
ENFORCEMENT**Comprehensive  
Thrift and Bank  
Fraud  
Prosecution and  
Taxpayer  
Recovery Act of  
1990.**SEC. 2500. SHORT TITLE.****This title may be cited as the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990".**18 USC 1001  
note.**Subtitle A—Enhanced Criminal Penalties****SEC. 2501. CONCEALMENT OF ASSETS FROM FDIC, RTC, OR NCUA ESTABLISHED AS CRIMINAL OFFENSE.****(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:****"§ 1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution****"Whoever—****"(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13, of the Federal Deposit Insurance Act, the Resolution Trust Corporation, any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board, acting as conservator or liquidating agent;****"(2) corruptly impedes or endeavors to impede the functions of such Corporation, Board, or conservator; or****"(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation, Board, or conservator,**

shall be fined under this title or imprisoned not more than 5 years, or both."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1031 the following new item:

"1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution."

**SEC. 2502. PROHIBITION ON CONTROL OF OR PARTICIPATION IN DEPOSITORY INSTITUTION BY CERTAIN CONVICTED PERSONS.**

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—Except with the prior written consent of the Corporation—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured depository institution;

"(ii) own or control, directly or indirectly, any insured depository institution; or

"(iii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured depository institution; and

"(B) any insured depository institution may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, or 1956 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Corporation may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Corporation, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of

paragraph (1) to such person if granting the exception is in the interest of justice.

“(ii) **PERIOD FOR FILING.**—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.”.

**SEC. 2503. CRIME OF OBSTRUCTING AN EXAMINER.**

(a) **IN GENERAL.**—Chapter 73 of title 18, United States Code (relating to obstruction of justice) is amended by inserting after section 1516 the following new section:

**“§ 1517. Obstructing examination of financial institution**

“Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1516 the following new item:

“1517. Obstructing examination of financial institution.”.

**SEC. 2504. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.**

(a) **RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.**—Section 215(a) of title 18, United States Code, is amended by striking “20” and inserting “30”.

(b) **THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.**—Section 656 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(c) **LENDING, CREDIT, AND INSURANCE INSTITUTIONS.**—Section 657 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(d) **BANK ENTRIES, REPORTS, AND TRANSACTIONS.**—Section 1005 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(e) **FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.**—Section 1006 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(f) **FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.**—Section 1007 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(g) **FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.**—Section 1014 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(h) **FRAUDS AND SWINDLES AFFECTING FINANCIAL INSTITUTIONS.**—The last sentence of section 1341 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(i) **WIRE FRAUDS AFFECTING FINANCIAL INSTITUTIONS.**—The last sentence of section 1343 of title 18, United States Code, is amended by striking “20” and inserting “30”.

(j) **BANK FRAUD.**—Section 1344 of title 18, United States Code, is amended by striking “20” and inserting “30”.

**SEC. 2505. STATUTE OF LIMITATIONS FOR RICO OFFENSES INVOLVING FINANCIAL INSTITUTIONS.**

(a) **IN GENERAL.**—Section 3293 of title 18, United States Code, is amended—

- (1) by striking “or” at the end of paragraph (1);
- (2) by inserting “or” at the end of paragraph (2); and
- (3) by inserting after paragraph (2) the following new paragraph:

“(3) section 1963, to the extent that the racketeering activity involves a violation of section 1344;”.

18 USC 3293  
note.

(b) **SCOPE OF APPLICATION.**—The amendments made by subsection (a) shall apply to any offense committed before the date of the enactment of this section, if the statute of limitations applicable to that offense had not run as of such date.

**SEC. 2506. MONEY LAUNDERING INVOLVING BANK CRIMES.**

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

- (1) by inserting “section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent Federal credit institution entries), 1007 (relating to Federal Deposit Insurance transactions), 1014 (relating to fraudulent loan or credit applications), 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), ” after “section 875 (relating to interstate communications),”; and
- (2) by inserting “section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution,” after “section 1203 (relating to hostage taking),”.

18 USC 994 note.

**SEC. 2507. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.**

(a) **INCREASED PENALTIES.**—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code, or section 1341 or 1343 affecting a financial institution (as defined in section 20 of title 18, United States Code), shall be assigned not less than offense level 24 under chapter 2 of the sentencing guidelines if the defendant derives more than \$1,000,000 in gross receipts from the offense.

(b) **AMENDMENTS TO SENTENCING GUIDELINES.**—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

**SEC. 2508. RESTORATION OF PROPERTY FOR VICTIMS OF BANK CRIMES.**

Section 981(e) of title 18, United States Code, is amended—

- (1) by striking out “or” at the end of paragraph (4);
- (2) by striking the period at the end of paragraph (5) and inserting a semicolon; and
- (3) by adding after paragraph (5) the following new paragraph:

“(6) in the case of property referred to in subsection (a)(1)(C), restore forfeited property to any victim of an offense described in subsection (a)(1)(C); or”.

**SEC. 2509. ENHANCEMENT OF ABILITY TO ORDER RESTITUTION IN CERTAIN FRAUD CASES.**

Section 3663(a) of title 18, United States Code, is amended—

(1) by inserting “(1)” after “(a)”; and

(2) by adding at the end the following:

“(2) For the purposes of restitution, a victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity means any person directly harmed by the defendant’s criminal conduct in the course of the scheme, conspiracy, or pattern.

“(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.”.

**SEC. 2510. FINANCIAL CRIME KINGPIN STATUTE.**

(a) **CONTINUING FINANCIAL CRIME ENTERPRISES.**—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**“§ 225. Continuing financial crimes enterprise**

Penalties.

“(a) Whoever—

“(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

“(2) receives \$5,000,000 or more in gross receipts from such enterprise during any 24-month period,

shall be fined not more than \$10,000,000 if an individual, or \$20,000,000 if an organization, and imprisoned for a term of not less than 10 years and which may be life.

“(b) For purposes of subsection (a), the term ‘continuing financial crimes enterprise’ means a series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of this title, or section 1341 or 1343 affecting a financial institution, committed by at least 4 persons acting in concert.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

“225. Continuing financial crimes enterprise.”.

## **Subtitle B—Protecting Assets From Wrongful Disposition**

**SEC. 2521. INJUNCTIVE RELIEF; PREJUDGMENT ATTACHMENTS.**

(a) **INJUNCTIVE RELIEF.**—

(1) **APPLICATION BY CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTIONS.**—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by inserting after paragraph (17) (as added by section 2511 of this title) the following new paragraphs:

“(18) **ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.**—Subject to paragraph (19), any court of competent jurisdiction may, at the request of—

“(A) the Corporation (in the Corporation’s capacity as conservator or receiver for any insured depository institution or in the Corporation’s corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13); or

“(B) any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Corporation or such conservator under the control of the court and appointing a trustee to hold such assets.

“(19) STANDARDS.—

“(A) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (18) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

“(B) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by subparagraph (A)), the relief sought by the Corporation or a conservator pursuant to paragraph (18) may be requested under the laws of such State.”.

(2) APPLICATION BY CONSERVATOR OR LIQUIDATING AGENT FOR INSURED CREDIT UNION.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (G) as subparagraph (I) and by inserting after subparagraph (F) the following new subparagraphs:

“(G) ATTACHMENT OF ASSETS AND INJUNCTIVE RELIEF.—

Subject to subparagraph (H), any court of competent jurisdiction may, at the request of the Board (in the Board's capacity as conservator or liquidating agent for any insured credit union or in the Board's corporate capacity in the exercise of any authority under section 207), issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Board under the control of the court and appointing a trustee to hold such assets.

“(H) STANDARDS.—

“(i) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (G) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

“(ii) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by clause (i)), the relief sought by the Board pursuant to subparagraph (G) may be requested under the laws of such State.”.

(b) PREJUDGMENT ATTACHMENTS.—

(1) APPROPRIATE FEDERAL BANKING AGENCIES.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end the following new paragraph:

“(4) PREJUDGMENT ATTACHMENT.—

“(A) IN GENERAL.—In any action brought by an appropriate Federal banking agency (excluding the Corporation



when acting in a manner described in section 11(d)(18)) pursuant to this section, or in actions brought in aid of, or to enforce an order in, any administrative or other civil action for money damages, restitution, or civil money penalties brought by such agency, the court may, upon application of the agency, issue a restraining order that—

“(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property; and

“(ii) appoints a temporary receiver to administer the restraining order.

“(B) STANDARD.—A permanent or temporary injunction or restraining order shall be granted without bond upon a prima facie showing that money damages, restitution, or civil money penalties, as sought by such agency, is appropriate.”.

(2) ATTORNEY GENERAL.—Section 1345 of title 18, United States Code, is amended—

(1) by striking the 1st sentence and inserting the following:

“(a)(1) If a person is—

“(A) violating or about to violate this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title; or

“(B) committing or about to commit a banking law violation (as defined in section 3322(d) of this title),

the Attorney General may commence a civil action in any Federal court to enjoin such violation.

“(2) If a person is alienating or disposing of property, or intends to alienate or dispose of property, obtained as a result of a banking law violation (as defined in section 3322(d) of this title) or property which is traceable to such violation, the Attorney General may commence a civil action in any Federal court—

“(A) to enjoin such alienation or disposition of property; or

“(B) for a restraining order to—

“(i) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and

“(ii) appoint a temporary receiver to administer such restraining order.

(3) A permanent or temporary injunction or restraining order shall be granted without bond.”; and

(2) by redesignating the material remaining in such section as subsection (b).

**SEC. 2522. NONDISCHARGE OF DEBTS IN FEDERAL BANKRUPTCY INVOLVING OBLIGATIONS ARISING FROM A BREACH OF FIDUCIARY DUTY; DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.**

(a) EXCEPTION TO DISCHARGE IN GENERAL.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a) by—

(A) striking “or” at the end of paragraph (9);

(B) striking the period at the end of paragraph (10) and inserting a semicolon; and

(C) adding at the end thereof the following new paragraphs:

“(11) provided in any final judgment, unreviewable order, or consent order or decree entered in any court of the United States or of any State, issued by a Federal depository institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union; or

“(12) for malicious or reckless failure to fulfill any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution, except that this paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency;” and

(2) by adding at the end thereof the following new subsections:

“(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsection (a) (4) or (11).”; and

(3) in subsection (c)—

(A) by inserting “(1)” after “(c)”; and

(B) by adding at the end the following:

“(2) Paragraph (1) shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent for an insured depository institution, to recover a debt described in subsection (a)(2), (a)(4), (a)(6), or (a)(11) owed to such institution by an institution-affiliated party unless the receiver, conservator, or liquidating agent was appointed in time to reasonably comply, or for a Federal depository institutions regulatory agency acting in its corporate capacity as a successor to such receiver, conservator, or liquidating agent to reasonably comply, with subsection (a)(3)(B) as a creditor of such institution-affiliated party with respect to such debt.”.

(b) EXCEPTION TO EXEMPTIONS.—Section 522(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking “or” at the end;

(2) in paragraph (2) by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(3) a debt of a kind specified in section 523(a)(4) or 523(a)(6) of this title owed by an institution-affiliated party of an insured depository institution to a Federal depository institutions regulatory agency acting in its capacity as conservator, receiver, or liquidating agent for such institution.”.

(c) ASSUMPTION OF COMMITMENTS AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, is amended by adding at the end thereof the following:

“(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed (consistent with the debtor’s other obligations under section 507), and shall immediately cure any deficit under, any commitment by the debtor to the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or its predecessors or successors, to maintain the capital of an insured

depository institution, and any claim for a subsequent breach of the obligations thereunder shall be entitled to priority under section 507. This subsection shall not extend any commitment that would otherwise be terminated by any act of such an agency.”

(d) **COMMITMENTS TO MAINTAIN THE CAPITAL OF FEDERALLY INSURED DEPOSITORY INSTITUTIONS.**—Section 507(a) of title 11, United States Code, is amended by adding at the end the following new paragraph:

“(8) Eighth, allowed unsecured claims based upon any commitment by the debtor to the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution.”

(e) **DEFINITIONS.**—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (32) through (53) as paragraphs (36) through (57), respectively;

(2) by inserting before paragraph (36), as so redesignated, the following:

“(33) ‘institution-affiliated party’—

“(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

“(B) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r));

“(34) ‘insured credit union’ has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

“(35) ‘insured depository institution’—

“(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

“(B) includes an insured credit union (except in the case of paragraphs (3) and (33)(A) of this subsection);”;

(3) by redesignating paragraphs (3) through (31) as paragraphs (4) through (32), respectively; and

(4) by inserting after paragraph (2) the following:

“(3) ‘Federal depository institutions regulatory agency’ means—

“(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of such Act);

“(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

“(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

“(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been

appointed conservator or receiver, the Federal Deposit Insurance Corporation;”.

**SEC. 2523. REGULATION OF GOLDEN PARACHUTES AND OTHER BENEFITS WHICH ARE SUBJECT TO MISUSE.**

(a) **FDIC INSURED DEPOSITORY INSTITUTIONS.**—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

“(k) **AUTHORITY TO REGULATE OR PROHIBIT CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.**—

“(1) **GOLDEN PARACHUTES AND INDEMNIFICATION PAYMENTS.**—The Corporation may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment.

“(2) **FACTORS TO BE TAKEN INTO ACCOUNT.**—The Corporation shall prescribe, by regulation, the factors to be considered by the Corporation in taking any action pursuant to paragraph (1) which may include such factors as the following:

“(A) Whether there is a reasonable basis to believe that the institution-affiliated party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the depository institution or depository institution holding company that has had a material effect on the financial condition of the institution.

“(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for the insolvency of the depository institution or depository institution holding company, the appointment of a conservator or receiver for the depository institution, or the depository institution’s troubled condition (as defined in the regulations prescribed pursuant to section 32(f)).

“(C) Whether there is a reasonable basis to believe that the institution-affiliated party has materially violated any applicable Federal or State banking law or regulation that has had a material effect on the financial condition of the institution.

“(D) Whether there is a reasonable basis to believe that the institution-affiliated party has violated or conspired to violate—

“(i) section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code; or

“(ii) section 1341 or 1343 of such title affecting a federally insured financial institution.

“(E) Whether the institution-affiliated party was in a position of managerial or fiduciary responsibility.

“(F) The length of time the party was affiliated with the insured depository institution or depository institution holding company and the degree to which—

“(i) the payment reasonably reflects compensation earned over the period of employment; and

“(ii) the compensation involved represents a reasonable payment for services rendered.

“(3) **CERTAIN PAYMENTS PROHIBITED.**—No insured depository institution or depository institution holding company may prepay the salary or any liability or legal expense of any institution-affiliated party if such payment is made—

“(A) in contemplation of the insolvency of such institution or holding company or after the commission of an act of insolvency; and

“(B) with a view to, or has the result of—

“(i) preventing the proper application of the assets of the institution to creditors; or

“(ii) preferring one creditor over another.

“(4) GOLDEN PARACHUTE PAYMENT DEFINED.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘golden parachute payment’ means any payment (or any agreement to make any payment) in the nature of compensation by any insured depository institution or depository institution holding company for the benefit of any institution-affiliated party pursuant to an obligation of such institution or holding company that—

“(i) is contingent on the termination of such party’s affiliation with the institution or holding company; and

“(ii) is received on or after the date on which—

“(I) the insured depository institution or depository institution holding company, or any insured depository institution subsidiary of such holding company, is insolvent;

“(II) any conservator or receiver is appointed for such institution; or

“(III) the institution’s appropriate Federal banking agency determines that the insured depository institution is in a troubled condition (as defined in the regulations prescribed pursuant to section 32(f));

“(IV) the insured depository institution has been assigned a composite rating by the appropriate Federal banking agency or the Corporation of 4 or 5 under the Uniform Financial Institutions Rating System; or

“(V) the insured depository institution is subject to a proceeding initiated by the Corporation to terminate or suspend deposit insurance for such institution.

“(B) CERTAIN PAYMENTS IN CONTEMPLATION OF AN EVENT.—Any payment which would be a golden parachute payment but for the fact that such payment was made before the date referred to in subparagraph (A)(ii) shall be treated as a golden parachute payment if the payment was made in contemplation of the occurrence of an event described in any subclause of such subparagraph.

“(C) CERTAIN PAYMENTS NOT INCLUDED.—The term ‘golden parachute payment’ shall not include—

“(i) any payment made pursuant to a retirement plan which is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986 or other nondiscriminatory benefit plan;

“(ii) any payment made pursuant to a bona fide deferred compensation plan or arrangement which the Board determines, by regulation or order, to be permissible; or

“(iii) any payment made by reason of the death or disability of an institution-affiliated party.

“(5) OTHER DEFINITIONS.—For purposes of this subsection—

“(A) INDEMNIFICATION PAYMENT.—Subject to paragraph (6), the term ‘indemnification payment’ means any payment (or any agreement to make any payment) by any insured depository institution or depository institution holding company for the benefit of any person who is or was an institution-affiliated party, to pay or reimburse such person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the appropriate Federal banking agency which results in a final order under which such person—

“(i) is assessed a civil money penalty;

“(ii) is removed or prohibited from participating in conduct of the affairs of the insured depository institution; or

“(iii) is required to take any affirmative action described in section 8(b)(6) with respect to such institution.

“(B) LIABILITY OR LEGAL EXPENSE.—The term ‘liability or legal expense’ means—

“(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

“(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

“(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

“(C) PAYMENT.—The term ‘payment’ includes—

“(i) any direct or indirect transfer of any funds or any asset; and

“(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated, without regard to whether the obligation to make such payment is contingent on—

“(I) the determination, after such date, of the liability for the payment of such amount; or

“(II) the liquidation, after such date, of the amount of such payment.

“(6) CERTAIN COMMERCIAL INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any insured depository institution or depository institution holding company from purchasing any commercial insurance policy or fidelity bond, except that, subject to any requirement described in paragraph (5)(A)(iii), such insurance policy or bond shall not cover any legal or liability expense of the institution or holding company which is described in paragraph (5)(A).”.

(b) NCUA INSURED CREDIT UNIONS DEPOSITORY INSTITUTIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

“(t) REGULATION OF CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.—



“(1) **GOLDEN PARACHUTES AND INDEMNIFICATION PAYMENTS.**—The Board may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment.

“(2) **FACTORS TO BE TAKEN INTO ACCOUNT.**—The Board shall prescribe, by regulation, the factors to be considered by the Board in taking any action pursuant to paragraph (1) which may include such factors as the following:

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“(A) Whether there is a reasonable basis to believe that the institution-affiliated party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the credit union that has had a material affect on the financial condition of the credit union.

“(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for the insolvency of the credit union, the appointment of a conservator or liquidating agent for the credit union, or the credit union's troubled condition (as defined in prescribed by the Board pursuant to paragraph (4)(A)(ii)(III)).

“(C) Whether there is a reasonable basis to believe that the institution-affiliated party has materially violated any applicable Federal or State banking law or regulation that has had a material affect on the financial condition of the credit union.

“(D) Whether there is a reasonable basis to believe that the institution-affiliated party has violated or conspired to violate—

“(i) section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code; or

“(ii) section 1341 or 1343 of such title affecting a financial institution.

“(E) Whether the institution-affiliated party was in a position of managerial or fiduciary responsibility.

“(F) The length of time the party was affiliated with the credit union and the degree to which—

“(i) the payment reasonably reflects compensation earned over the period of employment; and

“(ii) the compensation involved represents a reasonable payment for services rendered.

“(3) **CERTAIN PAYMENTS PROHIBITED.**—No credit union may prepay the salary or any liability or legal expense of any institution-affiliated party if such payment is made—

“(A) in contemplation of the insolvency of such credit union or after the commission of an act of insolvency; and

“(B) with a view to, or has the result of—

“(i) preventing the proper application of the assets of the credit union; or

“(ii) preferring one creditor over another.

“(4) **GOLDEN PARACHUTE PAYMENT DEFINED.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘golden parachute payment’ means any payment (or any agreement to make any payment) in the nature of compensation by any credit union for the benefit of any institution-affiliated party pursuant to an obligation of such credit union that—

“(i) is contingent on the termination of such party's affiliation with the credit union; and

“(ii) is received on or after the date on which—

“(I) the credit union is insolvent;

“(II) any conservator or liquidating agent is appointed for such credit union; or

“(III) the Board determines that the credit union is in a troubled condition (as defined in regulations which the Board shall prescribe);

“(IV) the credit union has been assigned a composite rating by the Board of 4 or 5 under the Uniform Financial Institutions Rating System (as applicable with respect to credit unions); or

“(V) the credit union is subject to a proceeding initiated by the Board to terminate or suspend deposit insurance for such credit union.

“(B) CERTAIN PAYMENTS IN CONTEMPLATION OF AN EVENT.—Any payment which would be a golden parachute payment but for the fact that such payment was made before the date referred to in subparagraph (A)(ii) shall be treated as a golden parachute payment if the payment was made in contemplation of the occurrence of an event described in any subclause of such subparagraph.

“(C) CERTAIN PAYMENTS NOT INCLUDED.—The term ‘golden parachute payment’ shall not include—

“(i) any payment made pursuant to a retirement plan which is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986 or other nondiscriminatory retirement or severance benefit plan;

“(ii) any payment made pursuant to a bona fide deferred compensation plan or arrangement which the Board determines, by regulation or order, to be permissible; or

“(iii) any payment made by reason of the death or disability of an institution-affiliated party.

“(5) OTHER DEFINITIONS.—For purposes of this subsection—

“(A) INDEMNIFICATION PAYMENT.—Subject to paragraph (6), the term ‘indemnification payment’ means any payment (or any agreement to make any payment) by any credit union for the benefit of any person who is or was an institution-affiliated party, to pay or reimburse such person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Board which results in a final order under which such person—

“(i) is assessed a civil money penalty;

“(ii) is removed or prohibited from participating in conduct of the affairs of the credit union; or

“(iii) is required to take any affirmative action described in section 206(e)(3) with respect to such credit union.

“(B) LIABILITY OR LEGAL EXPENSE.—The term ‘liability or legal expense’ means—

“(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

“(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

“(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

“(C) PAYMENT.—The term ‘payment’ includes—

“(i) any direct or indirect transfer of any funds or any asset; and

“(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated, without regard to whether the obligation to make such payment is contingent on—

“(I) the determination, after such date, of the liability for the payment of such amount; or

“(II) the liquidation, after such date, of the amount of such payment.

“(6) CERTAIN COMMERCIAL INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any credit union from purchasing any commercial insurance policy or fidelity bond, except that, subject to any requirement described in paragraph (5)(A)(iii), such insurance policy or bond shall not cover any legal or liability expense of the credit union which is described in paragraph (5)(A).”.

#### SEC. 2524. AMENDMENTS RELATING TO CIVIL FORFEITURE.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C)—

(A) by inserting “1032,” after “1014,”; and

(B) by inserting “or a violation of section 1341 or 1343 of such title affecting a financial institution” before the period;

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(B) by striking all that appears before subparagraph (A) (as so redesignated by subparagraph (A) of this paragraph) and inserting the following:

“(b)(1) Any property—

“(A) subject to forfeiture to the United States under subparagraph (A) or (B) of subsection (a)(1) of this section—

“(i) may be seized by the Attorney General; or

“(ii) in the case of property involved in a violation of section 5313(a) or 5324 of title 31, United States Code, or section 1956 or 1957 of this title investigated by the Secretary of the Treasury or the United States Postal Service, may be seized by the Secretary of the Treasury or the Postal Service; and

“(B) subject to forfeiture to the United States under subparagraph (C) of subsection (a)(1) of this section may be seized by the Attorney General, the Secretary of the Treasury, or the Postal Service.

“(2) Property shall be seized under paragraph (1) of this subsection upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—”;

(3) in subsection (e)(3), by striking “(if the affected financial institution is in receivership or liquidation)”; and

(4) in subsection (e)(4), by striking “(if the affected financial institution is not in receivership or liquidation)”.

**SEC. 2525. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION, FDIC, OR NCUA.**

**(a) CIVIL FORFEITURE.—**

(1) **IN GENERAL.**—Section 981(a)(1) of title 18, United States Code, is amended by adding the following new subparagraphs:

“(D) Any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of—

“(i) section 666(a)(1) (relating to Federal program fraud);

“(ii) section 1001 (relating to fraud and false statements);

“(iii) section 1031 (relating to major fraud against the United States);

“(iv) section 1032 (relating to concealment of assets from conservator or receiver of insured financial institution);

“(v) section 1341 (relating to mail fraud); or

“(vi) section 1343 (relating to wire fraud),

if such violation relates to the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

“(E) With respect to an offense listed in subsection (a)(1)(D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which thereby is obtained, directly or indirectly.”

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 981(e) of title 18, United States Code, is amended by inserting after paragraph (6) (as added by section 108(3) of this Act) the following new paragraph:

“(7) In the case of property referred to in subsection (a)(1)(D), to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any other Federal financial institution regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act).”

**(b) CRIMINAL FORFEITURE.**—Section 982(a) of title 18, United States Code, is amended by adding the following new paragraphs:

“(3) The court, in imposing a sentence on a person convicted of an offense under—

“(A) section 666(a)(1) (relating to Federal program fraud);

“(B) section 1001 (relating to fraud and false statements);

“(C) section 1031 (relating to major fraud against the United States);

“(D) section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);

“(E) section 1341 (relating to mail fraud); or

“(F) section 1343 (relating to wire fraud),

involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

“(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.”.

**SEC. 2526. PROHIBITION ON ACQUISITIONS FROM CONSERVATORS AND RECEIVERS OF DEPOSITORY INSTITUTIONS BY CONVICTED FELONS.**

(a) **FDIC INSURED DEPOSITORY INSTITUTIONS.**—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

“(p) **CERTAIN CONVICTED DEBTORS PROHIBITED FROM PURCHASING ASSETS.**—

“(1) **CONVICTED DEBTORS.**—Except as provided in paragraph (2), any individual who—

“(A) has been convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, or of conspiring to commit such an offense, affecting any insured depository institution for which any conservator or receiver has been appointed; and

“(B) is in default on any loan or other extension of credit from such insured depository institution which, if not paid, will cause substantial loss to the institution, any deposit insurance fund, the Corporation, the FSLIC Resolution Fund, or the Resolution Trust Corporation, may not purchase any asset of such institution from the conservator or receiver.

“(2) **SETTLEMENT OF CLAIMS.**—Paragraph (1) shall not apply to the sale or transfer by the Corporation of any asset of any insured depository institution to any individual if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of—

“(A) 1 or more claims that have been, or could have been, asserted by the Corporation against the individual; or

“(B) obligations owed by the individual to any insured depository institution, the FSLIC Resolution Fund, the Resolution Trust Corporation, or the Corporation.”.

(b) **INSURED CREDIT UNIONS.**—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end the following new subsection:

“(q) **PROHIBITION ON CERTAIN ACQUISITIONS OF ASSETS.**—

“(1) **CONVICTED DEBTORS.**—Except as provided in paragraph

(2), any individual who—

“(A) has been convicted of an offense under section 215, 657, 1006, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, or of conspiring to commit any such offense, affecting any insured credit union for which the Board is appointed conservator or liquidating agent; and

“(B) is in default on any loan or other extension of credit from such insured credit union which, if not paid, will cause substantial loss to the credit union, the National Credit Union Share Insurance Fund, or the Board, may not purchase any asset of such credit union from the conservator or liquidating agent.

“(2) **SETTLEMENT OF CLAIMS.**—Paragraph (1) shall not apply to the sale or transfer by the Board of any asset of any insured credit union to any individual if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of—

“(A) 1 or more claims that have been, or could have been, asserted by the Board against the individual; or

“(B) obligations owed by the individual to the insured credit union or the Board.”

(c) **LIMITATION ON RTC ASSET SALES.**—Section 21A(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(f)) is amended to read as follows:

“(f) **LIMITATION ON CERTAIN CORPORATION ACTIVITIES.**—

“(1) **CERTAIN SALES PROHIBITED.**—The Corporation shall prescribe regulations to prohibit the sale of assets of a failed institution by the Corporation to any person who—

“(A)(i) has defaulted, or was a member of a partnership or an officer or director of a corporation which has defaulted, on 1 or more obligations the aggregate amount of which exceed \$1,000,000 to such failed institution;

“(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

“(iii) proposes to purchase any such asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any institution subject to the jurisdiction of the Corporation pursuant to paragraph (3)(A);

“(B) participated, as an officer or director of such failed institution or of any affiliate of such institution, in a material way in transactions that resulted in a substantial loss to such failed institution;

“(C) has been removed from, or prohibited from participating in the affairs of, such failed institution pursuant to any final enforcement action by an appropriate Federal banking agency; or

“(D) has demonstrated a pattern or practice of defalcation regarding obligations to such failed institution.

“(2) **SETTLEMENT OF CLAIMS; DEFINITIONS.**—

“(A) **SETTLEMENT OF CLAIMS.**—Nothing in this subsection shall prohibit the Corporation from selling or otherwise

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transferring any asset to any person if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of obligations owed by the person to the failed institution or the Corporation.

“(B) DEFINITIONS.—For purposes of paragraph (1)—

“(i) DEFAULT.—The term ‘default’ means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon.

“(ii) AFFILIATE.—The term ‘affiliate’ has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.”

#### SEC. 2527. EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.

(a) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (p) (as added by section 2526 of this title) the following new subsection:

“(q) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

“(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured depository institution’s director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution shall be filed not later than 30 days after the date of entry of the order. The hearing of the appeal shall be decided not later than 120 days after the date of the notice of appeal. The appeal shall be decided not later than 180 days after the date of the notice of appeal.

“(2) SCHEDULING.—Consistent with section 1657 of title 18, United States Code, a court of the United States shall expedite the consideration of any case brought by the Corporation against an insured depository institution’s director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution. As far as practicable the court shall give such case priority on its docket.

“(3) JUDICIAL DISCRETION.—The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.”

(b) CONFORMING AMENDMENT.—Section 1657 of title 18, United States Code, is amended by inserting “section 11, 12, or 13 of the Federal Deposit Insurance Act” after “consideration of any action brought under”.

#### SEC. 2528. FRAUDULENT CONVEYANCES AVOIDABLE BY CONSERVATORS AND RECEIVERS.

(a) INSURED DEPOSITORY INSTITUTIONS OTHER THAN INSURED CREDIT UNIONS.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraph:

“(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, as conservator or receiver for any insured depository institution, and any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision may avoid a transfer of any interest of an institution-affiliated party, or any person who the Corporation or conservator determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation or conservator was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured depository institution, the Corporation or other conservator, or any other appropriate Federal banking agency.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation or any conservator described in such subparagraph may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEE OR OBLIGEE.—The Corporation or any conservator described in subparagraph (A) may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights under this paragraph of the Corporation and any conservator described in subparagraph (A) shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code."

(b) INSURED CREDIT UNIONS.—Section 207(b) of the Federal Credit Union Act (12 U.S.C. 1787(b)) is amended by adding at the end the following new paragraph:

"(16) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Board, as conservator or liquidating agent for any insured credit union, may avoid a transfer of any interest of an institution-affiliated party, or any person who the Board determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Board becomes conservator or liquidating agent if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured credit union or the Board.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Board may recover,

for the benefit of the insured credit union, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

“(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

“(ii) any immediate or mediate transferee of any such initial transferee.

“(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Board may not recover under subparagraph (B) from—

“(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

“(ii) any immediate or mediate good faith transferee of such transferee.

“(D) RIGHTS UNDER THIS PARAGRAPH.—The rights of the Board under this paragraph shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.”.

## Subtitle C—Improved Procedures for Handling Banking-Related Cases

### SEC. 2531. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in paragraph (1)(c)—

(A) by inserting “section 215 (relating to bribery of bank officials),” before “section 224”;

(B) by inserting “section 1014 (relating to loans and credit applications generally; renewals and discounts),” before “sections 1503,”;

(C) by inserting “section 1032 (relating to concealment of assets),” before “section 1084”;

(D) by inserting “section 1344 (relating to bank fraud),” before “sections 2251 and 2252”; and

(E) by striking “the section in chapter 65 relating to destruction of an energy facility,”; and

(2) in paragraph (1)—

(A) by striking the 1st subparagraph which is designated as “(m)”;

(B) by striking “and” at the end of the 2d subparagraph designated as “(m)” (as determined before the amendment made by subparagraph (A) of this paragraph);

(C) by striking the period at the end of subparagraph (n) and inserting “; and”;

(D) by adding at the end the following new subparagraph:

“(o) any conspiracy to commit any offense described in any subparagraph of this paragraph.”; and

(3) in paragraph (1)(j), by striking “any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code” and inserting “any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or subsection

(i) or (n) of section 902 of the Federal Aviation Act of 1958 (relating to aircraft piracy)".

**SEC. 2532. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.**

(a) **APPROPRIATE FEDERAL BANKING AGENCIES, GENERALLY.**—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) **FOREIGN INVESTIGATIONS.**—

"(1) **REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.**—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) **PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.**—

"(A) **IN GENERAL.**—Any appropriate Federal banking agency may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

"(B) **INVESTIGATION BY FEDERAL BANKING AGENCY.**—Any appropriate Federal banking agency may, in such agency's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) **FACTORS TO CONSIDER.**—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) **TREATMENT OF FOREIGN BANKING AUTHORITY.**—For purposes of any Federal law or appropriate Federal banking agency regulation relating to the collection or transfer of information by any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) **RULE OF CONSTRUCTION.**—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter."

(b) **FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.**—Section 11 of the Federal Deposit Insurance Act (12

U.S.C. 1821) is amended by inserting after subsection (q) (as added by section 2527 of this Act) the following new subsection:

“(r) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

“(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

“(2) may each maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.”

(c) NATIONAL CREDIT UNION ADMINISTRATION, GENERALLY.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after subsection (t) (as added by section 2503(b) of this Act) the following new subsection:

“(u) FOREIGN INVESTIGATIONS.—

“(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the Board may—

“(A) request the assistance of any foreign banking authority; and

“(B) maintain an office outside the United States.

“(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

“(A) IN GENERAL.—The Board may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

“(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The Board may, in the Board's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the Board.

“(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the Board shall consider—

“(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of the Board or any appropriate Federal banking agency; and

“(ii) whether compliance with the request would prejudice the public interest of the United States.

“(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or Board regulation relating to the collection or transfer of information by the Board or any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

“(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of the Board or any other

Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.”.

(d) **FOREIGN INVESTIGATIONS BY BOARD AS CONSERVATOR OR LIQUIDATING AGENT.**—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by inserting after subsection (q) (as added by section 2526(b) of this Act) the following new subsection:

“(r) **FOREIGN INVESTIGATIONS.**—The Board, as conservator or liquidating agent of any insured credit union and for purposes of carrying out any power, authority, or duty with respect to an insured credit union—

“(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 206(u); and

“(2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.”.

**SEC. 2533. EXTENSION OF STATUTE OF LIMITATIONS FOR CIVIL PENALTIES.**

Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended by adding at the end the following:

“(g) **STATUTE OF LIMITATIONS.**—A civil action under this section may not be commenced later than 10 years after the cause of action accrues.”.

**SEC. 2534. CLARIFICATION OF SUBPOENA AUTHORITY FOR FDIC, RTC, AND NCUA ACTING AS CONSERVATOR, RECEIVER, OR LIQUIDATING AGENT.**

(a) **FDIC AND RTC AUTHORITY.**—Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

“(I) **SUBPOENA AUTHORITY.**—

“(i) **IN GENERAL.**—The Corporation may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution), exercise any power established under section 8(n), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

“(ii) **AUTHORITY OF BOARD OF DIRECTORS.**—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board of Directors or their designees (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by, or with the written approval of, the Board of Directors of such Corporation or their designees).

“(iii) **RULE OF CONSTRUCTION.**—This subsection shall not be construed as limiting any rights that the Cor-



poration, in any capacity, might otherwise have under section 10(c) of this Act.”.

(b) **NCUA AUTHORITY.**—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (I) (as so redesignated by section 202(b) of this Act) as subparagraph (J) and by inserting after subparagraph (H) (as added by such section) the following new subparagraph:

“(I) **SUBPOENA AUTHORITY.**—

“(i) **IN GENERAL.**—The Board may, as conservator or liquidating agent and for purposes of carrying out any power, authority, or duty with respect to an insured credit union (including determining any claim against the credit union and determining and realizing upon any asset of any person in the course of collecting money due the credit union), exercise any power established under section 206(p), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

“(ii) **AUTHORITY OF BOARD.**—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board or their designees.

“(iii) **RULE OF CONSTRUCTION.**—This subsection shall not be construed as limiting any rights that the Board, in any capacity, might otherwise have under section 206(p).”.

## Subtitle D—Structural Reforms to Improve the Federal Response to Crimes Affecting Financial Institutions

### SEC. 2536. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

28 USC 509 note.

(a) **ESTABLISHMENT.**—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel (hereafter in this title referred to as the “Special Counsel”).

(b) **RESPONSIBILITY.**—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) **SUNSET.**—The provisions of this section shall cease to apply at the end of the 5-year period beginning on the date of the enactment of this Act.

### SEC. 2537. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

28 USC 509 note.

(a) **APPOINTMENT.**—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) **RESPONSIBILITIES.**—The Special Counsel shall—

(1) supervise and coordinate investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry, including, to the extent consistent with the independent counsel

provision of chapter 40 of title 28, United States Code, any such activity by any current or former elected official or high-level executive branch official or any member of the immediate family of any such official;

(2) ensure that Federal law relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensure that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) **COMPENSATION.**—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

28 USC 509 note. **SEC. 2538. ASSIGNMENT OF PERSONNEL.**

There shall be assigned to the Financial Institutions Fraud Unit such personnel as the Attorney General deems necessary to provide an appropriate level of enforcement activity in the area of fraud and other criminal activity in and against the financial services industry.

28 USC 509 note. **SEC. 2539. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.**

(a) **ESTABLISHMENT.**—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available to investigate and prosecute crimes in or against financial institutions and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) **SUPERVISION.**—The Attorney General shall determine how each task force shall be supervised and may provide for the supervision of any task force by the Special Counsel.

(c) **SENIOR INTERAGENCY GROUP.**—

(1) **ESTABLISHMENT.**—The Attorney General shall establish a senior interagency group to assist in identifying the most significant financial institution fraud cases and in allocating investigative and prosecutorial resources where they are most needed.

(2) **MEMBERSHIP.**—The senior interagency group shall be chaired by the Special Counsel and shall include senior officials from—

(A) the Department of Justice, including representatives of the Federal Bureau of Investigation, the Advisory Committee of United States Attorneys, and other relevant entities;

(B) the Department of the Treasury;

(C) the Office of Thrift Supervision;

(D) the Resolution Trust Corporation;

(E) the Federal Deposit Insurance Corporation;

(F) the Office of the Comptroller of the Currency;

(G) the Board of Governors of the Federal Reserve System; and

(H) the National Credit Union Administration.

(3) **DUTIES.**—This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

## SEC. 2540. RTC ENFORCEMENT DIVISION.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end thereof the following new subparagraph:

“(G) The Corporation shall maintain an executive-level position and dedicated staff to assist and advise the Corporation and other agencies in pursuing cases, civil claims, and administrative enforcement actions against institution-affiliated parties of insured depository institutions under the jurisdiction of the Corporation. These personnel shall have such duties as the Corporation establishes, including the duty to compile and publish a report to the Congress on the coordinated pursuit of claims by all Federal financial institution regulatory agencies, including the Department of Justice and the Securities and Exchange Commission. The report shall be published before December 31, 1990 and updated semiannually after such date.”

Reports.

## Subtitle E—Reporting Requirements

## SEC. 2546. REPORTING REQUIREMENTS.

28 USC 522 note.

## (a) IN GENERAL.—

(1) DATA COLLECTION.—The Attorney General shall compile and collect data concerning—

(A) the nature and number of civil and criminal investigations, prosecutions, and related proceedings, and civil enforcement and recovery proceedings, in progress with respect to banking law offenses under sections 981, 1008, 1032, and 3322(d) of title 18, United States Code, and section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and conspiracies to commit any such offense, including inactive investigations of such offenses;

(B) the number of—

(i) investigations, prosecutions, and related proceedings described in subparagraph (A) which are inactive as of the close of the reporting period but have not been closed or declined; and

(ii) unaddressed referrals which allege criminal misconduct involving offenses described in subparagraph (A),

and the reasons such matters are inactive and the referrals unaddressed;

(C) the nature and number of such matters closed, settled, or litigated to conclusion; and

(D) the results achieved, including convictions and pre-trial diversions, fines and penalties levied, restitution assessed and collected, and damages recovered, in such matters.

(2) ANALYSIS AND REPORT.—The Attorney General shall analyze and report to the Congress on the data described in paragraph (1) and its coordination and other related activities named in section 2539(c)(2) and shall provide such report on the data monthly through December 31, 1991, and quarterly after such date.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

- (1) categorize data as to various types of financial institutions and appropriate dollar loss categories;
- (2) disclose data for each Federal judicial district;
- (3) describe the activities of the Financial Institution Fraud Unit; and
- (4) list—

(A) the number of institutions, categorized by failed and open institutions, in which evidence of significant fraud, unlawful activity, insider abuse or serious misconduct has been alleged or detected;

(B) civil, criminal, and administrative enforcement actions, including those of the Federal financial institutions regulatory agencies, brought against offenders;

(C) any settlements or judgments obtained against offenders;

(D) indictments, guilty pleas, or verdicts obtained against offenders; and

(E) the resources allocated in pursuit of investigations, prosecutions, and sentencing (including indictments, guilty pleas, or verdicts obtained against offenders) and related proceedings.

Public  
information.

#### SEC. 2547. CIVIL DISCLOSURE.

(a) PROVISIONS APPLICABLE TO FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended to read as follows:

“(u) PUBLIC DISCLOSURES OF FINAL ORDERS AND AGREEMENTS.—

“(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public on a monthly basis—

“(A) any written agreement or other written statement for which a violation may be enforced by the appropriate Federal banking agency, unless the appropriate Federal banking agency, in its discretion, determines that publication would be contrary to the public interest;

“(B) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other law; and

“(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

“(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by a Federal banking agency shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

“(3) REPORTS TO CONGRESS.—A written report shall be made part of a determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Congress.

“(4) TRANSCRIPT OF HEARING.—A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to subsection (i). A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

"(5) **DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.**—If the appropriate Federal banking agency makes a determination in writing that the publication of a final order pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document for a reasonable time.

"(6) **DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.**—The appropriate Federal banking agency may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2).

"(7) **RETENTION OF DOCUMENTS.**—Each Federal banking agency shall keep and maintain a record, for a period of at least 6 years, of all documents described in paragraph (1) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceeding initiated by such agency under this section or any other laws.

"(8) **DISCLOSURES TO CONGRESS.**—No provision of this subsection may be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee of the Congress."

(2) **PUBLIC HEARINGS.**—Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by striking "Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest."

(3) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply with respect to all written agreements which are entered into and all written statements which become effective after the date of the enactment of this Act.

(b) **AMENDMENT OF FEDERAL CREDIT UNION ACT.**—

(1) **IN GENERAL.**—Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended to read as follows:

"(s) **PUBLIC DISCLOSURE OF AGENCY ACTION.**—

"(1) **IN GENERAL.**—The Board shall publish and make available to the public on a monthly basis—

"(A) any written agreement or other written statement for which a violation may be enforced by the Board, unless the Board, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by the Board under this section or any other law; and

"(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

"(2) **HEARINGS.**—All hearings on the record with respect to any notice of charges issued by the Board shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

12 USC 1818  
note.

"(3) **REPORTS TO CONGRESS.**—A written report shall be made part of a determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Congress.

"(4) **TRANSCRIPT OF HEARING.**—A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to subsection (k). A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

"(5) **DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.**—If the Board makes a determination in writing that the publication of a final order pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document for a reasonable time.

"(6) **DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.**—The Board may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2).

"(7) **RETENTION OF DOCUMENTS.**—The Board shall keep and maintain a record, for a period of at least 6 years, of all documents described in paragraph (1) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceeding initiated by such agency under this section or any other laws.

"(8) **DISCLOSURES TO CONGRESS.**—No provision of this subsection may be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee of the Congress."

(2) **PUBLIC HEARING.**—Section 206(j)(1) of the Federal Credit Union Act (12 U.S.C. 1786(j)(1)) is amended by striking "Such hearing shall be private, unless the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest."

**SEC. 2548. REPORT ON COURT BUSINESS IMPACT OF SAVINGS AND LOAN CRISIS.**

Section 604(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(24) Lay before Congress, annually, statistical tables that will accurately reflect the business imposed on the Federal courts by the savings and loan crisis."

Reports.



## **Subtitle F—National Commission on Financial Institution Reform, Recovery, and Enforcement**

### **SEC. 2551. ESTABLISHMENT.**

There is hereby established a commission to be known as the National Commission on Financial Institution Reform, Recovery, and Enforcement (hereafter in this title referred to as the "Commission").

### **SEC. 2552. DUTIES OF THE COMMISSION.**

The Commission shall—

(1) examine and identify the origin and causes of the problems in the savings and loan industry that led to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including consideration of the role of—

(A) State and Federal regulation of savings and loan associations, including capital and accounting standards;

(B) supervision of, and supervisory resources allocated to, savings and loan associations by, or under the authority of, State and Federal Governments;

(C) State and Federal statutes concerning savings and loan associations, including asset powers legislation;

(D) macroeconomic changes and regional recessions;

(E) competitive factors;

(F) unprecedented fraud and abuse by persons in or connected with savings and loan associations; and

(G) deposit insurance, including changes in the amount insured and in technology;

(2) recommend, on the basis of the Commission's examination and investigations under this section, further legislative, regulatory, supervisory, and other administrative changes that will—

(A) improve the safety and soundness of depository associations, the Federal deposit insurance funds, and other Federal insurance programs;

(B) facilitate civil and criminal enforcement actions concerning financial institutions; and

(C) prevent the recurrence of the problems identified in the savings and loan industry; and

(3) recommend any other reforms which the Commission determines to be appropriate.

### **SEC. 2553. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 8 members appointed as follows:

(1) 2 individuals appointed by the President.

(2) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of

whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) **ELIGIBILITY.**—No member, officer, or employee of the executive, legislative, or judicial branch of the Federal Government or of any State or local government may be a member of the Commission.

(c) **TERMS.**—

(1) **IN GENERAL.**—Each member shall be appointed for the life of the Commission.

(2) **VACANCY.**—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) **PROHIBITION ON COMPENSATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) **TRAVEL EXPENSES.**—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) **QUORUM.**—5 members of the Commission shall constitute a quorum but 3 members may hold hearings.

(f) **CHAIRPERSON.**—The Chairperson of the Commission shall be elected by the Commission from among its members.

(g) **MEETINGS.**—The Commission shall meet at the call of the Chairperson or of 5 members of the Commission.

(h) **PROXY VOTING.**—Members of the Commission may vote by proxy.

#### SEC. 2554. POWERS OF COMMISSION; HEARINGS AND SESSIONS.

(a) **IN GENERAL.**—The Commission may, for the purposes of carrying out this subtitle, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) **WITNESSES; ADMINISTRATION OF OATHS.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and, in the case of a subpoena, to subsection (c), the Commission may call witnesses and administer oaths or affirmations to witnesses appearing before the Commission.

(2) **COORDINATION OF CERTAIN TESTIMONY AND EVIDENCE.**—(A) In any case where the Commission intends to call a witness or receive evidence (including a witness or evidence to be subpoenaed in accordance with subsection (c)) to provide testimony concerning a specific savings and loan association or the role of any person in connection therewith, the Commission shall, in writing not less than 21 days prior to the taking of such testimony or receiving such evidence, provide the Attorney General, the Director of the Office of Thrift Supervision, and the Chairperson of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation with—

(i) the name of the savings and loan association involved;

(ii) the date and location of the testimony or the receipt of evidence; and

(iii) as appropriate, the name of the witness and a specific identification of the subject matter about which such witness is to testify or provide evidence, or the specific nature of the evidence to be received.

(B) If the Attorney General, the Director of the Office of Thrift Supervision, or the Chairperson of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation determines that taking such testimony or receiving such evi-

dence (including witnesses or evidence to be subpoenaed in accordance with subsection (c)) would impair, impede, or compromise the investigation, prosecution, or adjudication of a criminal, civil, or administrative matter or proceeding, the Attorney General, the Director, or the Chairperson shall promptly notify the Commission of that determination.

(C) The Commission shall decide whether to proceed to call a witness or to receive evidence after considering any determination under subparagraph (B)—

(i) on the basis of the Commission's determination that taking such testimony or receiving such evidence is specifically necessary to carry out the duties of the Commission; and

(ii) upon an affirmative vote of not fewer than 5 members of the Commission (or not fewer than 6 members of the Commission in the case of a witness or evidence to be subpoenaed).

(D) The Commission shall notify the official who made the determination under subparagraph (B) of the Commission's determination under subparagraph (C).

(c) SUBPOENA POWER.—

(1) ADMINISTRATIVE ASPECTS OF SUBPOENA.—

(A) ATTENDANCE OR PRODUCTION AT DESIGNATED SITE.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FEES AND TRAVEL EXPENSES.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) NO LIABILITY FOR OTHER EXPENSES.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(2) FAILURE TO OBEY A SUBPOENA.—

(A) APPLICATION TO COURT.—If a person refuses to obey a subpoena issued under this subsection, the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) JURISDICTION OF COURT.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) **INTERIM REPORT.**—Not later than 60 days after the date of the enactment of this Act, the Commission may submit a report to the Congress concerning the ability of the Commission to obtain information and evidence necessary to carry out its duties under this subtitle and including such recommendations concerning additional authority as the Commission deems appropriate.

(f) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission administrative support services on a reimbursable basis.

(g) **POWERS OF MEMBERS AND AGENTS.**—Except for actions that require a vote of the Commission, any member or agent authorized by the Commission may take any action the Commission may take.

#### SEC. 2555. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) **STAFF.**—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) **EXPERTS AND CONSULTANTS.**—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

#### SEC. 2556. REPORT.

(a) **REPORT REQUIRED.**—The Commission shall submit a final report to the President and the Congress not later than 9 months after the election of the Chairperson under section 3(f).

(b) **CONTENTS.**—The final report shall, consistent with the duties of the Commission set forth in section 2562 of this title, contain a detailed statement of the findings, conclusions, and recommendations of the Commission.

#### SEC. 2557. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by section 2566(a) of this Act.

#### SEC. 2558. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed \$1,000,000 to carry out the purposes of this Act.

## Subtitle G—Authorizations

### SEC. 2559. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

(a) **ADDITIONAL APPROPRIATION FOR DEPARTMENT OF JUSTICE.**—Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

“(a) **IN GENERAL.**—

“(1) **AUTHORIZATION.**—There is authorized to be appropriated to the Attorney General, without fiscal year limitation, \$162,500,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.

“(2) **ALLOCATIONS.**—With respect to fiscal years 1991 and 1992, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

“(A) Federal Bureau of Investigation: \$78,300,000.

“(B) The offices of the United States attorneys: \$65,000,000.

“(C) The criminal division of the Department of Justice: \$8,800,000.

“(D) The civil division of the Department of Justice: \$7,000,000.

“(E) The tax division of the Department of Justice: \$3,400,000.”

(b) **ADDITIONAL APPROPRIATIONS FOR THE INTERNAL REVENUE SERVICE.**—There is authorized to be appropriated to the Internal Revenue Service, Department of the Treasury, \$16,000,000 for fiscal year 1991 for investigation of violations of the Internal Revenue Code of 1986, and related statutes, involving insured depository institutions.

(c) **ADDITIONAL FUNDS FOR THE FEDERAL JUDICIARY.**—Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

#### “SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.

“(a) **IN GENERAL.**—There are authorized to be appropriated to the Federal court system \$25,000,000 for fiscal year 1991 and \$28,000,000 for each of fiscal years 1992 and 1993 to carry out such system's duties under this Act.”

## Subtitle H—Actions Against Persons Committing Bank Fraud Crimes

### SEC. 2560. SHORT TITLE.

This subtitle may be cited as the “Financial Institutions Anti-Fraud Enforcement Act of 1990”.

Financial  
Institutions  
Anti-Fraud  
Enforcement  
Act of 1990.  
12 USC 4201  
note.

**CHAPTER 1—DECLARATIONS PROVIDING NEW CLAIMS TO  
THE UNITED STATES****12 USC 4201. SEC. 2561. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS.**

(a) **IN GENERAL.**—Any person may file a declaration of a violation giving rise to an action for civil penalties under section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(b) **PLACE OF FILING.**—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by the Attorney General for receiving declarations under this section.

**12 USC 4202. SEC. 2562. CONTENTS OF DECLARATIONS.**

A declaration filed pursuant to section 2561 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts, relating to a particular transaction or transactions, which constitute a prima facie case of a violation giving rise to an action for civil penalties under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States;

(3) contain at least 1 new factual element necessary to establish a prima facie case that was unknown to the Government at the time of filing; and

(4) set forth all facts supporting the allegation of a violation described in paragraph (2) known to the declarant, along with the names of material witnesses and the nature and location of documentary evidence known to the declarant.

**12 USC 4203. SEC. 2563. CONFIDENTIALITY OF DECLARATIONS.**

(a) **PERIOD OF CONFIDENTIALITY.**—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 2561 until—

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 2566(b);

(2) the declarant receives notice of an award pursuant to section 2566(c); or

(3) the declarant is granted a contract to pursue an action under section 2565(b) or 2567.

(b) **MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.**—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is



required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) **LOSS OF RIGHTS.**—A declarant who discloses, except as provided by this title, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

**SEC. 2564. INELIGIBILITY TO FILE VALID DECLARATIONS.**

12 USC 4204.

(a) **IN GENERAL.**—A declaration filed pursuant to section 811 and in accordance with sections 2562 and 2563 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18, United States Code, or any of the sections of title 18, United States Code, referred to in section 951(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(u)) who withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) **DEFINITION.**—For the purposes of subsection (a)(5), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) **NOTICE OF INVALIDITY.**—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 2562, or that a declaration has been disclosed in violation of section 2563, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 2565 or 2566.

12 USC 4205.

## SEC. 2565. RIGHTS OF DECLARANTS; PARTICIPATION IN ACTIONS, AWARDS.

(a) **IN GENERAL.**—A person who has filed a declaration that meets the requirements of sections 2561 through 2564 shall have the rights stated in this section.

(b) **CIVIL ACTION.**—If the Attorney General determines that a cause of action referred to in section 2561 based on the declaration should be referred to private counsel pursuant to chapter 4, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) **CRIMINAL CONVICTION.**—(1) When the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section 2561, the declarant shall have the right to receive not less than \$5,000 and not more than \$100,000, any such award to be paid from the Financial Institution Information Award Fund established under section 2569.

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government's case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

(G) the extent to which other sources of private information were relied upon; and

(H) the hardship to the declarant and any expenses the declarant incurred in preparing the declaration.

(d) **SHARE OF FUNDS AND ASSETS.**—(1) When the United States acquires funds or assets pursuant to the execution of a judgment, order, or settlement and the Attorney General determines that the judgment, order, or settlement was based in whole or in part on the information contained in a valid declaration filed under section 2561, the declarant shall have the right to share in the recovery as follows:

(A)(i) The declarant shall be entitled to 20 percent to 30 percent of any recovery up to the first \$1,000,000 recovered, 10 percent to 20 percent of the next \$4,000,000 recovered, and 5 percent to 10 percent of the next \$5,000,000 recovered.

(ii) In calculating an award under clause (i), the Attorney General may consider the size of the overall recovery and the usefulness of the information provided by the declarant.

(B) When a declarant has received an award under subsection (c), the Attorney General may subtract the amount of that reward from any recovery under this subsection.

(2)(A) When more than 1 declarant has provided information leading to a recovery under this subsection, the Attorney General shall first calculate the size of the total award under paragraph (1)(A) and then distribute that amount according to the contribution made by each declarant.

(B) In distributing any such award between 2 or more declarants, the Attorney General may, in the Attorney General's discretion, consider any appropriate factor.

(e) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.

(f) APPROPRIATE FEDERAL BANKING AGENCY EXCEPTION.—For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgment, order or settlement.

SEC. 2566. RIGHTS OF DECLARANTS; NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY. 12 USC 4206.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 2561 through 2564 shall have the rights stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a civil or criminal proceeding, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) JUDGMENT, ORDER, OR SETTLEMENT.—(1) When the United States obtains a judgment, order, or settlement based in whole or in part on a valid declaration filed under section 2561, the Attorney General shall notify the declarant in writing of such fact.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under subsection (c) or (d) of section 2565 upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—If the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 2564 within the time period set forth in subsection (e), the Attorney General shall notify the declarant in writing that—

- (1) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or
- (2) the declarant's allegations have not yet been addressed.

(e) **TIME FOR NOTICES.**—(1) In the case of a valid declaration filed not more than 3 years after the date of enactment of this Act, the Attorney General shall send notification to a declarant pursuant to subsection (d) not later than 3 years after the date of filing of the declaration.

(2)(A) Subject to subparagraph (B), in the case of a declaration filed more than 3 years after the date of enactment of this Act, the Attorney General shall send notification not later than 1 year after the date of filing of the declaration.

(B) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(f) **CONFIDENTIALITY OF NOTICES.**—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 2563.

12 USC 4207.

**SEC. 2567. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR.**

(a) **NOTIFICATION.**—(1) If, pursuant to section 2566(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 2566(d)(2), and the Attorney General shall respond to the notification not later than 30 days after receipt.

(b) **CONTENTS OF RESPONSE.**—In response to a notification under subsection (a)(1), the Attorney General shall—

- (1) grant a contract pursuant to chapter 4; or
- (2) proceed with an action.

(c) **GRANT OF CONTRACT.**—If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

12 USC 4208.

**SEC. 2568. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.**

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 2566.

12 USC 4209.

**SEC. 2569. FINANCIAL INSTITUTION INFORMATION AWARD FUND.**

(a) **ESTABLISHMENT.**—There is established in the United States Treasury a special fund to be known as the Financial Institution Information Award Fund (referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation to pay awards to declarants pursuant to section 2565(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Fund such funds as are necessary to maintain the Fund at a level not to exceed \$5,000,000.

**SEC. 2570. SOURCES OF PAYMENTS TO DECLARANTS.**

12 USC 4210.

Notwithstanding any other law, an award under this title may be paid to a declarant, or to an individual providing information, from the amounts recovered through civil actions based in whole or in part on the information provided in a valid declaration under this title.

**SEC. 2571. GOVERNMENT ACCOUNTABILITY; PUBLIC REPORTS ON PROCESSING OF DECLARATIONS.** 12 USC 4211.

(a) **IN GENERAL.**—In addition to the written statements of reasons provided individual declarants under section 2566, on the date that is 6 months after the date of enactment of this Act, and at the end of each 6-month period thereafter during which this chapter is in effect, the Attorney General shall compile a public report on the processing of declarations under this chapter.

(b) **CONTENTS OF REPORT.**—The report required by subsection (a) shall state—

(1) the number of declarations filed within the relevant period;

(2) the number of declarations found invalid under sections 2562, 2563, and 2564;

(3) the number of valid declarations processed and their present status, including whether or not they have been reviewed and if they have been reviewed what determination was reached;

(4) the number and amounts of all rewards paid to declarants under this chapter; and

(5) the number of convictions attributable in whole or in part to valid declarations filed under this chapter and the number and dollar amounts of all monetary recoveries, criminal or civil, attributable in whole or in part to valid declarations filed under this chapter.

(c) **CONFIDENTIALITY.**—Notwithstanding any other law, in compiling the report required by subsection (a), the Attorney General may take all steps necessary to guard against the disclosure of any information that could in any way prejudice a current criminal or civil investigation or proceeding.

**SEC. 2572. PROTECTION FOR DECLARANTS.**

12 USC 4212.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

**SEC. 2573. PROMULGATION OF REGULATIONS.**

12 USC 4213.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

**CHAPTER 2—DECLARATIONS PROVIDING THE UNITED STATES WITH NEW INFORMATION CONCERNING THE RECOVERY OF ASSETS****SEC. 2576. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS IDENTIFYING SPECIFIC ASSETS.** 12 USC 4221.

(a) **IN GENERAL.**—After the United States obtains a final judgment or settlement in any action referred to in section 2561, any person may file a declaration identifying specific assets which might be



recovered by the United States in satisfaction of that judgment or settlement.

(b) **PLACE OF FILING.**—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by him for receiving declarations under this section.

12 USC 4222.

#### SEC. 2577. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 2576 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts indicating the nature, location, and approximate dollar value of the asset or assets and the names of all persons known to the declarant to have possession, custody, or control of the asset or assets; and

(3) allege under oath or affirmation specific facts that establish a prima facie case showing that the asset is legally subject to attachment, garnishment, sequestration, or other proceeding in satisfaction of the judgment referred to in section 2576.

12 USC 4223.

#### SEC. 2578. CONFIDENTIALITY OF DECLARATIONS.

(a) **PERIOD OF CONFIDENTIALITY.**—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 2576 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 2581(b);

(2) the declarant receives notice of an award pursuant to section 2581(c); or

(3) the declarant is granted a contract to pursue an action under section 2580(b) or 2582.

(b) **MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.**—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) **LOSS OF RIGHTS.**—A declarant who discloses, except as provided by this chapter, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

12 USC 4224.

#### SEC. 2579. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) **IN GENERAL.**—A declaration filed pursuant to section 2576 and in accordance with sections 2577 and 2578 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;



(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18, United States Code, or any of the sections of title 18, United States Code, referred to in section 2561, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) who withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration identifies an asset or assets the nature, location, or possible recovery of which has been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) **DEFINITION.**—For the purposes of subsection (a)(5), the term “original source” means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) **NOTICE OF INVALIDITY.**—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 2577, or that a declaration has been disclosed in violation of section 2578, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 2580 or 2581.

**SEC. 2580. RIGHTS OF DECLARANTS; PARTICIPATION IN ACTIONS, AWARDS.** 12 USC 4225.

(a) **IN GENERAL.**—A person who has filed a declaration that meets the requirements of sections 2576 through 2579 shall have the rights stated in this section.

(b) **CIVIL ACTION.**—If the Attorney General determines that a proceeding to recover the asset or assets identified in the declaration should be referred to private counsel pursuant to chapter 4, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant’s counsel shall act in accordance with chapter 4.

(c) **SHARE OF ASSETS.**—When the United States recovers any asset or assets specifically identified in a valid declaration filed under section 2576 and the Attorney General determines that the asset or assets would not have been recovered if the declaration had not been filed, the declarant shall have the right to share in the recovery in the amount of 20 percent to 30 percent of any recovery up to the first \$1,000,000 recovered, 10 percent to 20 percent of the next \$4,000,000 recovered, and 5 percent to 10 percent of the next \$5,000,000 recovered.

(d) **PROHIBITION OF DOUBLE AWARDS.**—(1) No person shall receive both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.

(e) **APPROPRIATE FEDERAL BANKING AGENCY EXCEPTION.**—For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgement, order, or settlement.

12 USC 4226.

**SEC. 2581. RIGHTS OF DECLARANTS; NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.**

(a) **IN GENERAL.**—A person who has filed a declaration that meets the requirements of sections 2576 through 2579 shall have the rights stated in this section.

(b) **NOTICE OF DECISION NOT TO PURSUE.**—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) **JUDGMENT, ORDER, OR SETTLEMENT.**—(1) When the United States obtains a final judgment, order, or settlement transferring to the United States title to an asset or assets identified in a valid declaration filed under section 831, the Attorney General shall notify the declarant in writing of the entry of the judgment, order, or settlement.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 2580(c) upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

(d) **NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.**—(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 2579 within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(e) **CONFIDENTIALITY OF NOTICES.**—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 2578.

**SEC. 2582. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR.** 12 USC 4227.

(a) **NOTIFICATION.**—(1) If, pursuant to section 2581(d)(1)(B), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 2581(d)(1)(B), and the Attorney General shall respond to the notification not later than 30 days after receipt.

(b) **CONTENTS OF RESPONSE.**—In response to a notification under subsection (a)(1), the Attorney General shall—

- (1) grant a contract pursuant to chapter 4; or
- (2) proceed with an action.

(c) **GRANT OF CONTRACT.**—If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

**SEC. 2583. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.** 12 USC 4228.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 2581.

**SEC. 2584. PROTECTION FOR DECLARANTS.** 12 USC 4229.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

**SEC. 2585. PROMULGATION OF REGULATIONS.** 12 USC 4230.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

**CHAPTER 3—REWARDS FOR INFORMATION LEADING TO RECOVERIES, CIVIL PENALTIES, OR PROSECUTIONS**

**SEC. 2586. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.**

Section 34(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)) is amended—

- (1) in paragraph (1) by striking “, in an amount that exceeds \$50,000,”; and
- (2) by amending paragraph (2) to read as follows:
 

“(2) a forfeiture under section 981 or 982 of title 18, United States Code, that arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation”.

## SEC. 2587. REWARD FOR INFORMATION LEADING TO POSSIBLE PROSECUTION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3059 the following new section:

**“§ 3059A. Special rewards for information relating to certain financial institution offenses**

“(a)(1) In special circumstances and in the Attorney General’s sole discretion, the Attorney General may make payments to persons who furnish information unknown to the Government relating to a possible prosecution under section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1032, 1341, 1343, or 1344 of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States, or to a possible prosecution for conspiracy to commit such an offense.

“(2) The amount of a payment under paragraph (1) shall not exceed \$50,000 and shall be paid from the Financial Institution Information Award Fund established under section 2569 of the Financial Institutions Anti-Fraud Enforcement Act of 1990.

“(b) A person is not eligible for a payment under this subsection (a) if—

“(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of his government employment;

“(2) the furnished information consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, from any other government source, or from the news media unless the person is the original source of the information;

“(3) the person is an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(u)) which withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) who such party owed a fiduciary duty to disclose;

“(4) the person is a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

“(5) the person knowingly participated in the violation of the section with respect to which the payment would be made.

“(c) For the purposes of this subsection (b)(2), the term ‘original source’ means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government prior to the disclosure.

“(d) Neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

“(e)(1) A person who—

“(A) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and

conditions of employment by an employer because of lawful acts done by the person on behalf of the person or others in furtherance of a prosecution under any of the sections referred to in subsection (a) (including provision of information relating to, investigation for, initiation of, testimony for, or assistance in such a prosecution); and

“(B) was not a knowing participant in the unlawful activity that is the subject of such a prosecution, may, in a civil action, obtain all relief necessary to make the person whole.

“(2) Relief under paragraph (1) shall include—

“(A)(i) reinstatement with the same seniority status;

“(ii) 2 times the amount of back pay plus interest; and

“(iii) interest on the backpay,

that the plaintiff would have had but for the discrimination; and

“(B) compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney’s fees.”.

(b) **TECHNICAL AMENDMENT.**—The chapter heading for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059 the following new item:

“3059A. Special rewards for information relating to certain financial institution offenses”.

## CHAPTER 4—USE OF PRIVATE LEGAL RESOURCES

### SEC. 2588. AUTHORITY TO ENTER INTO CONTRACTS FOR PRIVATE COUNSEL. 12 USC 4241.

(a) **IN GENERAL.**—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section 2561 or section 2580.

(b) **TERMS AND CONDITIONS.**—Each contract under subsection (a) shall include the provisions described in section 2591 and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States.

(c) **LIMITATION OF FEE.**—The amount of the contingency fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the contingency fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

(d) **CONTINGENT FEES.**—Notwithstanding section 3302(b) of title 31, United States Code, a contract under this section shall provide that a fee that the United States pays private counsel for services is payable from the amount recovered and shall be based on a percentage of the civil penalties or assets recovered.

### SEC. 2589. CONTRACT DECISIONS NONREVIEWABLE.

12 USC 4242.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the Attorney General’s decision to refuse to enter into a contract for legal services referred to in section 2588.



## 12 USC 4243. SEC. 2590. REPRESENTATION.

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, private counsel retained under section 2588 may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section 2591.

## 12 USC 4244. SEC. 2591. CONTRACT PROVISIONS.

A contract made with a private counsel under section 2588 shall include—

- Reports.
- (1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;
  - (2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating to matters handled pursuant to the contract during the preceding month and the progress made during that period; and
  - (3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

## 12 USC 4245. SEC. 2592. COUNTERCLAIMS.

Any counterclaim filed in any action brought on behalf of the United States by private counsel retained under section 2588 may not be asserted unless the counterclaim has been served directly on the Attorney General and the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

## 12 USC 4246. SEC. 2593. AWARDS OF COSTS AND FEES TO PREVAILING PLAINTIFF.

When the United States, through private counsel retained under this chapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees and other expenses of litigation as part of the costs.

## 12 USC 4247. SEC. 2594. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

## Subtitle I—Technical and Miscellaneous Amendments

### SEC. 2595. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE, RELATING TO REFERENCES TO BANKING INSTITUTIONS AND AGENCIES.

#### (a) IN GENERAL.—

(1) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended—

(A) by inserting “depository institution holding company,” before “national bank” the 1st place such term appears in the 1st sentence;



(B) by inserting "or holding company" after "such bank" each place such term appears in the 1st paragraph; and  
(C) by adding at the end of the 2d paragraph the following new sentence: "For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3 of the Federal Deposit Insurance Act."

(2) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended—

(A) by striking "Home Owners' Loan Corporation," and inserting "Office of Thrift Supervision, the Resolution Trust Corporation, any Federal home loan bank, the Federal Housing Finance Board,"; and

(B) by striking "institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" and inserting "institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation".

(3) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended—

(A) by inserting "or company" after "such bank" each place such term appears in the 1st paragraph;

(B) by striking "bank or savings and loan" and inserting "depository institution"; and

(C) by adding at the end of the 6th undesignated paragraph the following new sentence: "For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act."

(4) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended—

(A) by striking "Home Owners' Loan Corporation," and inserting "Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Resolution Trust Corporation,"; and

(B) by striking "institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" and inserting "institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation".

(5) LOANS AND CREDIT APPLICATIONS GENERALLY; RENEWALS AND DISCOUNTS.—Section 1014 of title 18, United States Code, is amended—

(A) by striking "the Federal Home Loan Bank System," and inserting "the Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board,"; and

(B) by inserting a comma after "Resolution Trust Corporation".

(b) INDICTMENTS AND INFORMATION DISMISSED BEFORE PERIOD OF LIMITATIONS.—Section 3289 of title 18, United States Code, is amended by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," where such term appears and inserting such term after "expiration of the applicable statute of limitations,".

## SEC. 2596. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) **CEASE AND DESIST AUTHORITY.**—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(1) in paragraph (6), by inserting “or remedy” after “to take affirmative action to correct”; and

(2) in paragraph (4), by striking “subsections (c), (d), (h), (i), (k), (l), (m), and (n)” and inserting “subsections (c) through (s) and subsection (u)”.

(b) **TEMPORARY ORDERS.**—Section 8(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)(1)) is amended—

(1) by inserting “or remedy” after “to take affirmative action to prevent”; and

(2) by striking “(b)(6)(B)” and inserting “(b)(6)”.

(c) **RIGHT TO FINANCIAL PRIVACY.**—Section 1101(6)(B) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6)(B)) by striking “3(f)(1)” and inserting “4(f)(1)”.

(d) **VIOLATIONS TO WHICH CIVIL MONEY PENALTIES APPLIES.**—Section 951(c)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) by inserting “287, 1001, 1032,” before “1341,”; and

(2) by adding at the end thereof the following new flush sentence:

“This section shall apply to violations occurring on or after August 10, 1984.”

SEC. 2597. AMENDMENTS TO INCLUDE VARIOUS ENTITIES WHICH ENGAGE IN INTERNATIONAL BANKING BUSINESS WITHIN THE UNITED STATES WITHIN THE SCOPE OF FINANCIAL CRIME PROVISIONS.

(a) **DEFINITION OF FINANCIAL INSTITUTION.**—Section 20 of title 18, United States Code, is amended—

(1) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(2) by adding at the end the following new paragraphs:

“(7) a Federal Reserve bank or a member bank of the Federal Reserve System;

“(8) an organization operating under section 25 or section 25(a) of the Federal Reserve Act; or

“(9) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978).”

(b) **OFFER OF LOAN OR GRATUITY TO BANK EXAMINER.**—Section 212 of title 18, United States Code, is amended—

(1) in the 1st undesignated paragraph—

(A) by striking “System or the deposits of which” and inserting “System, or the deposits of which”; and

(B) by inserting “or which is a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which is an organization operating under section 25 or section 25(a) of the Federal Reserve Act,” after “deposits of which are insured by the Federal Deposit Insurance Corporation,”; and

(C) by inserting “branch, agency, organization,” after “who examines or has authority to examine such bank,”; and

(2) in the 2d undesignated paragraph—

(A) by striking "System or insured" and inserting "System, insured"; and

(B) by inserting "branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), organizations operating under section 25 or section 25(a) of the Federal Reserve Act," after "financial institutions,".

(c) ACCEPTANCE OF LOAN OR GRATUITY BY BANK EXAMINER.—Section 213 of title 18, United States Code, is amended—

(1) by striking "System or financial institutions the deposits of which" and inserting "System, financial institutions the deposits of which";

(2) by inserting "which are branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which are organizations operating under section 25 or section 25(a) of the Federal Reserve Act," after "deposits of which are insured by the Federal Deposit Insurance Corporation,";

(3) by inserting "branch, agency," after "accepts a loan or gratuity from any bank,".

(d) CUSTODIANS, GENERALLY, MISUSING PUBLIC FUNDS.—Section 648 of title 18, United States Code, is amended by inserting "including any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978)," after "or deposits in any bank".

(e) THEFT BY EXAMINER.—Section 655 of title 18, United States Code, is amended—

(1) in the 1st undesignated paragraph—

(A) by striking "System or which is insured" and inserting "System, which is insured";

(B) by inserting "which is a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which is an organization operating under section 25 or section 25(a) of the Federal Reserve Act," after "by the Federal Deposit Insurance Corporation,"; and

(C) by inserting "branch, agency, or organization," after "premises of such bank,"; and

(2) in the 2d undesignated paragraph—

(A) by striking "System or banks the deposits of which" and inserting "System, banks the deposits of which"; and

(B) by inserting "branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organizations operating under section 25 or section 25(a) of the Federal Reserve Act," after "are insured by the Federal Deposit Insurance Corporation,".

(f) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code (as amended by section 2104(b) of this subtitle) is amended—

(1) in the 1st undesignated paragraph—

(A) by striking "national bank, or insured bank" and inserting "national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act,";

(B) by inserting "insured bank, branch, agency, or organization" after "receiver of a national bank,";

(C) by inserting “, branch, agency, or organization” after “misapplies any of the moneys, funds or credits of such bank”;

(D) by inserting “branch, agency, or organization,” after “custody or care of such bank,”; and

(2) in the 2d undesignated paragraph—

(A) by striking “and” after “one of the Federal Reserve banks,”; and

(B) by inserting before the period the following: “; and the term ‘branch or agency of a foreign bank’ means a branch or agency described in section 20(9) of this title”.

(g) **CERTIFICATION OF CHECKS.**—Section 1004 of title 18, United States Code, is amended—

(1) by striking “or” after “Federal Reserve bank” and inserting a comma;

(2) by inserting “insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act), branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organization operating under section 25 or section 25(a) of the Federal Reserve Act,” after “member bank of the Federal Reserve System,”; and

(3) by inserting “, branch, agency, or organization,” after “has been regularly deposited in the bank”.

(h) **BANK ENTRIES, REPORTS, AND TRANSACTIONS.**—Section 1005 of title 18, United States Code (as amended by section 2104(d) of this subtitle) is amended—

(1) in the 1st undesignated paragraph—

(A) by striking “national bank or insured bank” and inserting “national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act,”; and

(B) by inserting “, branch, agency, or organization” after “of such bank” each place such term appears;

(2) in the 3d undesignated paragraph, by striking “bank or company” each place such term appears and inserting “bank, company, branch, agency, or organization”; and

(3) in the last undesignated paragraph—

(A) by striking “and” after “one of the Federal Reserve banks,”; and

(B) by inserting before the period the following: “; and the term ‘branch or agency of a foreign bank’ means a branch or agency described in section 20(9) of this title”.

(i) **FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.**—Section 1014 of title 18, United States Code (as amended by section 2104(g) of this subtitle) is amended by inserting “a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act,” after “or the National Credit Union Administration Board”.

(j) **FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.**—Section 1030(e)(4) of title 18, United States Code, is amended—

(1) by striking “and” at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

“(H) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978); and

“(I) an organization operating under section 25 or section 25(a) of the Federal Reserve Act.”.

(k) DISCLOSURE OF INFORMATION FROM A BANK EXAMINATION REPORT.—Section 1906 of title 18, United States Code, is amended—

(1) by striking “System, or bank insured” and inserting “System, any bank insured”;

(2) by inserting “, any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or any organization operating under section 25 or section 25(a) of the Federal Reserve Act,” after “by the Federal Deposit Insurance Corporation”;

(3) by inserting “branch, agency, or organization,” after “proper officers of such bank,”;

(4) by inserting “or a Federal branch or Federal agency (as such terms are defined in paragraphs (5) and (6) of section 1(b) of the International Banking Act of 1978)” after “national bank”;

(5) by inserting “, an uninsured State branch or State agency (as such terms are defined in paragraphs (11) and (12) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act” after “as to a State member bank”;

(6) by inserting “, including any insured branch (as defined in section 3(s) of the Federal Deposit Insurance Act),” after “any other insured bank”; and

(7) by inserting “or organization” after “board of directors of such bank”.

(l) BANK ROBBERY AND INCIDENTAL CRIMES.—Section 2113(f) of title 18, United States Code, is amended by inserting “including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978),” after “operating under the laws of the United States,”.

## TITLE XXVI—LICIT OPIUM IMPORTS

### SEC. 2601. UNITED STATES POLICY REGARDING IMPORTATION OF NARCOTIC RAW MATERIAL.

India.  
Turkey.

(a) REVIEW REQUIRED.—The President shall conduct a review of United States narcotics raw material policy to determine the advisability of continued reliance on the “80-20 rule” (21 C.F.R. sec. 1312.13) by which at least 80 percent of United States imports of narcotics raw material must come from India and Turkey.

(b) AGENCIES TO BE INVOLVED.—This review shall include information and views from the Department of State, the Administrator of the Drug Enforcement Administration, and the Secretary of the Department of Health and Human Services, the Secretary of Commerce and any other agencies the President determines appropriate.

(c) NATURE AND CONTENTS.—This review shall include—

(1) a report on the extent of the diversion taking place from the licit to the illicit market in India from the farm gate through the stockpile;

Reports.

(2) an evaluation of the efforts being made by the Government of India to stop diversion from the licit to the illicit market, to

limit its stockpile of opium gum, and to limit and regulate the amount of land and number of farmers devoted to poppy cultivation, and the success or failure of these efforts;

(3) a description of the steps the President has taken to encourage these actions on the part of the Indian government, what further steps are contemplated and what action will be taken if Indian action proves ineffective;

(4) an assessment of whether continued reliance on the 80-20 rule serves to encourage these actions, an assessment of what circumstances would make continued reliance on the rule unacceptable to the President, and proposals for executive or legislative modification of the rule under those circumstances;

(5) an assessment of the feasibility of India converting from the opium gum to the concentrated poppy straw method of opium production;

(6) an assessment of the effects on United States supplies of narcotic raw material in the absence of 80-20; and

(7) an evaluation of the potential for market manipulation under the 80-20 rule.

President.

(d) **REPORT TO CONGRESS.**—The President shall report the results of this review to Congress not later than April 1, 1991.

## **TITLE XXVII—SENTENCING FOR METHAMPHETAMINE OFFENSES**

28 USC 994 note. **SEC. 2701. SENTENCING COMMISSION GUIDELINES.**

The United States Sentencing Commission is instructed to amend the existing guidelines for offenses involving smokable crystal methamphetamine under section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) so that convictions for offenses involving smokable crystal methamphetamine will be assigned an offense level under the guidelines which is two levels above that which would have been assigned to the same offense involving other forms of methamphetamine.

## **TITLE XXVIII—DRUG ENFORCEMENT GRANTS**

**SEC. 2801. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS AND IMPROVING THE EFFECTIVENESS OF COURT PROCESS.**

**BASE ALLOCATION FOR DRUG ENFORCEMENT GRANT.**—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

“(5) There are authorized to be appropriated \$900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.”.

42 USC 3793.  
Appropriation  
authorization.

## **TITLE XXIX—PRISONS**

**SEC. 2901. REPORT WITH RESPECT TO FEDERAL PRISON INDUSTRIES.**

Section 4124 of title 18, United States Code, is amended—

(1) in the first paragraph by inserting “(a)” before “The”;



(2) in the second paragraph by inserting “(b)” before “Disputes”; and

(3) by adding at the end the following:

“(c) Each Federal department, agency, and institution subject to the requirements of subsection (a) shall separately report to the General Services Administration all of its acquisitions of products and services from Federal Prison Industries, and that reported information shall be entered in the Federal Procurement Data System referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act. Each report published by the Federal Procurement Data System that contains the information collected by the System shall include a statement to accompany the information reported by the department, agency, or institution under the preceding sentence as follows: ‘Under current law, sales by Federal Prison Industries are considered intragovernmental transfers. The purpose of reporting sales by Federal Prison Industries is to provide a complete overview of acquisitions by the Federal Government during the reporting period.’”

“(d) Within 90 days after the date of the enactment of this subsection, Federal Prison Industries shall publish a catalog of all products and services which it offers for sale. This catalog shall be updated periodically to the extent necessary to ensure that the information in the catalog is complete and accurate.”

Government  
publications.

#### SEC. 2902. PRERELEASE CUSTODY.

(a) IN GENERAL.—Section 3624(c) of title 18, United States Code, is amended by inserting after the first sentence the following: “The authority provided by this subsection may be used to place a prisoner in home confinement.”

(b) EFFECTIVE DATE.—Section 3624(c) of title 18, United States Code, as amended by this section, shall apply with respect to all inmates, regardless of the date of their offense.

18 USC 3624  
note.

#### SEC. 2903. DRUG TREATMENT FOR PRISONERS.

Section 3621(b) of title 18, United States Code, is amended by adding at the end the following: “The Bureau shall, to the extent practicable, make available appropriate substance abuse treatment for each prisoner the Bureau determines has a treatable condition of substance addiction or abuse.”

#### SEC. 2904. FUNCTIONAL LITERACY REQUIREMENT FOR ALL INDIVIDUALS IN FEDERAL CORRECTIONAL INSTITUTIONS.

Section 3624 of title 18, United States Code, is amended by adding at the end the following:

“(f) MANDATORY FUNCTIONAL LITERACY REQUIREMENT.—

“(1) The Attorney General shall direct the Bureau of Prisons to have in effect a mandatory functional literacy program for all mentally capable inmates who are not functionally literate in each Federal correctional institution within 6 months from the date of the enactment of this Act.

“(2) Each mandatory functional literacy program shall include a requirement that each inmate participate in such program for a mandatory period sufficient to provide the inmate with an adequate opportunity to achieve functional literacy, and appropriate incentives which lead to successful completion of such programs shall be developed and implemented.

“(3) As used in this section, the term ‘functional literacy’ means—

“(A) an eighth grade equivalence in reading and mathematics on a nationally recognized standardized test;

“(B) functional competency or literacy on a nationally recognized criterion-referenced test; or

“(C) a combination of subparagraphs (A) and (B).

“(4) Non-English speaking inmates shall be required to participate in an English-As-A-Second-Language program until they function at the equivalence of the eighth grade on a nationally recognized educational achievement test.

“(5) The Chief Executive Officer of each institution shall have authority to grant waivers for good cause as determined and documented on an individual basis.

Reports.

“(6) A report shall be provided to Congress on an annual basis summarizing the results of this program, including the number of inmate participants, the number successfully completing the program, the number who do not successfully complete the program, and the reasons for failure to successfully complete the program.”.

18 USC 4121  
note.

#### SEC. 2905. MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted inmates confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved.

(2) A Federal prisoner may be excused from the requirement to work only as necessitated by—

(A) security considerations;

(B) disciplinary action;

(C) medical certification of disability such as would make it impracticable for prison officials to arrange useful work for the prisoner to perform; or

(D) a need for the prisoner to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or similar programs in addition to the work program.

#### SEC. 2906. EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

Section 1761(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by striking the matter preceding paragraph (2), as redesignated by paragraph (1) of this section, and inserting the following:

“(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

“(1) are participating in—one of not more than 50 non-Federal prison work pilot projects designated by the Director of the Bureau of Justice Assistance; and”;

(3) in paragraph (2), as redesignated by paragraph (1) of this section, by amending subparagraph (B) to read as follows:

“(B) reasonable charges for room and board, as determined by regulations issued by the chief State correctional officer, in the case of a State prisoner.”.

**SEC. 2907. COST SAVING MEASURES.**

18 USC 4042  
note.

The Director of the Federal Bureau of Prisons (referred to as the “Director”) shall, to the extent practicable, take such measures as are appropriate to cut costs of construction. Such measures may include reducing expenditures for amenities including, for example, color television or pool tables.

**SEC. 2908. REPORT BY SECRETARY OF LABOR.**

18 USC 1761  
note.

The Secretary of Labor shall submit to the Congress not later than March 1, 1991, and not less often than annually thereafter, reports which describe in detail the extent and manner of compliance by State Prison Industry Enhancement Certification programs with the requirements set forth in 18 U.S.C. 1761(c).

## **TITLE XXX—SHOCK INCARCERATION**

**SEC. 3001. SHOCK INCARCERATION PROGRAM.**

(a) **IN GENERAL.**—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

**“§ 4046. Shock incarceration program**

“(a) The Bureau of Prisons may place in a shock incarceration program any person who is sentenced to a term of imprisonment of more than 12, but not more than 30, months, if such person consents to that placement.

“(b) For such initial portion of the term of imprisonment as the Bureau of Prisons may determine, not to exceed 6 months, an inmate in the shock incarceration program shall be required to—

“(1) adhere to a highly regimented schedule that provides the strict discipline, physical training, hard labor, drill, and ceremony characteristic of military basic training; and

“(2) participate in appropriate job training and educational programs (including literacy programs) and drug, alcohol, and other counseling programs.

“(c) An inmate who in the judgment of the Director of the Bureau of Prisons has successfully completed the required period of shock incarceration shall remain in the custody of the Bureau for such period (not to exceed the remainder of the prison term otherwise required by law to be served by that inmate), and under such conditions, as the Bureau deems appropriate.”.

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

“4046. Shock incarceration program.”.

**SEC. 3002. AUTHORIZATION OF APPROPRIATIONS.**

18 USC 4046  
note.

There are authorized to be appropriated for fiscal year 1990 and each fiscal year thereafter such sums as may be necessary to carry out the shock incarceration program established under the amendments made by this Act.

Criminal  
Victims  
Protection  
Act of 1990.

## TITLE XXXI—BANKRUPTCY AND RESTITUTION

11 USC 101 note. SEC. 3101. SHORT TITLE.

This title may be cited as the "Criminal Victims Protection Act of 1990".

SEC. 3102. NONDISCHARGEABILITY OF CERTAIN DEBTS ARISING FROM UNLAWFUL DRIVING WHILE INTOXICATED OR IMPAIRED.

(a) AMENDMENT TO CHAPTER 5.—Section 523(a)(9) of title 11, United States Code, is amended to read as follows:

"(9) for death or personal injury caused by the debtor's operation of a motor vehicle if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance; or"

(b) AMENDMENT TO CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended by inserting "or 523(a)(9)" after "523(a)(5)".

SEC. 3103. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR RESTITUTION IMPOSED FOR COMMITTING CRIMES.

Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) for restitution included in a sentence on the debtor's conviction of a crime."

11 USC 523 note. SEC. 3104. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

## TITLE XXXII—MISCELLANEOUS

28 USC 509 note. SEC. 3201. AUTHORIZATION OF APPROPRIATIONS FOR HUMANITARIAN EXPENSES.

(a) FEDERAL BUREAU OF INVESTIGATION.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Federal Bureau of Investigation \$25,000, to be expended in the discretion of the Director of the Federal Bureau of Investigation to pay humanitarian expenses incurred—

(1) by an employee of the Bureau as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

(b) DRUG ENFORCEMENT ADMINISTRATION.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Drug Enforcement Administration \$25,000, to be

expended at the discretion of the Administrator of the Drug Enforcement Administration to pay humanitarian expenses incurred—

(1) by an employee of the Administration as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

**SEC. 3202. BANNING OF ISOPROPAL NITRITE AND OTHER NITRITES.**

15 USC 2057b.

(a) **IN GENERAL.**—Except as provided in subsection (b), volatile alkyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) **LAWFUL PURPOSES.**—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States volatile alkyl nitrites for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) **DEFINITIONS.**—For purposes of this section, the term “commercial purpose” means any commercial purpose other than for the production of consumer products containing volatile alkyl nitrites that may be used for inhaling or otherwise introducing volatile alkyl nitrites into the human body for euphoric or physical effects.

(d) **EFFECTIVE DATE.**—This section shall take effect 90 days after the date of the enactment of this Act.

## **TITLE XXXIII—MISCELLANEOUS PROVISIONS**

**SEC. 3301. UNDERCOVER OPERATIONS OF INTERNAL REVENUE SERVICE.**

(a) **EXTENSION OF PROGRAM.**—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking “1989” and “1990” and inserting “1991” and “1992”, respectively.

26 USC 7608  
note.

(b) **GAO STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study of undercover investigative operations of the Internal Revenue Service which were conducted using any authority provided in subsection (c) of section 7608 of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the use of the proceeds of such operations,

(B) the results of such operations, and

(C) the financial audits conducted by the Internal Revenue Service under such subsection.

(2) **REPORT.**—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

**SEC. 3302. DISCLOSURE OF RETURNS ON CERTAIN CASH TRANSACTIONS.**

(a) **EXTENSION OF PROGRAM.**—Paragraph (3) of section 7601(b) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking “2-year period” inserting “4-year period”.

26 USC 6103  
note.

**(b) GAO STUDY.—**

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study of the disclosure of returns to Federal agencies under paragraph (8) of section 6103(i) of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the Federal agencies requesting disclosure under such paragraph,

(B) the use of the information so disclosed, and

(C) the effect of the use of such information on the administration of Federal criminal statutes.

(2) **REPORT.**—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

**SEC. 3303. FELONY CLASSIFICATION FOR FAILURE TO FILE RETURN ON CERTAIN CASH TRANSACTIONS.**

26 USC 7203.

(a) **IN GENERAL.**—The last sentence of section 7203 of the Internal Revenue Code of 1986 (relating to willful failure to file return, etc.) is amended by striking “by substituting” and inserting “by substituting ‘felony’ for ‘misdemeanor’ and”.

**(b) GAO STUDY.—**

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study of the criminal penalties established under section 7203 of the Internal Revenue Code of 1986 for violations of section 6050I of such Code. The study shall include an evaluation of—

(A) the number of cases in which such penalties have been sought for such violations, and

(B) any change in the effectiveness of such penalties by reason of the amendment made by subsection (a).

(2) **REPORT.**—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

26 USC 7203  
note.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

26 USC 6103  
note.

**SEC. 3304. CONFIDENTIALITY OF TAX RETURN INFORMATION.**

(a) **IN GENERAL.**—Notwithstanding any other provision of this Act, no commission established by this Act shall have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code of 1986.

(b) **DEFINITIONS.**—For purposes of this section, the terms “return” and “return information” have the respective meanings given such terms by section 6103(b) of the Internal Revenue Code of 1986.

42 USC 3721  
note.

## **TITLE XXXIV—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT**

**SEC. 3401. CONGRESSIONAL FINDINGS.**

The Congress finds that—



(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

#### SEC. 3402. ESTABLISHMENT.

There is hereby established the National Commission to Support Law Enforcement (hereafter in this title referred to as the "Commission").

#### SEC. 3403. DUTIES.

(a) **IN GENERAL.**—The Commission shall study and include in the report made under section 3407 recommendations for changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) **FUNDING.**—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) **EMPLOYMENT.**—The conditions of law enforcement employment.

(3) **INFORMATION.**—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) **RESEARCH AND TRAINING.**—The status of law enforcement research and education and training.

(5) **EQUIPMENT AND RESOURCES.**—The adequacy of equipment, physical resources, and human resources.

(6) **COOPERATION.**—The cooperation among Federal, State, and local law enforcement agencies.

(7) **RESPONSIBILITY.**—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) **IMPACT.**—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) **CONSULTATION.**—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

**SEC. 3404. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 19 members as follows:

(1) 5 individuals from national law enforcement organizations representing law enforcement officers, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) 5 individuals from national law enforcement organizations representing law enforcement management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(3) 2 individuals with academic expertise regarding law enforcement issues, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(4) 2 Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) 2 Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) 1 individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) 1 individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) **COMPENSATION.**—

(1) **IN GENERAL.**—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of service on the Commission.

(2) **TRAVEL EXPENSES.**—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

**SEC. 3405. EXPERTS AND CONSULTANTS.**

(a) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) **ADMINISTRATIVE SUPPORT.**—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

**SEC. 3406. POWERS OF COMMISSION.**

(a) **HEARINGS.**—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) **DELEGATION OF AUTHORITY.**—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) **INFORMATION.**—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head

of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) **GIFTS AND DONATIONS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

#### **SEC. 3407. REPORT.**

Not later than the expiration of the 18-month period beginning on the date of the enactment of this title, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

#### **SEC. 3408. TERMINATION.**

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 3407.

## **TITLE XXXV—TECHNICAL AND MINOR SUBSTANTIVE AMENDMENTS**

#### **SEC. 3501. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.**

Section 3742(b) of title 18, United States Code, is amended—

(1) by striking “, with the personal approval of the Attorney General or the Solicitor General”; and

(2) by adding at the end the following: “The Government may not further prosecute such appeal without the personal approval of the Attorney General, the Solicitor General, or a deputy solicitor general designated by the Solicitor General.”.

#### **SEC. 3502. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.**

Section 3 of title 18, United States Code, is amended by striking “10 years” and inserting in lieu thereof “15 years”.

#### **SEC. 3503. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.**

Section 3742(g) of title 18, United States Code, is amended by inserting “(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)” after “and this section shall apply”.

#### **SEC. 3504. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 1.**

The item relating to section 17 in the table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by striking “Defense” and inserting “defense”.

#### **SEC. 3505. CORRECTION TO SECTION 12.**

Section 12 of title 18, United States Code, is amended by striking “every officer and employee of that Service, whether he has taken the oath of office” and inserting “every officer and employee of that

Service, whether or not such officer or employee has taken the oath of office”.

**SEC. 3506. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 3.**

The table of sections at the beginning of chapter 3 of title 18, United States Code, is amended—

- (1) in the item relating to section 47, by inserting “; pollution of watering holes” after “burros”; and
- (2) by striking the items related to sections 42 through 44 and inserting the following:

“42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations.”.

**SEC. 3507. CORRECTION TO SECTION 114.**

Section 114 of title 18, United States Code, is amended by striking “and imprisoned” and inserting “or imprisoned”.

**SEC. 3508. CORRECTION TO SECTION 115.**

Section 115 of title 18, United States Code, is amended by striking “The Central” and inserting “the Central”.

**SEC. 3509. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 11.**

The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended—

- (1) in the item relating to section 203, by striking “of Members” and inserting “to Members”; and
- (2) in the item relating to section 204, by striking “Court of Claims” and inserting “United States Claims Court or United States Court of Appeals for the Federal Circuit”.

**SEC. 3510. CROSS REFERENCE UPDATE FOR SECTION 209.**

Subsection (d) of section 209 of title 18, United States Code, is amended by striking “Government Employees Training Act” and all that follows through the end of such subsection and inserting “chapter 41 of title 5.”.

**SEC. 3511. CORRECTION TO SECTION 219.**

Section 219(c) of title 18, United States Code, is amended by striking “Governments” and inserting “Government”.

**SEC. 3512. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 23.**

The table of sections at the beginning of chapter 23 of title 18, United States Code, is amended—

- (1) by striking the item relating to section 434; and
- (2) in the item relating to section 437, by striking “Indian” and all that follows through “supplies” and inserting “Federal employees contracting or trading with Indians.”.

**SEC. 3513. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 25.**

The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended—

- (1) in the item relating to section 491, by striking “used” and all that follows through “coins” and inserting “or paper used as money.”;
- (2) in the item relating to section 496, by striking “entry certificates” and inserting “matters”; and

(3) in the item relating to section 501, by inserting “, postage meter stamps,” after “stamps”.

**SEC. 3514. MARGIN CORRECTION IN SECTION 510.**

Subsection (a) of section 510 of title 18, United States Code, is amended—

- (1) by inserting a semicolon after “or signature” in paragraph (2); and
- (2) so that the matter beginning with “shall be fined” and all that follows through the end of such subsection is flush against the left margin.

**SEC. 3515. CORRECTIONS TO SECTION 513.**

Section 513(c)(3) of title 18, United States Code, is amended—

- (1) by striking “(15 U.S.C. 1693(c))”; and
- (2) by inserting a comma after “profit-sharing agreement”.

**SEC. 3516. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 29.**

The table of sections at the beginning of chapter 29 of title 18, United States Code, is amended—

- (1) in the item relating to section 603, by striking “Place of solicitation” and inserting “Making political contributions”; and
- (2) in the item relating to section 607, by striking “Making political contributions” and inserting “Place of solicitation”.

**SEC. 3517. CORRECTION OF HEADING OF SECTION 665.**

(a) The heading of section 665 of title 18, United States Code, is amended by striking the colons and inserting semicolons.

(b) Section 665(c) of title 18, United States Code, is amended by striking “Any person whoever” and inserting “Whoever”.

**SEC. 3518. PUNCTUATION CORRECTION TO HEADING FOR CHAPTER 33.**

The heading at the beginning of chapter 33 of title 18, United States Code, is amended by inserting a comma after “insignia”.

**SEC. 3519. REDESIGNATION OF SECOND SECTION 798.**

(a) **GENERALLY.**—The second section 798 of title 18, United States Code, is redesignated as section 798A.

(b) **TABLE OF SECTIONS.**—The item relating to the second section 798 in the table of sections at the beginning of chapter 37 of title 18, United States Code, is amended by striking “798” and inserting “798A”.

(c) **CROSS REFERENCE CONFORMING AMENDMENT.**—Section 14 of title 18, United States Code, is amended by striking “798” the first place it appears and all that follows through “799” and inserting “798, 798A, 799”.

**SEC. 3520. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 40.**

The item relating to section 843 in the table of sections at the beginning of chapter 40 of title 18, United States Code, is amended by striking “Licensing” and inserting “Licenses”.

**SEC. 3521. CORRECTION TO SECTION 842.**

Section 842 of title 18, United States Code, is amended—

- (1) in subsection (d)(5), by striking the period and inserting “; or”; and

(2) in subsection (i)(3), by striking the period and inserting “; or”.

**SEC. 3522. CORRECTION TO SECTION 844.**

Section 844 of title 18, United States Code, is amended by striking the comma that immediately follows a comma.

**SEC. 3523. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 44.**

The item relating to section 928 in the table of sections at the beginning of chapter 44 of title 18, United States Code, is amended by striking “clause”.

**SEC. 3524. CORRECTION TO SECTION 922.**

Section 922(b)(1) is amended by striking the period at the end and inserting a semicolon.

**SEC. 3525. CORRECTION TO SECTION 923.**

Section 923(a)(3)(B) is amended by inserting a comma after “devices”.

**SEC. 3526. AMENDMENTS RELATING TO THE UNDETECTABLE FIREARMS ACT OF 1988.**

(a) **REDESIGNATION IN TITLE 18.**—Section 924 of title 18, United States Code, is amended by redesignating the second subsection (f) and subsection (g) as subsections (g) and (h), respectively.

18 USC 924.

(b) **REDESIGNATION IN ORIGINAL ACT.**—Section 2(f)(2)(B) of the Undetectable Firearms Act of 1988 is amended by inserting “and subsections (g) and (h) of such section are hereby redesignated as subsections (f) and (g), respectively” before the semicolon.

**SEC. 3527. ELIMINATION OF REDUNDANT WORDS.**

Section 924(c)(1) of title 18, United States Code, is amended by striking “imprisonment for” the 4th place it appears.

**SEC. 3528. INSERTION OF MISSING PARENTHESES.**

Section 924(a)(1) is amended by striking “3” and inserting “(3)”.

**SEC. 3529. ADDITIONAL CORRECTIONS TO SECTION 924.**

Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(2)—

(A) by striking “subsections” and inserting “subsection”; and

(B) by inserting a comma after “years”.

(2) in subsection (e)(2)(A)(ii), by striking “and”; and

(3) in subsection (e)(2)(B)(ii), by striking the period and inserting “; and”.

**SEC. 3530. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 45.**

The table of sections at the beginning of chapter 45 of title 18, United States Code, is amended by striking the item relating to section 968.

**SEC. 3531. CORRECTION TO SECTION 981.**

Section 981(d) of title 18, United States Code, is amended by adding a period at the end.



**SEC. 3532. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 47.**

The item relating to section 1031 in the table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting a period after "1031".

**SEC. 3533. CORRECTION OF CROSS REFERENCE IN SECTION 1030.**

Section 1030 of title 18, United States Code, is amended by striking "paragraph r" and inserting "paragraph y".

**SEC. 3534. ELIMINATION OF SUPERFLUOUS PUNCTUATION IN SECTION 1113.**

Section 1113 of title 18, United States Code, is amended by striking the final period.

**SEC. 3535. CAPITALIZATION AND AGENCY REFERENCE CORRECTIONS IN SECTION 1114.**

Section 1114 of title 18, United States Code, is amended—

- (1) by striking "secret service" and inserting "Secret Service";
- (2) by striking "any officer or employee of the Department of Health, Education, and Welfare," and inserting "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and
- (3) by striking "the Federal Savings and Loan Insurance Corporation,".

**SEC. 3536. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 53.**

The table of sections at the beginning of chapter 53 of title 18, United States Code, is amended by striking the item relating to section 1157.

**SEC. 3537. CORRECTION TO SECTION 1168.**

Section 1168(a) of title 18, United States Code, is amended by striking "and be imprisoned for" and inserting "or imprisoned".

**SEC. 3538. CROSS REFERENCE CORRECTION IN SECTION 1201.**

Section 1201(a)(3) of title 18, United States Code, is amended—

- (1) by striking "101(36)" and inserting "101(38)"; and
- (2) by striking ", as amended (49 U.S.C. 1301(36))".

**SEC. 3539. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 57.**

The table of sections at the beginning of chapter 57 of title 18, United States Code, is amended by striking the item relating to section 1232.

**SEC. 3540. CORRECTION OF HEADING OF SECTION 1262.**

The heading of section 1262 of title 18, United States Code, is amended by striking "state" and inserting "State".

**SEC. 3541. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 63.**

The item relating to section 1342 in the table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by striking "and" and inserting "or".

**SEC. 3542. CORRECTION TO SECTION 1345.**

Section 1345 of title 18, United States Code, is amended by inserting a comma after "of this title".

**SEC. 3543. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 65.**

The item relating to section 1366 in the table of sections at the beginning of chapter 65 of title 18, United States Code, is amended by inserting a period after "1366".

**SEC. 3544. CORRECTION OF QUOTATION MARK.**

Section 1365(g)(1)(A) of title 18, United States Code, is amended by inserting an open quotation mark before "device".

**SEC. 3545. CORRECTION OF CROSS REFERENCE.**

Section 1366(c) of title 18, United States Code, is amended by striking "49 U.S.C. 1671" and inserting "section 2 of the Natural Gas Pipeline Safety Act of 1968".

**SEC. 3546. ELIMINATION OF EXECUTED CLERICAL AMENDMENT.**

Section 1366 of title 18, United States Code, is amended by striking subsection (d).

**SEC. 3547. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 67.**

The table of sections at the beginning of chapter 67 of title 18, United States Code, is amended by striking the item relating to section 1383.

**SEC. 3548. CORRECTION TO SECTION 1466.**

Section 1466(b) of title 18, United States Code, is amended—  
(1) by striking "this subsection" and inserting "this section";  
and  
(2) by striking "subsection (b)" and inserting "this subsection".

**SEC. 3549. CROSS REFERENCE CORRECTION TO SECTION 1467.**

Section 1467(h)(4) of title 18, United States Code, is amended by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

**SEC. 3550. CORRECTION TO SECTION 1546.**

Section 1546(a) of title 18, United States Code, is amended by striking "Shall be fined not more than in accordance with this title" and inserting "Shall be fined under this title".

**SEC. 3551. CORRECTION TO SECTION 1716A.**

Section 1716A(a) of title 18, United States Code, is amended by striking "shall be under this title" and inserting "shall be fined under this title or".

**SEC. 3552. CORRECTION TO HEADING OF SECTION 1717.**

(a) **GENERALLY.**—The heading of section 1717 of title 18, United States Code, is amended by striking "; opening letters".

(b) **CONFORMING AMENDMENT.**—The item relating to section 1717 in the table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by striking "; opening letters".

**SEC. 3553. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 84.**

The table of sections at the beginning of chapter 84 of title 18, United States Code, is amended by adding at the end the following:  
"1752. Temporary residences and offices of the President and others."

**SEC. 3554. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 91.**

The table of sections at the beginning of chapter 91 of title 18, United States Code, is amended by striking the item relating to section 1862.

**SEC. 3555. CORRECTION TO SECTION 1864.**

Section 1864 of title 18, United States Code, is amended—

- (1) by striking “and” at the end of subsection (d)(1)(D); and
- (2) in subsection (d)(2)(E), by striking the period at the end and inserting “; and”.

**SEC. 3556. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 93.**

The table of sections at the beginning of chapter 93 of title 18, United States Code, is amended—

- (1) in the item relating to section 1906, by striking “by bank examiner” and inserting “from a bank examination report”; and
- (2) by striking the item relating to section 1914.

**SEC. 3557. CORRECTIONS TO SECTION 1956.**

Section 1956 of title 18, United States Code, is amended—

- (1) in subsection (c)(7)(A), by striking “the Currency and Foreign Transactions Reporting Act” and inserting “subchapter II of chapter 53 of title 31”;
- (2) in subsection (c)(7)(D)—
  - (A) by striking “or section 2113” and inserting “section 2113”;
  - (B) by striking “theft) of this title,” and inserting “theft), or”; and
  - (C) by inserting “of this title” after “2319 (relating to copyright infringement)”;
  - (D) by striking “paraphernalia” and inserting “paraphernalia”; and
  - (E) by striking the final period.

**SEC. 3558. CORRECTION TO SECTION 1958.**

Section 1958(b) of title 18, United States Code, is amended by striking “1952B” and inserting “1959”.

**SEC. 3559. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 96.**

The item relating to section 1962 in the table of sections at the beginning of chapter 96 of title 18, United States Code, is amended by striking “racketeering”.

**SEC. 3560. CORRECTION TO SECTION 1961.**

Section 1961(1) of title 18, United States Code, is amended—

- (1) by striking “section 1029 (relative)” and inserting “section 1029 (relating”); and
- (2) by striking “sections 2251 through 2252 (relating to sexual exploitation of children).”.

**SEC. 3561. CORRECTION TO SECTION 1963.**

Section 1963(a) of title 18, United States Code, is amended by striking “or both.” and inserting “or both”.

**SEC. 3562. CORRECTION OF HEADING OF SECTION 2114.**

The heading of section 2114 of title 18, United States Code, is amended by inserting a comma after “money”.

**SEC. 3563. PUNCTUATION CORRECTION TO SECTION 2251(a).**

Section 2251(a) of title 18, United States Code, is amended by striking "in," and inserting "in."

**SEC. 3564. CORRECTIONS TO SECTION 2253.**

Section 2253 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "sections 2251" and inserting "section 2251"; and

(2) in subsection (h)(4), by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

**SEC. 3565. CORRECTIONS TO SECTION 2254.**

Section 2254 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "sections 2251" each place it appears and inserting "section 2251";

(2) in subsection (e), by inserting "INAPPLICABILITY OF CERTAIN SECTIONS.—" after "(e)"; and

(3) in subsection (f)—

(A) by striking "subchapter" and inserting "section"; and

(B) in paragraph (1), by striking "pursuant to section 1616 of title 19" and inserting "under section 616 of the Tariff Act of 1930".

**SEC. 3566. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 111.**

The item relating to section 2271 in the table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by striking "vessel" and inserting "vessels".

**SEC. 3567. CORRECTION OF HEADING OF SECTION 2318.**

The heading of section 2318 of title 18, United States Code, is amended by striking the comma.

**SEC. 3568. CROSS REFERENCE CORRECTIONS IN SECTION 2516.**

Section 2516(j) of title 18, United States Code, is amended by striking "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or section 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy)".

**SEC. 3569. CORRECTIONS TO SECTION 3013.**

Section 3013 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)(i), by striking "a infraction" and inserting "an infraction"; and

(2) in subsection (a)(1)(B)(iii), by striking the period at the end and inserting a semicolon.

**SEC. 3570. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 203.**

The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the item relating to section 3054.

**SEC. 3571. CORRECTION TO SECTION 3058.**

Section 3058 of title 18, United States Code, is amended by striking "beligerent" and inserting "belligerent".

**SEC. 3572. CORRECTION TO SECTION 3077.**

Section 3077 of title 18, United States Code, is amended—

- (1) in paragraph (4), by striking the comma before the close quotation mark and inserting a comma after that mark;
- (2) in each of paragraphs (1), (2), (3), and (5), by striking the period at the end and inserting a semicolon; and
- (3) in paragraph (6), by striking the period at the end and inserting “; and”.

**SEC. 3573. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 205.**

The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended—

- (1) by striking the item relating to section 3112; and
- (2) by striking “3117” the last place it appears and inserting “3118”.

**SEC. 3574. REDESIGNATION OF DUPLICATE SECTION 3117.**

Section 3117 of title 18, United States Code, that relates to implied consent for certain tests, is redesignated as section 3118.

**SEC. 3575. CORRECTION TO SECTION 3124.**

Section 3124(b) of title 18, United States Code, is amended by striking “subsection 3123(b)” and inserting “section 3123(b)”.

**SEC. 3576. CLARIFYING REENACTMENT OF PORTION OF SECTION 3154.**

Paragraph (1) of section 3154 of title 18, United States Code, is amended by striking “community” and all that follows through the end of such paragraph and inserting “community, and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release.”.

**SEC. 3577. PUNCTUATION CORRECTION TO SECTION 3165.**

Section 3165(e)(2) of title 18, United States Code, is amended by striking “twelve-calendar month” and inserting “twelve-calendar-month”.

**SEC. 3578. SPELLING CORRECTION TO SECTION 3166.**

Section 3166(b)(8) of title 18, United States Code, is amended by striking “extention” and inserting “extension”.

**SEC. 3579. STYLE CORRECTION TO SECTION 3170.**

Subsections (a) and (b) of section 3170 of title 18, United States Code, are each amended by striking “(c)” and inserting “3166(c)” in lieu thereof.

**SEC. 3580. CORRECTION TO SECTION 3289.**

Section 3289 of title 18, United States Code, is amended by inserting a comma after “information” the second place it appears.

**SEC. 3581. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 224.**

The item relating to section 3526 in the table of sections at the beginning of chapter 224 of title 18, United States Code, is amended by inserting “; reimbursement of expenses” after “governments”.

**SEC. 3582. CORRECTION TO SECTION 3521.**

Section 3521 of title 18, United States Code, is amended—

- (1) in the final sentence of subsection (b)(1), by inserting “(G)” after “subparagraph”; and
- (2) in subsection (d)(3), by inserting “the” before “Civil Rights Division”.

**SEC. 3583. CORRECTION TO SECTION 3562.**

Section 3562(b)(2) of title 18, United States Code, is amended by inserting “of the Federal Rules of Criminal Procedure” after “rule 35”.

**SEC. 3584. CORRECTION TO SECTION 3563.**

Section 3563 of title 18, United States Code, is amended—

- (1) in subsection (a), by striking “defendent” and inserting “defendant”; and
- (2) in subsection (b)(3)—
  - (A) by striking “pursuant to the provisions of section 3663 and 3664” and inserting “under sections 3663 and 3664”; and
  - (B) by inserting “section” before “3663(a)”.

**SEC. 3585. CORRECTION TO SECTION 3565.**

Section 3565(a)(1) of title 18, United States Code, is amended by striking “of modifying” and inserting “or modifying”.

**SEC. 3586. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER C OF CHAPTER 227.**

The table of sections at the beginning of subchapter C of chapter 227 of title 18, United States Code, is amended—

- (1) in the item relating to section 3572, by inserting “and related matters” after “fines”; and
- (2) in the item relating to section 3573, by striking “revision” and inserting “remission”.

**SEC. 3587. CORRECTION TO SECTION 3572.**

Section 3572(c)(2) of title 18, United States Code, is amended by inserting “of the Federal Rules of Criminal Procedure” after “rule 35”.

**SEC. 3588. CORRECTION TO SECTION 3582.**

Section 3582(b)(2) of title 18, United States Code, is amended by inserting “of the Federal Rules of Criminal Procedure” after “rule 35”.

**SEC. 3589. CORRECTION TO SECTION 3583.**

Section 3583 of title 18, United States Code, is amended—

- (1) in subsection (d)(2), by inserting a comma after “3553(a)(2)(B)”;
- (2) in subsection (e)—
  - (A) by striking “or” at the end of paragraph (2);
  - (B) by striking the period at the end of paragraph (3) and inserting “; or”; and
  - (C) by redesignating paragraph (5) as paragraph (4).

**SEC. 3590. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER A OF CHAPTER 229.**

The item relating to section 3607 in the table of sections at the beginning of subchapter A of chapter 229 of title 18, United States Code, is amended by striking “possessor” and inserting “possessors”.



**SEC. 3591. CORRECTION TO SECTION 3611.**

Section 3611 of title 18, United States Code, is amended by striking “604(a)(17)” and inserting “604(a)(18)”.

**SEC. 3592. CORRECTION TO SECTION 3612.**

Section 3612(a) of title 18, United States Code, is amended by striking “604(a)(17)” each place it appears and inserting “604(a)(18)”.

**SEC. 3593. CORRECTION TO SECTION 3613.**

Section 3613(c) is amended by striking the period before the final quotation mark and inserting a period after such mark.

**SEC. 3594. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 232.**

The item relating to section 3669 in the table of sections at the beginning of chapter 232 of title 18, United States Code, is amended by striking “Conveyance” and inserting “Conveyances”.

**SEC. 3595. CROSS REFERENCE UPDATE FOR SECTION 3663.**

Section 3663(f)(4) of title 18, United States Code, is amended by striking “604(a)(17)” and inserting “604(a)(18)”.

**SEC. 3596. CROSS REFERENCE UPDATE FOR SECTION 3664.**

Section 3664(a) of title 18, United States Code, is amended by striking “3579” and inserting “3663”.

**SEC. 3597. CORRECTION TO TABLE OF CHAPTERS FOR PART III.**

The table of chapters for part III of title 18, United States Code, is amended—

(1) by inserting after the item relating to chapter 305 the following:

“306. Transfer to or from foreign countries ..... 4100”;  
and

(2) by inserting after the item relating to chapter 317 the following:

“319. National Institute of Corrections..... 4351”.

**SEC. 3598. CROSS REFERENCE CORRECTION TO SECTION 4109.**

Section 4109(a) of title 18, United States Code, is amended—

(1) by striking “the Criminal Justice Act (18 U.S.C. 3006A)” and inserting “section 3006A of this title”; and

(2) by striking “the Criminal Justice Act (18 U.S.C. 3006(a))” and inserting “section 3006A of this title”.

**SEC. 3599. CORRECTION TO SECTION 4013.**

Section 4013 of title 18, United States Code, is amended by striking “(a)”.

**SEC. 3599A. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 307.**

The item relating to section 4126 in the table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by striking “fund” and inserting “Fund”.

**SEC. 3599B. CORRECTION TO HEADING OF SECTION 4106A.**

The heading at the beginning of section 4106A of title 18, United States Code, is amended by inserting “of” before “offenders” the second place it appears.

**SEC. 3599C. CORRECTION TO SECTION 4106A.**

Section 4106A(b)(1)(C) of title 18, United States Code, is amended by adding a period at the end.

**SEC. 3599D. CORRECTION TO SECTION 4246.**

Section 4246(g) of title 18, United States Code, is amended by striking "subchapter" and inserting "chapter".

**SEC. 3599E. CORRECTION TO SECTION 4285.**

Section 4285 of title 18, United States Code, is amended by striking "exced" and inserting "exceed".

**SEC. 3599F. CORRECTION TO SECTION 4352.**

Section 4352(c) of title 18, United States Code, is amended by striking "this shall" and inserting "this chapter shall".

**SEC. 3599G. CORRECTION TO SECTION 5032.**

The 4th paragraph of section 5032 of title 18, United States Code, is amended by striking "offenses set forth in this subsection" and inserting "offenses set forth in this paragraph".

**SEC. 3599H. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 403.**

The item relating to section 5042 in the table of sections at the beginning of chapter 403 of title 18, United States Code, is amended by striking "Probation" and inserting "probation".

**SEC. 3599I. DEFINITIONS FOR CONTROLLED SUBSTANCES ACT.**

Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking "stimulent" each place it appears and inserting "stimulant".

**SEC. 3599J. SECTION 1010 OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.**

Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking "suspervised" each place it appears and inserting "supervised".

**SEC. 3599K. SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.**

Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are each amended by striking "any of the substance" and inserting "any of the substances".

**SEC. 3599L. SECTIONS 405, 405A, and 405B OF THE CONTROLLED SUBSTANCES ACT.**

Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (which are redesignated by this Act) (21 U.S.C. 845(b), 845a(b), and 845b(c)) are each amended by striking "have become final" and inserting "has become final".

**SEC. 3599M. SECTION 510 OF THE CONTROLLED SUBSTANCES ACT.**

Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking "paragraph (5)" and inserting "paragraph (4)".

# TITLE XXXVI—FEDERAL DEBT COLLECTION

Federal Debt  
Collection  
Procedures Act  
of 1990.  
Courts.  
28 USC 1 note.

SEC. 3601. This title may be cited as the "Federal Debt Collection Procedures Act of 1990".

## Subtitle A—Debt Collection Procedures

SEC. 3611. Title 28 of the United States Code is amended by inserting after chapter 175 the following:

### "CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter	
"A. Definitions and general provisions .....	3001
"B. Prejudgment remedies .....	3101
"C. Postjudgments remedies .....	3201
"D. Fraudulent transfers .....	3301

#### "SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

- "Sec.
- "3001. Applicability of chapter.
  - "3002. Definitions.
  - "3003. Rules of construction.
  - "3004. Service of process; enforcement; notice.
  - "3005. Application of chapter to judgments.
  - "3006. Affidavit requirements.
  - "3007. Perishable personal property.
  - "3008. Proceedings before United States magistrates.
  - "3009. United States marshals' authority to designate keeper.
  - "3010. Co-owned property.
  - "3011. Assessment of surcharge on a debt.
  - "3012. Joinder of additional defendant.
  - "3013. Modification or protective order; supervision of enforcement.
  - "3014. Exempt property.
  - "3015. Discovery as to debtor's financial condition.

#### "§ 3001. Applicability of chapter

"(a) IN GENERAL.—Except as provided in subsection (b), the chapter provides the exclusive civil procedures for the United States—

"(1) to recover a judgment on a debt; or

"(2) to obtain, before judgment on a claim for a debt, a remedy in connection with such claim.

"(b) LIMITATION.—To the extent that another Federal law specifies procedures for recovering on a claim or a judgment for a debt arising under such law, those procedures shall apply to such claim or judgment to the extent those procedures are inconsistent with this chapter.

"(c) AMOUNTS OWING OTHER THAN DEBTS.—This chapter shall not apply with respect to an amount owing that is not a debt or to a claim for an amount owing that is not a debt.

#### "§ 3002. Definitions

"As used in this chapter:

"(1) 'Counsel for the United States' means—

“(A) a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, or an attorney with the United States Department of Justice or with a Federal agency who has litigation authority; and

“(B) any private attorney authorized by contract made in accordance with section 3718 of title 31 to conduct litigation for collection of debts on behalf of the United States.

“(2) ‘Court’ means any court created by the Congress of the United States, excluding the United States Tax Court.

“(3) ‘Debt’ means—

“(A) an amount that is owing to the United States on account of a direct loan, or loan insured or guaranteed, by the United States; or

“(B) an amount that is owing to the United States on account of a fee, duty, lease, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond forfeiture, reimbursement, recovery of a cost incurred by the United States, or other source of indebtedness to the United States, but that is not owing under the terms of a contract originally entered into by only persons other than the United States;

and includes any amount owing to the United States for the benefit of an Indian tribe or individual Indian, but excludes any amount to which the United States is entitled under section 3011(a).

“(4) ‘Debtor’ means a person who is liable for a debt or against whom there is a claim for a debt.

“(5) ‘Disposable earnings’ means that part of earnings remaining after all deductions required by law have been withheld.

“(6) ‘Earnings’ means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

“(7) ‘Garnishee’ means a person (other than the debtor) who has, or is reasonably thought to have, possession, custody, or control of any property in which the debtor has a substantial nonexempt interest, including any obligation due the debtor or to become due the debtor, and against whom a garnishment under section 3104 or 3205 is issued by a court.

“(8) ‘Judgment’ means a judgment, order, or decree entered in favor of the United States in a court and arising from a civil or criminal proceeding regarding a debt.

“(9) ‘Nonexempt disposable earnings’ means 25 percent of disposable earnings, subject to section 303 of the Consumer Credit Protection Act.

“(10) ‘Person’ includes a natural person (including an individual Indian), a corporation, a partnership, an unincorporated association, a trust, or an estate, or any other public or private entity, including a State or local government or an Indian tribe.

“(11) ‘Prejudgment remedy’ means the remedy of attachment, receivership, garnishment, or sequestration authorized by this chapter to be granted before judgment on the merits of a claim for a debt.

“(12) ‘Property’ includes any present or future interest, whether legal or equitable, in real, personal (including choses in

action), or mixed property, tangible or intangible, vested or contingent, wherever located and however held (including community property and property held in trust (including spendthrift and pension trusts)), but excludes—

“(A) property held in trust by the United States for the benefit of an Indian tribe or individual Indian; and

“(B) Indian lands subject to restrictions against alienation imposed by the United States.

“(13) ‘Security agreement’ means an agreement that creates or provides for a lien.

“(14) ‘State’ means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, or any territory or possession of the United States.

“(15) ‘United States’ means—

“(A) a Federal corporation;

“(B) an agency, department, commission, board, or other entity of the United States; or

“(C) an instrumentality of the United States.

“(16) ‘United States marshal’ means a United States marshal, a deputy marshal, or an official of the United States Marshals Service designated under section 564.

### “§ 3003. Rules of construction

“(a) TERMS.—For purposes of this chapter—

“(1) the terms ‘includes’ and ‘including’ are not limiting;

“(2) the term ‘or’ is not exclusive; and

“(3) the singular includes the plural.

“(b) EFFECT ON RIGHTS OF THE UNITED STATES.—This chapter shall not be construed to curtail or limit the right of the United States under any other Federal law or any State law—

“(1) to collect taxes or to collect any other amount collectible in the same manner as a tax;

“(2) to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case;

“(3) to appoint or seek the appointment of a receiver; or

“(4) to enforce a security agreement.

“(c) EFFECT ON OTHER LAWS.—This chapter shall not be construed to supersede or modify the operation of—

“(1) title 11;

“(2) admiralty law;

“(3) section 3713 of title 31;

“(4) section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673);

“(5) a statute of limitation applicable to a criminal proceeding;

“(6) the common law or statutory rights to set-off or recoupment;

“(7) any Federal law authorizing, or any inherent authority of a court to provide, injunctive relief;

“(8) the authority of a court—

“(A) to impose a sanction under the Federal Rules of Civil Procedure;

“(B) to appoint a receiver to effectuate its order; or

“(C) to exercise the power of contempt under any Federal law;

“(9) any law authorizing the United States to obtain partition, or to recover possession, of property in which the United States holds title; or

“(10) any provision of any other chapter of this title, except to the extent such provision is inconsistent with this chapter.

“(d) **PREEMPTION.**—This chapter shall preempt State law to the extent such law is inconsistent with a provision of this chapter.

“(e) **EFFECT ON RIGHTS OF THE UNITED STATES UNDER FOREIGN AND INTERNATIONAL LAW.**—This chapter shall not be construed to curtail or limit the rights of the United States under foreign law, under a treaty or an international agreement, or otherwise under international law.

“(f) **APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.**—Except as provided otherwise in this chapter, the Federal Rules of Civil Procedure shall apply with respect to actions and proceedings under this chapter.

#### “§ 3004. Service of process; enforcement; notice

“(a) **MANNER OF SERVICE.**—A complaint, notice, writ, or other process required to be served in an action or proceeding under this chapter shall be served in accordance with the Federal Rules of Civil Procedure unless otherwise provided in this chapter.

“(b) **NATIONWIDE ENFORCEMENT.**—(1) Except as provided in paragraph (2)—

“(A) any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State; and

“(B) such writ, order, or judgment may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

“(2) If the debtor so requests, within 20 days after receiving the notice described in section 3101(d) or 3202(b), the action or proceeding in which the writ, order, or judgment was issued shall be transferred to the district court for the district in which the debtor resides.

“(c) **NOTICE AND OTHER PROCESS.**—At such time as counsel for the United States considers appropriate, but not later than the time a prejudgment or postjudgment remedy is put into effect under this chapter, counsel for the United States shall exercise reasonable diligence to serve on the debtor and any person who the United States believes, after exercising due diligence, has possession, custody, or control of the property, a copy of the application for such remedy, the order granting such remedy, and the notice required by section 3101(d) or 3202(b).

#### “§ 3005. Application of chapter to judgments

“This chapter shall not apply with respect to a judgment on a debt if such judgment is entered more than 10 years before the effective date of this chapter.

#### “§ 3006. Affidavit requirements

“Any affidavit required of the United States by this chapter may be made on information and belief, if reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.



**“§ 3007. Perishable personal property**

“(a) **AUTHORITY TO SELL.**—If at any time during any action or proceeding under this chapter the court determines on its own initiative or upon motion of any party, that any seized or detained personal property is likely to perish, waste, or be destroyed, or otherwise substantially depreciate in value during the pendency of the proceeding, the court shall order a commercially reasonable sale of such property.

“(b) **DEPOSIT OF SALE PROCEEDS.**—Within 5 days after such sale, the proceeds shall be deposited with the clerk of the court, accompanied by a statement in writing and signed by the United States marshal, to be filed in the action or proceeding, stating the time and place of sale, the name of the purchaser, the amount received, and an itemized account of expenses.

“(c) **PRESUMPTION.**—For purposes of liability on the part of the United States, there shall be a presumption that the price paid at a sale under subsection (a) is the fair market value of the property or portion.

**“§ 3008. Proceedings before United States magistrates**

“A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States.

**“§ 3009. United States marshals’ authority to designate keeper**

“Whenever a United States marshal is authorized to seize property pursuant to this chapter, the United States marshal may designate another person or Federal agency to hold for safekeeping such property seized.

**“§ 3010. Co-owned property**

“(a) **LIMITATION.**—The remedies available to the United States under this chapter may be enforced against property which is co-owned by a debtor and any other person only to the extent allowed by the law of the State where the property is located. This section shall not be construed to limit any right or interest of a debtor or co-owner in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof or in a qualified retirement arrangement.

“(b) **DEFINITIONS.**—For purposes of subsection (a)—

“(1) the term ‘retirement system for Federal military or civilian personnel’ means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or by regulation pursuant to statutory authority; and

“(2) the term ‘qualified retirement arrangement’ means a plan qualified under section 401(a), 403(a), or 409 of the Internal Revenue Code of 1986 or a plan that is subject to the requirements of section 205 of the Employee Retirement Income Security Act of 1974.

**“§ 3011. Assessment of surcharge on a debt**

“(a) **SURCHARGE AUTHORIZED.**—In an action or proceeding under subchapter B or C, and subject to subsection (b), the United States is

entitled to recover a surcharge of 10 percent of the amount of the debt in connection with the recovery of the debt, to cover the cost of processing and handling the litigation and enforcement under this chapter of the claim for such debt.

“(b) LIMITATION.—Subsection (a) shall not apply if—

“(1) the United States receives an attorney’s fee in connection with the enforcement of the claim; or

“(2) the law pursuant to which the action on the claim is based provides any other amount to cover such costs.

**“§ 3012. Joinder of additional defendant**

“The United States or the debtor may join as an additional defendant in an action or proceeding under this chapter any person reasonably believed to owe money (including money owed on account of a requirement to provide goods or services pursuant to a loan or loan guarantee extended under Federal law) to the debtor arising out of the transaction or occurrence giving rise to a debt.

**“§ 3013. Modification or protective order; supervision of enforcement**

“The court may at any time on its own initiative or the motion of any interested person, and after such notice as it may require, make an order denying, limiting, conditioning, regulating, extending, or modifying the use of any enforcement procedure under this chapter.

**“§ 3014. Exempt property**

“(a) ELECTION TO EXEMPT PROPERTY.—An individual debtor may, in an action or proceeding under this chapter, elect to exempt property listed in either paragraph (1) or, in the alternative, paragraph (2). If such action or proceeding is against debtors who are husband and wife, one debtor may not elect to exempt property listed in paragraph (1) and the other debtor elect to exempt property listed in paragraph (2). If the debtors cannot agree on the alternative to be elected, they shall be deemed to elect paragraph (1). Such property is either—

“(1) property that is specified in section 522(d) of title 11, as amended from time to time; or

“(2)(A) any property that is exempt under Federal law, other than paragraph (1), or State or local law that is applicable on the date of the filing of the application for a remedy under this chapter at the place in which the debtor’s domicile has been located for the 180 days immediately preceding the date of the filing of such application, or for a longer portion of such 180-day period than in any other place; and

“(B) any interest in property in which the debtor had, immediately before the filing of such application, an interest as a tenant by the entirety or joint tenant, or an interest in a community estate, to the extent that such interest is exempt from process under applicable nonbankruptcy law.

“(b) EFFECT ON ASSERTION AND MANNER OF DETERMINATION.—

“(1) STATEMENT.—A court may order the debtor to file a statement with regard to any claimed exemption. A copy of such statement shall be served on counsel for the United States. Such statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the debtor’s ownership interest.

“(2) HEARING.—The United States or the debtor, by application to the court in which an action or proceeding under this chapter is pending, may request a hearing on the applicability of any exemption claimed by the debtor. The court shall determine the extent (if any) to which the exemption applies. Unless it is reasonably evident that the exemption applies, the debtor shall bear the burden of persuasion.

“(3) STAY OF DISPOSITION.—Assertion of an exemption shall prevent the United States from selling or otherwise disposing of the property for which such exemption is claimed until the court determines whether the debtor has a substantial nonexempt interest in such property. The United States may not take possession of, dispose of, sell, or otherwise interfere with the debtor’s normal use and enjoyment of an interest in property the United States knows or has reason to know is exempt.

“(c) DEBTORS IN JOINT CASES.—Subject to the limitation in subsection (a), this section shall apply separately with respect to each debtor in a joint case.

#### “§ 3015. Discovery as to debtor’s financial condition

“(a) IN GENERAL.—Except as provided in subsection (b), in an action or proceeding under subchapter B or C, the United States may have discovery regarding the financial condition of the debtor in the manner in which discovery is authorized by the Federal Rules of Civil Procedure in an action on a claim for a debt.

“(b) LIMITATION.—Subsection (a) shall not apply with respect to an action or proceeding under subchapter B unless there is a reasonable likelihood that the debt involved exceeds \$50,000.

### “SUBCHAPTER B—PREJUDGMENT REMEDIES

“Sec.

“3101. Prejudgment remedies.

“3102. Attachment.

“3103. Receivership.

“3104. Garnishment.

“3105. Sequestration.

#### “§ 3101. Prejudgment remedies

“(a) APPLICATION.—(1) The United States may, in a proceeding in conjunction with the complaint or at any time after the filing of a civil action on a claim for a debt, make application under oath to a court to issue any prejudgment remedy.

“(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

“(3) Such application shall—

“(A) state that the debtor against whom the prejudgment remedy is sought shall be afforded an opportunity for a hearing; and

“(B) set forth with particularity that all statutory requirements under this chapter for the issuance of the prejudgment remedy sought have been satisfied.

“(b) GROUNDS.—Subject to section 3102, 3103, 3104, or 3105, a prejudgment remedy may be granted by any court if the United States shows reasonable cause to believe that—

“(1) the debtor—

“(A) is about to leave the jurisdiction of the United States with the effect of hindering, delaying, or defrauding the United States in its effort to recover a debt;

“(B) has or is about to assign, dispose, remove, conceal, ill treat, waste, or destroy property with the effect of hindering, delaying, or defrauding the United States;

“(C) has or is about to convert the debtor’s property into money, securities, or evidence of debt in a manner prejudicial to the United States with the effect of hindering, delaying, or defrauding the United States; or

“(D) has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States with the effect of hindering, delaying, or defrauding the United States; or

“(2) a prejudgment remedy is required to obtain jurisdiction within the United States and the prejudgment remedy sought will result in obtaining such jurisdiction.

“(c) AFFIDAVIT.—(1) The application under subsection (a) shall include an affidavit establishing with particularity to the court’s satisfaction facts supporting the probable validity of the claim for a debt and the right of the United States to recover what is demanded in the application.

“(2) The affidavit shall state—

“(A) specifically the amount of the debt claimed by the United States and any interest or costs attributable to such debt;

“(B) one or more of the grounds specified in subsection (b); and

“(C) the requirements of section 3102(b), 3103(a), 3104(a), or 3105(b), as the case may be.

“(3) No bond is required of the United States.

“(d) NOTICE AND HEARING.—(1) On filing an application by the United States as provided in this section, the counsel for the United States shall prepare, and the clerk shall issue, a notice for service on the debtor against whom the prejudgment remedy is sought and on any other person whom the United States reasonably believes, after exercising due diligence, has possession, custody, or control of property affected by such remedy. Three copies of the notice shall be served on each such person. The form and content of such notice shall be approved jointly by a majority of the chief judges of the Federal districts in the State in which the court is located and shall be in substantially the following form:

#### “ ‘NOTICE

“ ‘You are hereby notified that this [property] is being taken by the United States Government (“the Government”), which says that [name of debtor] owes it a debt of \$ [amount] for [reason for debt] and has filed a lawsuit to collect this debt. The Government says it must take this property at this time because [recite the pertinent ground or grounds from section 3101(b)]. The Government wants to make sure [name of debtor] will pay if the court determines that this money is owed.

“ ‘In addition, you are hereby notified that there are exemptions under the law which may protect some of this property from being taken by the Government if [name of debtor] can show that the exemptions apply. Below is a summary of the major exemptions which apply in most situations in the State of [State where property is located]:

“ [A statement summarizing in plain and understandable English the election available with respect to such State under section 3014 and the types of property that may be exempted under each of the alternatives specified in paragraphs (1) and (2) of section 3014(a), and a statement that different property may be so exempted with respect to the State in which the debtor resides.]

“ If you are [name of debtor] and you disagree with the reason the Government gives for taking your property now, or if you think you do not owe the money to the Government that it says you do, or if you think the property the Government is taking qualifies under one of the above exemptions, you have a right to ask the court to return your property to you.

“ If you want a hearing, you must promptly notify the court. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

“ At the hearing you may explain to the judge why you think you do not owe the money to the Government, why you disagree with the reason the Government says it must take your property at this time, or why you believe the property the Government has taken is exempt or belongs to someone else. You may make any or all of these explanations as you see fit.

“ If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding to take your property be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. You must also send a copy of your request to the Government at [address], so the Government will know you want the proceeding to be transferred.

“ Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court. The clerk is not permitted to give legal advice, but can refer you to other sources of information.’

“(2) By requesting, at any time before judgment on the claim for a debt, the court to hold a hearing, the debtor may move to quash the order granting such remedy. The court shall hold a hearing on such motion as soon as practicable, or, if requested by the debtor, within 5 days after receiving the request for a hearing or as soon thereafter as possible. The issues at such hearing shall be limited to—

“(A) the probable validity of the claim for the debt for which such remedy was granted and of any defense or claim of exemption asserted by such person;

“(B) compliance with any statutory requirement for the issuance of the prejudgment remedy granted;

“(C) the existence of any ground set forth in subsection (b); and

“(D) the inadequacy of alternative remedies (if any) to protect the interests of the United States.



"(e) **ISSUANCE OF WRIT.**—On the court's determination that the requirements of subsections (a), (b), and (c) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

**"§ 3102. Attachment**

"(a) **PROPERTY SUBJECT TO ATTACHMENT.**—(1) Any property in the possession, custody, or control of the debtor and in which the debtor has a substantial nonexempt interest, except earnings, may be attached pursuant to a writ of attachment in an action or proceeding against a debtor on a claim for a debt and may be held as security to satisfy such judgment, and interest and costs, as the United States may recover on such claim.

"(2) The value of property attached shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

"(A) property securing the debt; and

"(B) property garnished or in receivership, or income sequestered, under this subchapter.

"(b) **AVAILABILITY OF ATTACHMENT.**—If the requirements of section 3101 are satisfied, a court shall issue a writ authorizing the United States to attach property in which the debtor has a substantial nonexempt interest, as security for such judgment (and interest and costs) as the United States may recover on a claim for a debt—

"(1) in an action on a contract, express or implied, against the debtor for payment of money, only if the United States shows reasonable cause to believe that—

"(A) the contract is not fully secured by real or personal property; or

"(B) the value of the original security is substantially diminished, without any act of the United States or the person to whom the security was given, below the amount of the debt;

"(2) in an action against the debtor for damages in tort;

"(3) if the debtor resides outside the jurisdiction of the United States; or

"(4) in an action to recover a fine, penalty, or tax.

"(c) **ISSUANCE OF WRIT; CONTENTS.**—(1) Subject to subsections (a) and (b), a writ of attachment shall be issued by the court directing the United States marshal of the district where property described in subsection (a) is located to attach the property.

"(2) Several writs of attachment may be issued at the same time, or in succession, and sent to different judicial districts until sufficient property is attached.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the identity of the court, the docket number of the action, and the identity of the cause of action;

"(C) the name and last known address of the debtor;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to be attached.

"(d) **LEVY OF ATTACHMENT.**—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property specified for attachment if found within the district. The marshal may not sell property unless ordered by the court.



"(2) In performing the levy, the United States marshal may enter any property owned, occupied, or controlled by the debtor, except that the marshal may not enter a residence or other building unless the writ expressly authorizes the marshal to do so or upon specific order of the court.

"(3) Levy on real property is made by entering the property and posting the writ and notice of levy in a conspicuous place upon the property.

"(4) Levy on personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied on.

"(5) The United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3201(a)(1). The United States marshal shall serve a copy of the writ and notice of levy on—

"(A) the debtor against whom the writ is issued; and

"(B) the person who has possession of the property subject to the writ;

in the same manner that a summons is served in a civil action and make the return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with the marshal's action endorsed thereon or attached thereto and signed by the marshal, to the court from which it was issued, within 5 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it and shall state the location where it was attached, the date and time it was attached, and the disposition made of the property. If no property was attached, the return shall so state.

"(3) If the property levied on is claimed, replevied under subsection (j)(2), or sold under section 3007 after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(4) If personal property is replevied, the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment under this section creates a lien in favor of the United States on the property or, in the case of perishable property sold under section 3007, on the proceeds of the sale.

"(2) Such lien shall be ranked ahead of any other security interests perfected after the later of the time of levy and the time a copy of the notice of levy is filed under subsection (d)(5).

"(3) Such lien shall arise from the time of levy and shall continue until a judgment in the action is obtained or denied, or the action is otherwise dismissed. The death of the debtor whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(g) REDUCTION OR DISSOLUTION OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the debtor may submit a

motion to the court for a reduction of the amount of the attachment or its dissolution. Notice of such motion shall be served on the United States.

“(2) The court shall order a part of the property to be released, if after a hearing the court finds that the amount of the attachment is excessive or unreasonable or if the attachment is for an amount larger than the sum of the liquidated or ascertainable amount of the debt and the amount of interest and costs likely to be taxed.

“(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

“(4) If any property claimed to be exempt is levied on, the debtor may, at any time after such levy, request that the court vacate such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to the debtor.

“(h) REPLEVIN OF ATTACHED PROPERTY BY DEBTOR; BOND.—If attached property is not sold before judgment, the debtor may replevy such property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the reasonable value of the property to be replevied or double the value of the claim, whichever is less.

“(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed, or sold, the court may make such order for its preservation or use as appears to be in the interest of the parties.

“(j) JUDGMENT AND DISPOSITION OF ATTACHED PROPERTY.—

“(1) JUDGMENT FOR THE UNITED STATES.—On entry of judgment for the United States, the court shall order the proceeds of personal property sold pursuant to section 3007 to be applied to the satisfaction of the judgment, and shall order the sale of any remaining personal property and any real property levied on to the extent necessary to satisfy the judgment.

“(2) JUDGMENT FOR THE UNITED STATES WHEN PERSONAL PROPERTY REPLEVIED.—With respect to personal property under attachment that is replevied, the judgment which may be entered shall be against the debtor against whom the writ of attachment is issued and also against the sureties on the debtor's replevin bond for the value of the property.

“(3) RESTORATION OF PROPERTY AND EXONERATION OF REPLEVIN BOND.—If the attachment is vacated or if the judgment on the claim for the debt is for the person against whom the writ of attachment is issued, the court shall order the property, or proceeds of perishable property sold under section 3007, restored to the debtor and shall exonerate any replevin bond.

### “§ 3103. Receivership

“(a) APPOINTMENT OF A RECEIVER.—If the requirements of section 3101 are satisfied, a court may appoint a receiver for property in which the debtor has a substantial nonexempt interest if the United States shows reasonable cause to believe that there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, concealed, materially injured or damaged, or mismanaged.

“(b) POWERS OF RECEIVER.—(1) The appointing court may authorize a receiver—

“(A) to take possession of real and personal property and sue for, collect, and sell obligations upon such conditions and for such purposes as the court shall direct; and

“(B) to administer, collect, improve, lease, repair or sell pursuant to section 3007 such real and personal property as the court shall direct.

A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property.

“(2) Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers, or other professional persons.

“(c) DURATION OF RECEIVERSHIP.—A receivership shall not continue past the entry of judgment, or the conclusion of an appeal of such judgment, unless the court orders it continued under section 3203(e) or unless the court otherwise directs its continuation.

“(d) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds. The receiver's accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the debtor and the United States with a copy thereof.

Records.

“(e) MODIFICATION OF POWERS; REMOVAL.—On motion of the receiver or on its own initiative, the court which appointed the receiver may remove the receiver or modify the receiver's powers at any time.

“(f) PRIORITY.—If more than one court appoints a receiver for particular property, the receiver first qualifying under law shall be entitled to take possession, control, or custody of the property.

“(g) COMPENSATION OF RECEIVERS.—(1) A receiver is entitled to such commissions, not exceeding 5 percent of the sums received and disbursed by him, as the court allows unless the court otherwise directs.

“(2) If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remain unpaid.

“(3) At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by the receiver.

#### “§ 3104. Garnishment

“(a) IN GENERAL.—If the requirements of section 3101 are satisfied, a court may issue a writ of garnishment against property (excluding earnings) in which the debtor has a substantial nonexempt interest and which is in the possession, custody, or control of a person other than the debtor in order to satisfy a claim for a debt. Co-owned property shall be subject to garnishment to the same extent as co-owned property is subject to garnishment under the law of the State in which such property is located. A court may issue simultaneous separate writs of garnishment to several garnishees. A writ of garnishment issued under this subsection shall

be continuing and shall terminate only as provided in section 3205(c)(10).

“(b) WRIT.—(1) Subsections (b)(2) and (c) of section 3205 shall apply with respect to garnishment under this section, except that for purposes of this section—

“(A) earnings of the debtor shall not be subject to garnishment; and

“(B) a reference in such subsections to a judgment debtor shall be deemed to be a reference to a debtor.

“(2) The United States shall include in its application for a writ of garnishment—

“(A) the amount of the claim asserted by the United States for a debt; and

“(B) the date the writ is issued.

“(c) LIMITATION.—The value of property garnished shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

“(1) property securing the debt; and

“(2) property attached or in receivership, or income sequestered, under this subchapter.

#### “§ 3105. Sequestration

“(a) PROPERTY SUBJECT TO SEQUESTRATION.—(1) Any income from property in which the debtor has a substantial nonexempt interest may be sequestered pursuant to a writ of sequestration in an action or proceeding against a debtor on a claim for a debt and may be held as security to satisfy such judgment, and interest and costs, as the United States may recover on such claim.

“(2) The amount of income sequestered shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

“(A) property securing the debt; and

“(B) property attached, garnished, or in receivership under this subchapter.

“(b) AVAILABILITY OF SEQUESTRATION.—If the requirements of section 3101 are satisfied, a court shall issue a writ authorizing the United States to sequester income from property in which the debtor has a substantial nonexempt interest, as security for such judgment (and interest and costs) as the United States may recover on a claim for a debt—

“(1) in an action on a contract, express or implied, against the debtor for payment of money, only if the United States shows reasonable cause to believe that—

“(A) the contract is not fully secured by real or personal property; or

“(B) the value of the original security is substantially diminished, without any act of the United States or the person to whom the security was given, below the amount of the debt;

“(2) in an action against the debtor for damages in tort;

“(3) if the debtor resides outside the jurisdiction of the United States; or

“(4) in an action to recover a fine, penalty, or tax.

“(c) **ISSUANCE OF WRIT; CONTENTS.**—(1) Subject to subsections (a) and (b), a writ of sequestration shall be issued by the court directing the United States marshal of the district where income described in subsection (a) is located to sequester the income.

“(2) Several writs of sequestration may be issued at the same time, or in succession, and sent to different judicial districts until sufficient income is sequestered.

“(3) The writ of sequestration shall contain—

“(A) the date of the issuance of the writ;

“(B) the identity of the court, the docket number of the action, and the identity of the cause of action;

“(C) the name and last known address of the debtor;

“(D) the amount to be secured by the sequestration; and

“(E) a reasonable description of the income to be sequestered.

“(d) **EXECUTION OF WRIT.**—(1) The United States marshal receiving the writ shall proceed without delay to execute the writ.

“(2) The United States marshal shall file a copy of the notice of sequestration in the same manner as provided for judgments in section 3201(a)(1). The United States marshal shall serve a copy of the writ and notice of sequestration on—

“(A) the debtor against whom the writ is issued; and

“(B) the person who has possession of the income subject to the writ;

in the same manner that a summons is served in a civil action and make the return thereof.

“(e) **DEPOSIT OF SEQUESTERED INCOME.**—A person who has possession of the income subject to a writ of sequestration shall deposit such income with the clerk of the court, accompanied by a statement in writing stating the person's name, the name of the debtor, the amount of such income, the property from which such income is produced, and the period during which such income is produced.

“(f) **RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.**—(1) A United States marshal executing a writ of sequestration shall return the writ with the marshal's action endorsed thereon or attached thereto and signed by the marshal, to the court from which it was issued, within 5 days after the date of the execution.

“(2) The return shall describe the income sequestered with sufficient certainty to identify it and shall state the location where it was sequestered, and the date and time it was sequestered. If no income was sequestered, the return shall so state.

“(3) If sequestered income is claimed after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the income.

“(g) **REDUCTION OR DISSOLUTION OF SEQUESTRATION.**—(1) If an excessive or unreasonable sequestration is made, the debtor may submit a motion to the court for a reduction of the amount of the sequestration or its dissolution. Notice of such motion shall be served on the United States.

“(2) The court shall order a part of the income to be released, if after a hearing the court finds that the amount of the sequestration is excessive or unreasonable or if the sequestration is for an amount larger than the sum of the liquidated or ascertainable amount of the debt and the amount of interest and costs likely to be taxed.

“(3) The court shall dissolve the sequestration if the amount of the debt is unliquidated and unascertainable by calculation.



“(h) **PRESERVATION OF INCOME UNDER SEQUESTER.**—If personal property in custody of the United States marshal under a writ of sequestration is not claimed, the court may make such order for its preservation or use as appears to be in the interest of the parties.

“(i) **JUDGMENT AND DISPOSITION OF SEQUESTERED INCOME.**—

“(1) **JUDGMENT FOR THE UNITED STATES.**—On entry of judgment for the United States, the court shall order the sequestered income to be applied to the satisfaction of the judgment.

“(2) **RESTORATION OF INCOME.**—If the sequestration is vacated or if the judgment on the claim for the debt is for the person against whom the writ of sequestration is issued, the court shall order the income restored to the debtor.

## “SUBCHAPTER C—POSTJUDGMENT REMEDIES

“Sec.

“3201. Judgment liens.

“3202. Enforcement of judgments.

“3203. Execution.

“3204. Installment payment order.

“3205. Garnishment.

“3206. Discharge.

### “§ 3201. Judgment liens

“(a) **CREATION.**—A judgment in a civil action shall create a lien on all real property of a judgment debtor on filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under paragraphs (1) and (2) of section 6323(f) of the Internal Revenue Code of 1986. A lien created under this paragraph is for the amount necessary to satisfy the judgment, including costs and interest.

“(b) **PRIORITY OF LIEN.**—A lien created under subsection (a) shall have priority over any other lien or encumbrance which is perfected later in time.

“(c) **DURATION OF LIEN; RENEWAL.**—(1) Except as provided in paragraph (2), a lien created under subsection (a) is effective, unless satisfied, for a period of 20 years.

“(2) Such lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment is filed and shall relate back to the date the judgment is filed if—

“(A) the notice of renewal is filed before the expiration of the 20-year period to prevent the expiration of the lien; and

“(B) the court approves the renewal of such lien under this paragraph.

“(d) **RELEASE OF JUDGMENT LIEN.**—A judgment lien shall be released on the filing of a satisfaction of judgment or release of lien in the same manner as the judgment is filed to obtain the lien.

“(e) **EFFECT OF LIEN ON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.**—A debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency of the United States that is responsible for such grants and loans may



promulgate regulations to allow for waiver of this restriction on eligibility for such grants, loans, and funds.

“(f) **SALE OF PROPERTY SUBJECT TO JUDGMENT LIEN.**—(1) On proper application to a court, the court may order the United States to sell, in accordance with sections 2001 and 2002, any real property subject to a judgment lien in effect under this section.

“(2) This subsection shall not preclude the United States from using an execution sale pursuant to section 3203(g) to sell real property subject to a judgment lien.

#### “§ 3202. Enforcement of judgments

“(a) **ENFORCEMENT REMEDIES.**—A judgment may be enforced by any of the remedies set forth in this subchapter. A court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to support such remedies, subject to rule 81(b) of the Federal Rules of Civil Procedure.

“(b) **NOTICE.**—On the commencement by the United States of an action or proceeding under this subchapter to obtain a remedy, the counsel for the United States shall prepare, and clerk of the court shall issue, a notice in substantially the following form:

#### “ ‘NOTICE

“ ‘You are hereby notified that this [property] is being taken by the United States Government, which has a court judgment in [case docket number and jurisdiction of court] of \$[amount] for [reason of debt].

“ ‘In addition, you are hereby notified that there are exemptions under the law which may protect some of this property from being taken by the United States Government if [name of judgment debtor] can show that the exemptions apply. Below is a summary of the major exemptions which apply in most situations in the State of [State where property is located]:

“ ‘[A statement summarizing in plain and understandable English the election available with respect to such State under section 3014 and the types of property that may be exempted under each of the alternatives specified in paragraphs (1) and (2) of section 3014(a) and a statement that different property may be so exempted with respect to the State in which the debtor resides.]

“ ‘If you are [name of judgment debtor], you have a right to ask the court to return your property to you if you think the property the Government is taking qualifies under one of the above exemptions [For a default judgment:] or if you think you do not owe the money to the United States Government that it says you do.

“ ‘If you want a hearing, you must notify the court within 20 days after you receive this notice. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

“ ‘At the hearing you may explain to the judge why you believe the property the Government has taken is exempt [For a default

judgment:] or why you think you do not owe the money to the Government. [For a writ of execution:] If you do not request a hearing within 20 days of receiving this notice, your [property] may be sold at public auction and the payment used toward the money you owe the Government.

"If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding to take your property be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. You must also send a copy of your request to the Government at [address], so the Government will know you want the proceeding to be transferred.

"Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court. The clerk is not permitted to give legal advice, but can refer you to other sources of information."

"(c) SERVICE.—A copy of the notice and a copy of the application for granting a remedy under this subchapter shall be served by counsel for the United States on the judgment debtor against whom such remedy is sought and on each person whom the United States, after diligent inquiry, has reasonable cause to believe has an interest in property to which the remedy is directed.

"(d) HEARING.—By requesting, within 20 days after receiving the notice described in section 3202(b), the court to hold a hearing, the judgment debtor may move to quash the order granting such remedy. The court that issued such order shall hold a hearing on such motion as soon as practicable, or, if so requested by the judgment debtor, within 5 days after receiving the request or as soon thereafter as possible. The issues at such hearing shall be limited—

"(1) to the probable validity of any claim of exemption by the judgment debtor;

"(2) to compliance with any statutory requirement for the issuance of the postjudgment remedy granted; and

"(3) if the judgment is by default and only to the extent that the Constitution or another law of the United States provides a right to a hearing on the issue, to—

"(A) the probable validity of the claim for the debt which is merged in the judgment; and

"(B) the existence of good cause for setting aside such judgment.

This subparagraph shall not be construed to afford the judgment debtor the right to more than one such hearing except to the extent that the Constitution or another law of the United States provides a right to more than one such hearing.

"(e) SALE OF PROPERTY.—The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 or by execution sale pursuant to section 3203(g). If a hearing is requested pursuant to subsection (d), property with respect to which the request relates shall not be sold before such hearing.

#### "§ 3203. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property in which the judgment debtor has a substantial nonexempt interest shall be

subject to levy pursuant to a writ of execution. The debtor's earnings shall not be subject to execution while in the possession, custody, or control of the debtor's employer. Co-owned property shall be subject to execution to the extent such property is subject to execution under the law of the State in which it is located.

“(b) CREATION OF EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied on under a writ of execution and shall date from the time of the levy. Such lien shall have priority over all subsequent liens and shall be for the aggregate amount of the judgment, costs, and interest. The execution lien on any real property as to which the United States has a judgment lien shall relate back to the judgment lien date.

“(c) WRIT OF EXECUTION.—

“(1) ISSUANCE.—On written application of counsel for the United States, the court may issue a writ of execution. Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

“(2) FORM OF WRIT.—

“(A) GENERAL CONTENTS.—A writ of execution shall specify the date that the judgment is entered, the court in which it is entered, the amount of the judgment if for money, the amount of the costs, the amount of interest due, the sum due as of the date the writ is issued, the rate of postjudgment interest, the name of the judgment debtor, and the judgment debtor's last known address.

“(B) ADDITIONAL CONTENTS.—(i) Except as provided in clauses (ii) and (iii), the writ shall direct the United States marshal to satisfy the judgment by levying on and selling property in which the judgment debtor has a substantial nonexempt interest, but not to exceed property reasonably equivalent in value to the aggregate amount of the judgment, costs, and interest.

“(ii) A writ of execution issued on a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

“(iii) A writ of execution on a judgment for the recovery of personal property or its value shall direct the marshal, in case a delivery of the specific property cannot be had, to levy and collect such value out of any property in which the judgment debtor has a substantial nonexempt interest.

“(d) LEVY OF EXECUTION.—

“(1) IN GENERAL.—Levy on property pursuant to a writ of execution issued under this section shall be made in the same manner as levy on property is made pursuant to a writ of attachment issued under section 3102(d).

“(2) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ shall be recognized and enforced by the court for the district in which the estate of the deceased is located. The execution lien may be enforced—

“(A) against the executor, administrator, or personal representative of the estate of the deceased; or

“(B) if there be none, against the deceased’s property coming to the heirs or devisees or at their option against cash in their possession, but only to the extent of the value of the property coming to them.

“(3) RECORDS OF UNITED STATES MARSHAL.—(A) A United States marshal receiving a writ of execution shall endorse thereon the exact hour and date of receipt.

“(B) The United States marshal shall make a written record of every levy, specify the property on which levy is made, the date on which levy is made, and the marshal’s costs, expenses, and fees.

“(C) The United States marshal shall make a written return to the court on each writ of execution stating concisely what is done pursuant to the writ and shall deliver a copy to counsel for the United States who requests the writ. The writ shall be returned not more than—

“(i) 90 days after the date of issuance if levy is not made;

or

“(ii) 10 days after the date of sale of property on which levy is made.

“(e) APPOINTMENT OF RECEIVER.—Pending the levy of execution, the court may appoint a receiver to manage property described in such writ if there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, or mismanaged.

“(f) REPLEVY; REDEMPTION.—

“(1) BEFORE EXECUTION SALE.—(A) Before execution sale, the United States marshal may return property to the judgment debtor any personal property taken in execution, on—

“(i) satisfaction of the judgment, interest, and costs, and any costs incurred in connection with scheduling the sale;

or

“(ii) receipt from the judgment debtor of a bond—

“(I) payable to the United States, with 2 or more good and sufficient sureties to be approved by the marshal, conditioned on the delivery of the property to the marshal at the time and place named in the bond to be sold under subsection (g); or

“(II) for the payment to the marshal of a fair value thereof which shall be stated in the bond.

“(B) A judgment debtor who sells or disposes of property replevied under subparagraph (A) shall pay the United States marshal the stipulated value of such property.

“(C) If the judgment debtor fails to deliver such property to the United States marshal pursuant to the terms of the delivery described in subparagraph (A)(ii)(I) and fails to pay the United States marshal the stipulated value of such property, the United States marshal shall endorse the bond ‘forfeited’ and return it to the court from which the writ of execution issued. If the judgment is not fully satisfied, the court shall issue a writ of execution against the judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, on which execution no delivery bond shall be taken, which instruction shall be endorsed on the writ.

“(2) AFTER EXECUTION SALE.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

“(g) EXECUTION SALE.—

“(1) GENERAL PROCEDURES.—An execution sale under this section shall be conducted in a commercially reasonable manner—

“(A) SALE OF REAL PROPERTY.—

“(i) IN GENERAL.—(I) Except as provided in clause (ii), real property, or any interest therein, shall be sold, after the expiration of the 90-day period beginning on the date of levy under subsection (d), for cash at public auction at the courthouse of the county, parish, or city in which the greater part of the property is located or on the premises or some parcel thereof.

“(II) The court may order the sale of any real property after the expiration of the 30-day period beginning on the date of levy under subsection (d) if the court determines that such property is likely to perish, waste, be destroyed, or otherwise substantially depreciate in value during the 90-day period beginning on the date of levy.

“(III) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first publication shall appear not less than 25 days preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, the time and place of sale, and a brief description of the property to be sold, sufficient to identify the property (such as a street address for urban property and the survey identification and location for rural property), but it shall not be necessary for the notice to contain field notes. Such property shall be open for inspection and appraisal, subject to the judgment debtor's reasonable objections, for a reasonable period before the day of sale.

“(IV) The United States marshal shall serve written notice of public sale by personal delivery, or certified or registered mail, to each person whom the marshal has reasonable cause to believe, after a title search is conducted by the United States, has an interest in property under execution, including lienholders, co-owners, and tenants, at least 25 days before the day of sale, to the last known address of each such person.

“(ii) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel shall be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

“(iii) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the judgment debtor may—

“(I) divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court;

“(II) furnish a survey of such prepared by a registered surveyor; and

"(III) designate the order in which those lots shall be sold.

When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(B) SALE OF PERSONAL PROPERTY.—(i) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, at the courthouse of the county, parish or city wherein it is located, or at another location if ordered by the court. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale unless—

"(I) the property consists of shares of stock in corporations;

"(II) by reason of the nature of the property, it is impractical to exhibit it; or

"(III) the debtor's interest in the property does not include the right to the exclusive possession.

"(ii)(I) Except as provided in subclause (II), personal property, or any interest therein, shall be sold after the expiration of the 30-day period beginning on the date of levy under subsection (d).

"(II) The court may order the sale of any personal property before the expiration of such 30-day period if the court determines that such property is likely to perish, waste, be destroyed, or otherwise substantially depreciate in value during such 30-day period.

"(iii) Notice of the time and place of the sale of personal property shall be given by the United States marshal by posting notice thereof for not less than 10 days successively immediately before the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made.

"(iv) The United States marshal shall serve written notice of public sale by personal delivery, or registered or certified mail at their last known addresses, on the judgment debtor and other persons who the marshal has reasonable cause to believe, after diligent inquiry, have a substantial interest in the property.

"(2) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time by continuing the required posting or publication of notice until the date to which the sale is postponed, and appending, at the foot of each such notice of a current copy of the following:

"The above sale is postponed until the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., \_\_\_\_\_, United States Marshal for the District of \_\_\_\_\_, by \_\_\_\_\_, Deputy, dated \_\_\_\_\_."

"(3) SALE PROCEDURES.—

"(A) BIDDING REQUIREMENTS.—A bidder at an execution sale of property, may be required by the United States marshal to make a cash deposit of as much as 20 percent of the sale price proposed before the bid is accepted.

"(B) RESALE OF PROPERTY.—If the terms of the sale are not complied with by the successful bidder, the United States marshal shall proceed to sell the property again on the same day if there is sufficient time. If there is insufficient



time, the marshal shall schedule and notice a subsequent sale of the property as provided in paragraphs (1) and (2).

(4) RIGHTS AND LIABILITIES OF PURCHASERS.—

“(A) TRANSFER OF TITLE AFTER SALE.—

“(i) If property is sold under this subsection and the successful bidder complies with the terms of the sale, the United States marshal shall execute and deliver all documents necessary to transfer to the successful bidder, without warranty, all the rights, titles, interests, and claims of the judgment debtor in the property.

“(ii) If the successful bidder dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the successful bidder’s estate. Such delivery to the estate shall have the same effect as if accomplished during the lifetime of the purchaser.

“(B) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution shall be deemed to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the judgment debtor.

“(C) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—A successful bidder at an execution sale who fails to comply with the terms of the sale shall forfeit to the United States the cash deposit or, at the election of the United States, shall be liable to the United States, on a subsequent sale of the property, for all net losses incurred by the United States as a result of such failure.

“(h) DISPOSITION OF PROCEEDS; FURTHER LEVY.—

“(1) DISTRIBUTION OF SALE PROCEEDS.—(A) The United States marshal shall first deliver to the judgment debtor such amounts to which the judgment debtor is entitled from the sale of partially exempt property.

“(B) The United States marshal shall next deduct from the proceeds of an execution sale of property an amount equal to the reasonable expenses incurred in making the levy of execution and in keeping and maintaining the property.

“(C) Except as provided in subparagraph (D), the United States marshal shall deliver the balance of the proceeds to the counsel for the United States as soon as practicable.

“(D) If more proceeds are received from the execution sale than is necessary to satisfy the executions held by the United States marshal, the marshal shall pay the surplus to the judgment debtor.

“(2) FURTHER LEVY IF EXECUTION NOT SATISFIED.—If the proceeds of the execution sale of the property levied on are insufficient to satisfy the execution, the United States marshal shall proceed on the same writ of execution to levy other property of the judgment debtor.

“§ 3204. Installment payment order

“(a) AUTHORITY TO ISSUE ORDER.—Subject to subsection (c), if it is shown that the judgment debtor—

“(1) is receiving or will receive substantial nonexempt disposable earnings from self employment that are not subject to garnishment; or

“(2) is diverting or concealing substantial earnings from any source, or property received in lieu of earnings;

then upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration after a hearing, the income, resources, and reasonable requirements of the judgment debtor and the judgment debtor's dependents, any other payments to be made in satisfaction of judgments against the judgment debtor, and the amount due on the judgment in favor of the United States.

“(b) MODIFICATION OF ORDER.—On motion of the United States or the judgment debtor, and upon a showing that the judgment debtor's financial circumstances have changed or that assets not previously disclosed by the judgment debtor have been discovered, the court may modify the amount of payments, alter their frequency, or require full payment.

“(c) LIMITATION.—(1) An order may not be issued under subsection (a), and if so issued shall have no force or effect, against a judgment debtor with respect to whom there is in effect a writ of garnishment of earnings issued under this chapter and based on the same debt.

“(2) An order may not be issued under subsection (a) with respect to any earnings of the debtor except nonexempt disposable earnings.

#### “§ 3205. Garnishment

“(a) IN GENERAL.—A court may issue a writ of garnishment against property (including nonexempt disposable earnings) in which the debtor has a substantial nonexempt interest and which is in the possession, custody, or control of a person other than the debtor, in order to satisfy the judgment against the debtor. Co-owned property shall be subject to garnishment to the same extent as co-owned property is subject to garnishment under the law of the State in which such property is located. A court may issue simultaneous separate writs of garnishment to several garnishees. A writ of garnishment issued under this subsection shall be continuing and shall terminate only as provided in subsection (c)(10).

“(b) WRIT.—

“(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment—

“(A) the judgment debtor's name, social security number (if known), and last known address;

“(B) the nature and amount of the debt owed and the facts that not less than 30 days has elapsed since demand on the debtor for payment of the debt was made and the judgment debtor has not paid the amount due; and

“(C) that the garnishee is believed to have possession of property (including nonexempt disposable earnings) in which the debtor has a substantial nonexempt interest.

“(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

“(A) If the property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable

instrument is not outstanding, the corporation, or the president or treasurer of the association shall be the garnishee.

“(B) If the property consists of an interest in a partnership interest, any partner other than the debtor shall be the garnishee on behalf of the partnership.

“(C) If the property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document, or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee, except that—

“(i) subject to clause (ii), in the case of a security which is transferable in the manner set forth in State law, the entity that carries on its books an account in the name of the debtor in which is reflected such security shall be the garnishee; and

“(ii) notwithstanding clause (i), the pledgee shall be the garnishee if such security is pledged.

“(c) PROCEDURES APPLICABLE TO WRIT.—

“(1) COURT DETERMINATION.—If the court determines that the requirements of this section are satisfied, the court shall issue an appropriate writ of garnishment.

“(2) FORM OF WRIT.—The writ shall state—

“(A) The nature and amount of the debt, and any cost and interest owed with respect to the debt.

“(B) The name and address of the garnishee.

“(C) The name and address of counsel for the United States.

“(D) The last known address of the judgment debtor.

“(E) That the garnishee shall answer the writ within 10 days of service of the writ.

“(F) That the garnishee shall withhold and retain any property in which the debtor has a substantial nonexempt interest and for which the garnishee is or may become indebted to the judgment debtor pending further order of the court.

“(3) SERVICE OF WRIT.—The United States shall serve the garnishee and the judgment debtor with a copy of the writ of garnishment and shall certify to the court that this service was made. The writ shall be accompanied by—

“(A) an instruction explaining the requirement that the garnishee submit a written answer to the writ; and

“(B) instructions to the judgment debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

“(4) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath—

“(A) whether the garnishee has custody, control or possession of such property;

“(B) a description of such property and the value of such interest;

“(C) a description of any previous garnishments to which such property is subject and the extent to which any remaining property is not exempt; and

“(D) the amount of the debt the garnishee anticipates owing to the judgment debtor in the future and whether the

period for payment will be weekly or another specified period.

The garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States.

“(5) **OBJECTIONS TO ANSWER.**—Within 20 days after receipt of the answer, the judgment debtor or the United States may file a written objection to the answer and request a hearing. The party objecting shall state the grounds for the objection and bear the burden of proving such grounds. A copy of the objection and request for a hearing shall be served on the garnishee and all other parties. The court shall hold a hearing within 10 days after the date the request is received by the court, or as soon thereafter as is practicable, and give notice of the hearing date to all the parties.

“(6) **GARNISHEE’S FAILURE TO ANSWER OR PAY.**—If a garnishee fails to answer the writ of garnishment or to withhold property in accordance with the writ, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ and to so withhold property before the appearance date. If the garnishee fails to appear, or appears and fails to show good cause why the garnishee failed to comply with the writ, the court shall enter judgment against the garnishee for the value of the judgment debtor’s nonexempt interest in such property (including nonexempt disposable earnings). The court may award a reasonable attorney’s fee to the United States and against the garnishee if the writ is not answered within the time specified therein and a petition requiring the garnishee to appear is filed as provided in this section.

“(7) **DISPOSITION ORDER.**—After the garnishee files an answer and if no hearing is requested within the required time period, the court shall promptly enter an order directing the garnishee as to the disposition of the judgment debtor’s nonexempt interest in such property. If a hearing is timely requested, the order shall be entered within 5 days after the hearing, or as soon thereafter as is practicable.

“(8) **PRIORITIES.**—Judicial orders and garnishments for the support of a person shall have priority over a writ of garnishment issued under this section. As to any other writ of garnishment or levy, a garnishment issued under this section shall have priority over writs which are issued later in time.

“(9) **ACCOUNTING.**—(A) While a writ of garnishment is in effect under this section, the United States shall give an annual accounting on the garnishment to the judgment debtor and the garnishee.

“(B) Within 10 days after the garnishment terminates, the United States shall give a cumulative written accounting to the judgment debtor and garnishee of all property it receives under a writ of garnishment. Within 10 days after such accounting is received, the judgment debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting shall state grounds for the objection. The court shall hold a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

“(10) **TERMINATION OF GARNISHMENT.**—A garnishment under this chapter is terminated only by—

- “(A) a court order quashing the writ of garnishment;
- “(B) exhaustion of property in the possession, custody, or control of the garnishee in which the debtor has a substantial nonexempt interest (including nonexempt disposable earnings), unless the garnishee reinstates or reemploys the judgment debtor within 90 days after the judgment debtor’s dismissal or resignation; or
- “(C) satisfaction of the debt with respect to which the writ is issued.

#### “§ 3206. Discharge

“A person who pursuant to an execution or order issued under this chapter by a court pays or delivers to the United States, a United States marshal, or a receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt such person owes the judgment debtor, is discharged from such debt to the judgment debtor to the extent of the payment or delivery.

### “SUBCHAPTER D—FRAUDULENT TRANSFERS INVOLVING DEBTS

“Sec.

“3301. Definitions.

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#### “§ 3301. Definitions

“As used in this subchapter:

“(1) ‘Affiliate’ means—

“(A) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities—

“(i) as a fiduciary or agent without sole discretionary power to vote the securities; or

“(ii) solely to secure a debt, if the person has not exercised the power to vote;

“(B) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds securities—

“(i) as a fiduciary or agent without sole power to vote the securities; or

“(ii) solely to secure a debt, if the person has not in fact exercised the power to vote;

“(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

“(D) a person who operates the debtor’s business under a lease or other agreement or controls substantially all of the debtor’s assets.

“(2) ‘Asset’ means property of a debtor, but does not include—

“(A) property to the extent it is encumbered by a valid lien;

“(B) property to the extent it is generally exempt under nonbankruptcy law; or

“(C) an interest in real property held in tenancy by the entirety, or as part of a community estate, to extent such interest is not subject to process by the United States holding a claim against only one tenant or co-owner.

“(3) ‘Claim’ means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

“(4) ‘Creditor’ means a person who has a claim.

“(5) ‘Insider’ includes—

“(A) if the debtor is an individual—

“(i) a relative of the debtor or of a general partner of the debtor;

“(ii) a partnership in which the debtor is a general partner;

“(iii) a general partner in a partnership described in clause (ii); or

“(iv) a corporation of which the debtor is a director, officer, or person in control;

“(B) if the debtor is a corporation—

“(i) a director of the debtor;

“(ii) an officer of the debtor;

“(iii) a person in control of the debtor;

“(iv) a partnership in which the debtor is a general partner;

“(v) a general partner in a partnership described in clause (iv); or

“(vi) a relative of a general partner, director, officer, or person in control of the debtor;

“(C) if the debtor is a partnership—

“(i) a general partner in the debtor;

“(ii) a relative of a general partner in, a general partner of, or a person in control of the debtor;

“(iii) another partnership in which the debtor is a general partner;

“(iv) a general partner in a partnership described in clause (iii); or

“(v) a person in control of the debtor.

“(D) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

“(E) a managing agent of the debtor.

“(4) ‘Lien’ means a charge against or an interest in property to secure payment of a debt and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common law lien, or a statutory lien.

“(5) ‘Relative’ means an individual related, by consanguinity or adoption, within the third degree as determined by the



common law, a spouse, or an individual so related to a spouse within the third degree as so determined.

“(6) ‘Transfer’ means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

“(7) ‘Valid lien’ means a lien that is effective against the holder of a judicial lien subsequently obtained in legal or equitable proceeding.

### “§ 3302. Insolvency

“(a) IN GENERAL.—Except as provided in subsection (c), a debtor is insolvent if the sum of the debtor’s debts is greater than all of the debtor’s assets at a fair valuation.

“(b) PRESUMPTION.—A debtor who is generally not paying debts as they become due is presumed to be insolvent.

“(c) CALCULATION.—A partnership is insolvent under subsection (a) if the sum of the partnership’s debts is greater than the aggregate, at a fair valuation, of—

“(1) all of the partnership’s assets; and

“(2) the sum of the excess of the value of each general partner’s non-partnership assets over the partner’s non-partnership debts.

“(d) ASSETS.—For purposes of this section, assets do not include property that is transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

“(e) DEBTS.—For purposes of this section, debts do not include an obligation to the extent such obligation is secured by a valid lien on property of the debtor not included as an asset.

### “§ 3303. Value for transfer or obligation

“(a) TRANSACTION.—Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor’s business to furnish support to the debtor or another person.

“(b) REASONABLY EQUIVALENT VALUE.—For the purposes of sections 3304 and 3307, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of such interest upon default under a mortgage, deed of trust, or security agreement.

“(c) PRESENT VALUE.—A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

### “§ 3304. Transfer fraudulent as to a debt to the United States

“(a) DEBT ARISING BEFORE TRANSFER.—Except as provided in section 3307, a transfer made or obligation incurred by a debtor is fraudulent as to a debt to the United States which arises before the transfer is made or the obligation is incurred if—

“(1)(A) the debtor makes the transfer or incurs the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation; and

“(B) the debtor is insolvent at that time or the debtor becomes insolvent as a result of the transfer or obligation; or

“(2)(A) the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time; and

“(B) the insider had reasonable cause to believe that the debtor was insolvent.

“(b) TRANSFERS WITHOUT REGARD TO DATE OF JUDGMENT.—(1) Except as provided in section 3307, a transfer made or obligation incurred by a debtor is fraudulent as to a debt to the United States, whether such debt arises before or after the transfer is made or the obligation is incurred, if the debtor makes the transfer or incurs the obligation—

“(A) with actual intent to hinder, delay, or defraud a creditor;

or

“(B) without receiving a reasonably equivalent value in exchange for the transfer or obligation if the debtor—

“(i) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

“(ii) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

“(2) In determining actual intent under paragraph (1), consideration may be given, among other factors, to whether—

“(A) the transfer or obligation was to an insider;

“(B) the debtor retained possession or control of the property transferred after the transfer;

“(C) the transfer or obligation was disclosed or concealed;

“(D) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

“(E) the transfer was of substantially all the debtor's assets;

“(F) the debtor absconded;

“(G) the debtor removed or concealed assets;

“(H) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

“(I) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

“(J) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

“(K) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

#### “§ 3305. When transfer is made or obligation is incurred

“For the purposes of this subchapter:

“(1) A transfer is made—

“(A) with respect to an asset that is real property (other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset), when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an

interest in the asset that is superior to the interest of the transferee; and

“(B) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire, otherwise than under this subchapter, a judicial lien that is superior to the interest of the transferee.

“(2) If applicable law permits the transfer to be perfected as approved in paragraph (1) and the transfer is not so perfected before the commencement of an action or proceeding for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action or proceeding.

“(3) If applicable law does not permit the transfer to be perfected as provided in paragraph (1), the transfer is made when it becomes effective between the debtor and the transferee.

“(4) A transfer is not made until the debtor has acquired rights in the asset transferred.

“(5) An obligation is incurred—

“(A) if oral, when it becomes effective between the parties; or

“(B) if evidenced by a writing executed by the obligor, when such writing is delivered to or for the benefit of the obligee.

#### “§ 3306. Remedies of the United States

“(a) **IN GENERAL.**—In an action or proceeding under this subchapter for relief against a transfer or obligation, the United States, subject to section 3307 and to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure, may obtain—

“(1) avoidance of the transfer or obligation to the extent necessary to satisfy the debt to the United States;

“(2) a remedy under this chapter against the asset transferred or other property of the transferee; or

“(3) any other relief the circumstances may require.

“(b) **LIMITATION.**—A claim for relief with respect to a fraudulent transfer or obligation under this subchapter is extinguished unless action is brought—

“(1) under section 3304(b)(1)(A) within 6 years after the transfer was made or the obligation was incurred or, if later, within 2 years after the transfer or obligation was or could reasonably have been discovered by the claimant;

“(2) under subsection (a)(1) or (b)(1)(B) of section 3304 within 6 years after the transfer was made or the obligation was incurred; or

“(3) under section 3304(a)(2) within 2 years after the transfer was made or the obligation was incurred.

#### “§ 3307. Defenses, liability, and protection of transferee

“(a) **GOOD FAITH TRANSFER.**—A transfer or obligation is not voidable under section 3304(b) with respect to a person who took in good faith and for a reasonably equivalent value or against any transferee or obligee subsequent to such person.

“(b) **LIMITATION.**—Except as provided in subsection (d), to the extent a transfer is voidable in an action or proceeding by the United States under section 3306(a)(1), the United States may recover judgment for the value of the asset transferred, but not to

exceed the judgment on a debt. The judgment may be entered against—

“(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

“(2) any subsequent transferee, other than a good faith transferee who took for value or any subsequent transferee of such good-faith transferee.

“(c) **VALUE OF ASSET.**—For purposes of subsection (b), the value of the asset is the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

“(d) **RIGHTS OF GOOD FAITH TRANSFEREES AND OBLIGEEES.**—Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

“(1) a lien on or a right to retain any interest in the asset transferred;

“(2) enforcement of any obligation incurred; or

“(3) a reduction in the amount of the liability on the judgment.

“(e) **EXCEPTIONS.**—A transfer is not voidable under section 3304(a) or section 3304(b)(2) if the transfer results from—

“(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

“(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the State where the property is located.

“(f) **LIMITATION OF VOIDABILITY.**—A transfer is not voidable under section 3304(a)(2)—

“(1) to the extent the insider gives new value to or for the benefit of the debtor after the transfer is made unless the new value is secured by a valid lien;

“(2) if made in the ordinary course of business or financial affairs of the debtor and the insider; or

“(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured both present value given for that purpose and an antecedent debt of the debtor.

#### “§ 3308. Supplementary provision

“Except as provided in this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause shall apply to actions and proceedings under this subchapter.”

Sec. 3302. The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

“176. Federal Debt Collection Procedures”.

## Subtitle B—Amendments to Other Provisions of Law

SEC. 3621. Section 523(a)(8) of title 11, United States Code, is amended—

(1) by striking “for an educational” and all that follows through “unless”, and inserting the following: “for an educational benefit overpayment or loan made, insured or guaran-

ted by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless"; and

(2) by amending subparagraph (A) to read as follows:

"(A) such loan, benefit, scholarship, or stipend overpayment first became due more than 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 3622. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require;"

SEC. 3623. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond;"

SEC. 3624. Section 3142(g)(4) of title 18, United States Code, is amended by—

(1) striking out "(c)(2)(K)" and inserting in lieu thereof "(c)(1)(B)(xi)"; and

(2) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 3625. Section 3552(d) of title 18, United States Code, is amended by adding at the end the following: "The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed."

Reports.

SEC. 3626. (a) Section 550 of title 28, United States Code, is amended—

(1) in the heading by striking "and messengers" and inserting ", messengers, and private process servers"; and

(2) by striking "and messengers on" and inserting ", messengers, and private process servers on".

(b) The table of sections of chapter 35 of title 28, United States Code, is amended by striking the item relating to section 550 and inserting the following:

"550. Clerical assistants, messengers, and private process servers."

SEC. 3627. Section 1962 of title 28, United States Code, is amended by inserting after the first sentence the following: "This section does not apply to judgments entered in favor of the United States."

SEC. 3628. Section 1963 of title 28, United States Code, is amended by inserting after the first sentence the following: "Such a judgment

entered in favor of the United States may be so registered any time after judgment is entered.”.

SEC. 3629. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following:

**“§ 2044. Payment of fine with bond money**

Courts.

“On motion of the United States attorney, the court shall order any money belonging to and deposited by or on behalf of the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed upon the defendant. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant’s guilt has been entered and before sentencing except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This section shall not apply to any third party surety.”.

(b) The table of sections for chapter 29 of title 28, United States Code, is amended by adding at the end thereof the following:

“2044. Payment of fine with bond money.”.

SEC. 3630. Section 2410(c) of title 28, United States Code, is amended by adding at the end the following: “In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.”.

## Subtitle C—Miscellaneous

Effective dates.  
28 USC 3001  
note.

SEC. 3631. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b)(1) The amendments made by title I of this Act shall apply with respect to actions pending on the effective date of this Act in any court on—

(A) a claim for a debt; or

(B) a judgment for a debt.

(2) All notices, writs, orders, and judgments in effect in such actions shall continue in effect until superseded or modified in an action under chapter 176 of title 28 of the United States Code, as added by title I of this Act.

(3) For purposes of this subsection—

(A) the term “court” means a Federal, State, or local court, and

(B) the term “debt” has the meaning given such term in section and 3002(3) of such chapter.

## TITLE XXXVII—NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990

42 USC 5779. SEC. 3701. REPORTING REQUIREMENT.

(a) IN GENERAL.—Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 18



reported to such agency to the National Crime Information Center of the Department of Justice.

(b) **GUIDELINES.**—The Attorney General may establish guidelines for the collection of such reports including procedures for carrying out the purposes of this Act.

(c) **ANNUAL SUMMARY.**—The Attorney General shall publish an annual statistical summary of the reports received under this title.

**SEC. 3702. STATE REQUIREMENTS.**

42 USC 5780.

Each State reporting under the provisions of this title shall—

(1) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the observance of any waiting period before accepting a missing child or unidentified person report;

(2) provide that each such report and all necessary and available information, which, with respect to each missing child report, shall include—

(A) the name, date of birth, sex, race, height, weight, and eye and hair color of the child;

(B) the date and location of the last known contact with the child; and

(C) the category under which the child is reported missing;

is entered immediately into the State law enforcement system and the National Crime Information Center computer networks and made available to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports; and

(3) provide that after receiving reports as provided in paragraph (2), the law enforcement agency that entered the report into the National Crime Information Center shall—

(A) no later than 60 days after the original entry of the record into the State law enforcement system and National Crime Information Center computer networks, verify and update such record with any additional information, including, where available, medical and dental records;

(B) institute or assist with appropriate search and investigative procedures; and

(C) maintain close liaison with the National Center for Missing and Exploited Children for the exchange of

Records.

information and technical assistance in the missing children cases.

Approved November 29, 1990.

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LEGISLATIVE HISTORY—S. 3266 (H.R. 5269):

HOUSE REPORTS: No. 101-681, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Ways and Means) both accompanying H.R. 5269.

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 3-5, H.R. 5269 considered and passed House.

Oct. 23, considered and passed Senate, amended.

Oct. 27, S. 3266 considered and passed Senate and House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

Nov. 29, Presidential statement.