

108TH CONGRESS
1ST SESSION

H. R. 1765

To provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2003

Mr. WOLF (for himself and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Prison Rape Reduction Act of 2003”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. National prison rape statistics, data, and research.
- Sec. 5. Prison rape prevention and prosecution.
- Sec. 6. Prison rape prevention and prosecution grants.
- Sec. 7. National Prison Rape Reduction Commission.
- Sec. 8. Adoption and effect of national standards.
- Sec. 9. Model standards for acute post-trauma treatment.
- Sec. 10. Requirement that accreditation organizations adopt accreditation standards.
- Sec. 11. Designation of grant programs for funding increases; adjustments to increases.
- Sec. 12. Definitions.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) 2,100,146 persons were incarcerated in the
4 United States at the end of 2001: 1,324,465 in Fed-
5 eral and State Prisons and 631,240 in county and
6 local jails. In 1999, there were more than
7 10,000,000 separate admissions to and discharges
8 from prisons and jails.

9 (2) Insufficient research has been conducted
10 and insufficient data reported on the extent of pris-
11 on rape. However, experts have conservatively esti-
12 mated that at least 13 percent of the inmates in the
13 United States have been sexually assaulted in pris-
14 on. Many inmates have suffered repeated assaults.
15 Under this estimate, nearly 200,000 inmates now in-
16 carcerated have been or will be the victims of prison
17 rape. The total number of inmates who have been
18 sexually assaulted in the past 20 years likely exceeds
19 1,000,000.

1 (3) Inmates with mental illness are at increased
2 risk of sexual victimization. America’s jails and pris-
3 ons house more mentally ill individuals than all of
4 the Nation’s psychiatric hospitals combined. As
5 many as 16 percent of inmates in state prisons and
6 jails, and 7 percent of Federal inmates, suffer from
7 mental illness.

8 (4) Young first-time offenders are at increased
9 risk of sexual victimization. Juveniles are 5 times
10 more likely to be sexually assaulted in adult rather
11 than juvenile facilities—often within the first 48
12 hours of incarceration.

13 (5) Most prison staff are not adequately trained
14 or prepared to prevent, report, or treat inmate sex-
15 ual assaults.

16 (6) Prison rape often goes unreported, and in-
17 mate victims often receive inadequate treatment for
18 the severe physical and psychological effects of sex-
19 ual assault—if they receive treatment at all.

20 (7) HIV and AIDS are major public health
21 problems within America’s correctional facilities. In
22 2000, 25,088 inmates in Federal and State prisons
23 were known to be infected with HIV/AIDS. In 2000,
24 HIV/AIDS accounted for more than 6 percent of all
25 deaths in Federal and State prisons. Infection rates

1 for other sexually transmitted diseases, tuberculosis,
2 and hepatitis B and C are also far greater for pris-
3 oners than for the American population as a whole.
4 Prison rape undermines the public health by contrib-
5 uting to the spread of these diseases, and often giv-
6 ing a potential death sentence to its victims.

7 (8) Prison rape endangers the public safety by
8 making brutalized inmates more likely to commit
9 crimes when they are released—as 600,000 inmates
10 are each year.

11 (9) The frequently interracial character of pris-
12 on sexual assaults significantly exacerbates inter-
13 racial tensions, both within prison and, upon release
14 of perpetrators and victims from prison, in the com-
15 munity at large.

16 (10) Prison rape increases the level of homi-
17 cides and other violence against inmates and staff,
18 and the risk of insurrections and riots.

19 (11) Victims of prison rape suffer severe phys-
20 ical and psychological effects that hinder their ability
21 to integrate into the community and maintain stable
22 employment upon their release from prison. They
23 are thus more likely to become homeless and/or re-
24 quire government assistance.

1 (12) Members of the public and government of-
2 ficials are largely unaware of the epidemic character
3 of prison rape and the day-to-day horror experienced
4 by victimized inmates.

5 (13) The high incidence of sexual assault within
6 prisons involves actual and potential violations of the
7 United States Constitution. In *Farmer v. Brennan*,
8 511 U.S. 825 (1994), the Supreme Court ruled that
9 deliberate indifference to the substantial risk of sex-
10 ual assault violates prisoners' rights under the Cruel
11 and Unusual Punishments Clause of the Eighth
12 Amendment. The Eighth Amendment rights of State
13 and local prisoners are protected through the Due
14 Process Clause of the Fourteenth Amendment. Pur-
15 suant to Congress's power under Section Five of the
16 Fourteenth Amendment, Congress may take action
17 to enforce those rights in States where officials have
18 demonstrated such indifference. States in which the
19 incidence of prison rape exceeds the median by 30
20 percent whose officials refuse to explain their poli-
21 cies and practices regarding sexual assault and
22 States that do not adopt carefully selected grant
23 performance standards that do not generate signifi-
24 cant additional expenditures demonstrate such indif-

1 ference. Therefore, such States are not entitled to
2 the same level of Federal benefits as other States.

3 (14) The high incidence of prison rape under-
4 mines the effectiveness and efficiency of United
5 States Government expenditures through grant pro-
6 grams such as those dealing with health care; men-
7 tal health care; disease prevention; crime prevention,
8 investigation, and prosecution; prison construction,
9 maintenance, and operation; race relations; poverty;
10 unemployment and homelessness. The effectiveness
11 and efficiency of these Federally funded grant pro-
12 grams are compromised by officials' failure to adopt
13 policies and procedure that reduce the incidence of
14 prison rape in that the high incidence of prison
15 rape—

16 (A) increases the costs incurred by Fed-
17 eral, State, and local jurisdictions to administer
18 their prison systems;

19 (B) increases the levels of violence, di-
20 rected at inmates and at staff, within prisons;

21 (C) increases health care expenditures,
22 both inside and outside of prison systems, and
23 reduces the effectiveness of disease prevention
24 programs by substantially increasing the inci-

1 dence and spread of HIV, AIDS, tuberculosis,
2 hepatitis B and C, and other diseases;

3 (D) increases mental health care expendi-
4 tures, both inside and outside of prison sys-
5 tems, by substantially increasing the rate of
6 post-traumatic stress disorder, depression, sui-
7 cide, and the exacerbation of existing mental ill-
8 nesses among current and former inmates;

9 (E) increases the risks of recidivism, civil
10 strife, and violent crime by individuals who have
11 been brutalized by prison rape; and

12 (F) increases the level of interracial ten-
13 sions and strife within prisons and, upon re-
14 lease of perpetrators and victims, in the com-
15 munity at large.

16 (15) The high incidence of prison rape has a
17 significant effect on interstate commerce because it
18 increases substantially—

19 (A) the costs incurred by Federal, State,
20 and local jurisdictions to administer their pris-
21 on systems;

22 (B) the incidence and spread of HIV,
23 AIDS, tuberculosis, hepatitis B and C, and
24 other diseases, contributing to increased health

1 and medical expenditures throughout the Na-
2 tion;

3 (C) the rate of post-traumatic stress dis-
4 order, depression, suicide, and the exacerbation
5 of existing mental illnesses among current and
6 former inmates, contributing to increased
7 health and medical expenditures throughout the
8 Nation; and

9 (D) the risk of recidivism, civil strife, and
10 violent crime by individuals who have been bru-
11 talized by prison rape.

12 **SEC. 3. PURPOSES.**

13 The purposes of this Act are to—

14 (1) establish a zero-tolerance standard for the
15 incidence of prison rape in prisons in the United
16 States;

17 (2) make the prevention of prison rape a top
18 priority in each prison system;

19 (3) develop and implement national standards
20 for the detection, prevention, reduction, and punish-
21 ment of prison rape;

22 (4) increase the available data and information
23 on the incidence of prison rape, consequently im-
24 proving the management and administration of cor-
25 rectional facilities;

1 (5) standardize the definitions used for col-
2 lecting data on the incidence of prison rape;

3 (6) increase the accountability of prison officials
4 who fail to detect, prevent, reduce, and punish pris-
5 on rape.

6 (7) protect the Eighth Amendment rights of
7 Federal, State, and local prisoners;

8 (8) increase the efficiency and effectiveness of
9 Federal expenditures through grant programs such
10 as those dealing with health care; mental health
11 care; disease prevention; crime prevention, investiga-
12 tion, and prosecution; prison construction, mainte-
13 nance, and operation; race relations; poverty; unem-
14 ployment; and homelessness; and

15 (9) reduce the costs that prison rape imposes
16 on interstate commerce.

17 **SEC. 4. NATIONAL PRISON RAPE STATISTICS, DATA, AND**
18 **RESEARCH.**

19 (a) ANNUAL COMPREHENSIVE STATISTICAL RE-
20 VIEW.—

21 (1) IN GENERAL.—The Bureau of Justice Sta-
22 tistics of the Department of Justice (in this section
23 referred to as the “Bureau”) shall carry out, for
24 each calendar year, a comprehensive statistical re-
25 view and analysis of the incidence and effects of

1 prison rape. The statistical review and analysis shall
2 include, but not be limited to the identification of
3 the common characteristics of—

4 (A) both victims and perpetrators of prison
5 rape; and

6 (B) prisons and prison systems with a high
7 incidence of prison rape.

8 (2) SAMPLING TECHNIQUES.—The analysis
9 under paragraph (1) shall be based on a random
10 sample, or other scientifically appropriate sample, of
11 not less than 10 percent of all Federal, State, and
12 county prisons, and a representative sample of mu-
13 nicipal prisons. The selection shall include at least
14 one prison from each State. The selection of facili-
15 ties for sampling shall be made at the latest prac-
16 ticable date prior to conducting the surveys and
17 shall not be disclosed to any facility or prison system
18 official prior to the time period studied in the sur-
19 vey. Selection of a facility for sampling during any
20 year shall not preclude its selection for sampling in
21 any subsequent year.

22 (3) SURVEYS.—In carrying out the review re-
23 quired by this subsection, the Bureau shall, in addi-
24 tion to such other methods as the Bureau considers
25 appropriate, use surveys and other statistical studies

1 of current and former inmates from a sample of
2 Federal, State, county, and municipal prisons. The
3 Bureau shall ensure the confidentiality of each sur-
4 vey participant.

5 (4) FAILURE TO PARTICIPATE.—If, after receiv-
6 ing a request from the Bureau under subparagraph
7 (a)(2), a State or local official or facility adminis-
8 trator declines to participate in the national survey
9 or prohibits access to any inmates under their legal
10 custody, the entity represented by that official, or
11 any jurisdiction to which the facility is subject, shall
12 not be entitled in any funding increases under sec-
13 tion 4, subsections (b)(3)(C) or (f).

14 (b) REVIEW PANEL ON PRISON RAPE.—

15 (1) ESTABLISHMENT.—To assist the Bureau in
16 carrying out the review and analysis under sub-
17 section (a), there is established, within the Bureau,
18 the Review Panel on Prison Rape (in this section re-
19 ferred to as the “Panel”).

20 (2) MEMBERSHIP.—

21 (A) COMPOSITION.—The Panel shall be
22 composed of 3 members, each of whom shall be
23 appointed by the Attorney General, in consulta-
24 tion with the Secretary of Health and Human
25 Services.

1 (B) QUALIFICATIONS.—Members of the
2 Panel shall be selected from among individuals
3 with knowledge or expertise in matters to be
4 studied by the Panel.

5 (3) PUBLIC HEARINGS.—

6 (A) IN GENERAL.—The duty of the Panel
7 shall be to carry out, for each calendar year,
8 public hearings concerning the operation of
9 each entity identified in a report under clause
10 (ii) or (iii) of subsection (c)(2)(B). The purpose
11 of these hearings shall be to collect evidence to
12 aid in the identification of common characteris-
13 tics of both victims and perpetrators of prison
14 rape, and the identification of common charac-
15 teristics of prisons and prison systems with a
16 high incidence of prison rape.

17 (B) TESTIMONY AT HEARINGS.—

18 (i) PUBLIC OFFICIALS.—In carrying
19 out the hearings required under subpara-
20 graph (A), the Panel shall request the pub-
21 lic testimony of Federal, State, and local
22 officials (and organizations that represent
23 such officials), including the warden or di-
24 rector of each prison and the head of the
25 prison system encompassing such prison,

1 who bear responsibility for the prevention,
2 detection, and punishment of prison rape
3 at each entity.

4 (ii) VICTIMS.—The Panel may request
5 the testimony of prison rape victims, orga-
6 nizations representing such victims, and
7 other appropriate individuals and organiza-
8 tions.

9 (C) FUNDING INCREASE AFTER TESTI-
10 MONY.—If, after receiving a request by the
11 Panel under subparagraph (B)(i), a State or
12 local official from an entity identified in a re-
13 port under clause (ii) or (iii) of subsection
14 (c)(2)(B) testifies at a reasonably designated
15 time, the proportional share of the total Federal
16 funds of the grant programs designated under
17 section 11 provided to the entity represented by
18 the official shall be increased by 10 percent in
19 the fiscal year following the fiscal year in which
20 the official testifies. No entity shall receive an
21 increase in its proportional share of more than
22 10 percent under this subsection. This increase
23 shall be in addition to any other increase pro-
24 vided under this Act.

25 (c) REPORTS.—

1 (1) IN GENERAL.—Not later than March 30 of
2 each year, the Bureau shall submit a report on the
3 activities of the Bureau (including the Review
4 Panel), with respect to prison rape, for the pre-
5 ceding calendar year to—

6 (A) Congress;

7 (B) the Attorney General; and

8 (C) the Secretary of Health and Human
9 Services.

10 (2) CONTENTS.—The report required under
11 paragraph (1) shall include—

12 (A) with respect to the effects of prison
13 rape, statistical, sociological, and psychological
14 data; and

15 (B) with respect to the incidence of prison
16 rape—

17 (i) statistical data aggregated at the
18 Federal, State, prison system, and prison
19 levels;

20 (ii) an identification of the Federal
21 Government, if applicable, and each State
22 and local government (and each prison sys-
23 tem and institution in the representative
24 sample) where the incidence of prison rape

1 exceeds the national median level by not
2 less than 30 percent; and

3 (iii) an identification of jail and police
4 lockup systems in the representative sam-
5 ple where the incidence of prison rape is
6 significantly avoidable.

7 (3) DATA ADJUSTMENTS.—In preparing the in-
8 formation specified in paragraph (2), the Bureau
9 shall, not later than the second year in which sur-
10 veys are conducted under this Act, use established
11 statistical methods to adjust the data as necessary
12 to account for exogenous factors, outside of the con-
13 trol of the State, prison system, or prison, which
14 have demonstrably contributed to the incidence of
15 prison rape. For each such adjustment made, the
16 Bureau shall identify and explain such adjustment
17 in the report.

18 (d) CONTRACTS AND GRANTS.—In carrying out its
19 duties under this section, the Bureau may—

20 (1) contract with the National Research Council
21 of the National Academy of Science;

22 (2) provide grants for research through the Na-
23 tional Science Foundation or the National Institute
24 of Justice; and

1 (3) contract with or provide grants to any other
2 entity the Bureau deems appropriate.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated \$15,000,000 for each
5 fiscal year to carry out the purposes of this section, which
6 shall remain available until expended.

7 (f) FUNDING INCREASE.—The proportional share of
8 the total Federal funds of the grant programs designated
9 under section 11 provided to any Federal, State, or local
10 government or prison system and institution that is not
11 identified in a report under clause (ii) or (iii) of subsection
12 (c)(2)(B) shall be increased by 10 percent in the fiscal
13 year following the fiscal year in which the report is issued.
14 This increase shall be in addition to any other increase
15 provided under this Act.

16 **SEC. 5. PRISON RAPE PREVENTION AND PROSECUTION.**

17 (a) INFORMATION AND ASSISTANCE.—

18 (1) NATIONAL CLEARINGHOUSE.—There is es-
19 tablished within the National Institute of Correc-
20 tions a national clearinghouse for the provision of in-
21 formation and assistance to Federal, State, and local
22 authorities responsible for the prevention, investiga-
23 tion, and punishment of instances of prison rape.

24 (2) TRAINING AND EDUCATION.—The National
25 Institute of Corrections shall conduct periodic train-

1 ing and education programs for Federal, State, and
2 local authorities responsible for the prevention, in-
3 vestigation, and punishment of instances of prison
4 rape.

5 (b) REPORTS.—

6 (1) IN GENERAL.—Not later than February 15
7 of each year, the National Institute of Corrections
8 shall submit a report to Congress and the Secretary
9 of Health and Human Services. This report shall be
10 available to the Director of the Bureau of Justice
11 Statistics.

12 (2) CONTENTS.—The report required under
13 paragraph (1) shall summarize the activities of the
14 Department of Justice regarding prison rape abate-
15 ment for the preceding calendar year.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated \$5,000,000 for each fis-
18 cal year to carry out the purposes of this section, which
19 shall remain available until expended.

20 **SEC. 6. PRISON RAPE PREVENTION AND PROSECUTION**
21 **GRANTS.**

22 (a) ENHANCED RESPONSE TO PRISON RAPE
23 GRANTS.—

1 (1) GRANTS AUTHORIZED.—The Attorney Gen-
2 eral shall make 1-year grants to States, units of
3 local government, prisons, and prison systems.

4 (2) USE OF FUNDS.—Grants awarded under
5 paragraph (1) shall only be used to—

6 (A) undertake more effective efforts to pre-
7 vent prison rape;

8 (B) investigate such incidents; and

9 (C) punish the perpetrators.

10 (3) MATCHING REQUIREMENT.—The Federal fi-
11 nancial assistance provided under this subsection
12 may not exceed 50 percent of the total costs of the
13 program being funded.

14 (4) MAXIMUM AMOUNT.—The Attorney General
15 shall not award a grant under this subsection in an
16 amount which exceeds \$1,000,000.

17 (5) APPLICATIONS.—

18 (A) IN GENERAL.—To request a grant
19 under this subsection, the chief executive of a
20 State or unit of local government shall submit
21 an application to the Attorney General at such
22 time, in such manner, and accompanied by such
23 information as the Attorney General may re-
24 quire.

1 (B) CONTENTS.—Each application re-
2 quired by subparagraph (A) shall—

3 (i) include the certification of the
4 chief executive that the State receiving
5 such grant (or the State encompassing the
6 unit of local government receiving such
7 grant) has adopted all national prison rape
8 standards that have been promulgated
9 under this Act; and

10 (ii) specify with particularity the addi-
11 tional preventative, prosecutorial, or ad-
12 ministrative actions to be taken by the
13 State or unit of local government to pre-
14 vent prison rape and to respond to inci-
15 dents of prison rape that occur.

16 (6) REPORT BY GRANTEE.—

17 (A) IN GENERAL.—The Attorney General
18 shall require each grantee to submit, not later
19 than December 31 of the year following the re-
20 ceipt of a grant under this section—

21 (i) a report on the activities carried
22 out with grant amounts during the pre-
23 ceding Federal fiscal year; and

24 (ii) an evaluation of the impact of
25 such activities on the incidence of prison

1 rape and the grantee's response to such in-
2 cidents.

3 (B) DISSEMINATION.—The Attorney Gen-
4 eral shall provide a copy of each report sub-
5 mitted under subparagraph (A) to the National
6 Prison Rape Reduction Commission until such
7 Commission is terminated.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated \$40,000,000 for each
10 fiscal year to fund the grants authorized under subsection
11 (a), which shall remain available until expended.

12 **SEC. 7. NATIONAL PRISON RAPE REDUCTION COMMISSION.**

13 (a) ESTABLISHMENT.—There is established a com-
14 mission to be known as the National Prison Rape Reduc-
15 tion Commission (in this section referred to as the “Com-
16 mission”).

17 (b) MEMBERS.—

18 (1) IN GENERAL.—The Commission shall be
19 composed of 9 members, of whom—

20 (A) 3 shall be appointed by the President;

21 (B) 2 shall be appointed by the Speaker of
22 the House of Representatives, unless the Speak-
23 er is of the same party as the President, in
24 which case 1 shall be appointed by the Speaker
25 of the House of Representatives and 1 shall be

1 appointed by the minority leader of the House
2 of Representatives;

3 (C) 1 shall be appointed by the minority
4 leader of the House of Representatives (in addi-
5 tion to any appointment made under subpara-
6 graph (B));

7 (D) 2 shall be appointed by the majority
8 leader of the Senate, unless the majority leader
9 is of the same party as the President, in which
10 case 1 shall be appointed by the majority leader
11 of the Senate and 1 shall be appointed by the
12 minority leader of the Senate; and

13 (E) 1 member appointed by the minority
14 leader of the Senate (in addition to any ap-
15 pointment made under subparagraph (D)).

16 (2) PERSONS ELIGIBLE.—Each member of the
17 Commission shall be an individual who has knowl-
18 edge or expertise in matters to be studied by the
19 Commission.

20 (3) CONSULTATION REQUIRED.—The President,
21 the Speaker and minority leader of the House of
22 Representatives, and the majority leader and minor-
23 ity leader of the Senate shall consult with one an-
24 other prior to the appointment of the members of
25 the Commission to achieve, to the maximum extent

1 possible, fair and equitable representation of various
2 points of view with respect to the matters to be
3 studied by the Commission.

4 (4) TERM.—Each member shall be appointed
5 for the life of the Commission.

6 (5) TIME FOR INITIAL APPOINTMENTS.—The
7 appointment of the members shall be completed not
8 later than 60 days after the date of enactment of
9 this Act.

10 (6) VACANCIES.—A vacancy in the Commission
11 shall be filled in the manner in which the original
12 appointment was made, and shall be completed not
13 later than 60 days after the date on which the va-
14 cancy occurred.

15 (c) OPERATION.—

16 (1) CHAIRPERSON.—

17 (A) APPOINTMENT.—Not later than 15
18 days after the initial appointment of the mem-
19 bers is completed, the President, the Speaker of
20 the House of Representatives, and the majority
21 leader of the Senate shall jointly appoint a
22 chairperson for the Commission from among
23 the members of the Commission.

24 (B) MAJORITY VOTE.—If the designation
25 of a chairperson does not occur by the date

1 specified in subparagraph (A), the chairperson
2 shall be appointed by the majority vote of the
3 President, the Speaker and minority leader of
4 the House of Representatives, and the majority
5 leader and minority leader of the Senate.

6 (2) MEETINGS.—The Commission shall meet at
7 the call of the chairperson. The initial meeting of the
8 Commission shall take place not later than 30 days
9 after the initial appointment of the members is com-
10 pleted.

11 (3) QUORUM.—A majority of the members of
12 the Commission shall constitute a quorum to con-
13 duct business, but the Commission may establish a
14 lesser quorum for conducting hearings scheduled by
15 the Commission.

16 (4) RULES.—Each member of the Commission
17 shall have 1 vote. The Commission may establish by
18 majority vote any other rules for the conduct of
19 Commission business, if such rules are not incon-
20 sistent with this Act or other applicable law.

21 (d) COMPREHENSIVE STUDY OF THE IMPACTS OF
22 PRISON RAPE.—

23 (1) IN GENERAL.—The Commission shall carry
24 out a comprehensive legal and factual study of the
25 penalogical, physical, mental, medical, social, and

1 economic impacts of prison rape in the United
2 States on—

3 (A) Federal, State, and local governments;

4 and

5 (B) communities and social institutions
6 generally, including individuals, families, and
7 businesses within such communities and social
8 institutions.

9 (2) MATTERS INCLUDED.—The study under
10 paragraph (1) shall include—

11 (A) a review of existing Federal, State,
12 and local government policies and practices with
13 respect to the prevention, detection, and punish-
14 ment of prison rape;

15 (B) an assessment of the relationship be-
16 tween prison rape and prison conditions, and of
17 existing monitoring, regulatory, and enforce-
18 ment practices that are intended to address any
19 such relationship;

20 (C) an assessment of pathological or social
21 causes of prison rape;

22 (D) an assessment of the extent to which
23 the incidence of prison rape contributes to the
24 spread of sexually transmitted diseases and to
25 the transmission of HIV;

1 (E) an assessment of the characteristics of
2 inmates most likely to commit prison rape and
3 the effectiveness of various types of treatment
4 or programs to reduce such likelihood;

5 (F) an assessment of the characteristics of
6 inmates most likely to be victims of prison rape
7 and the effectiveness of various types of treat-
8 ment or programs to reduce such likelihood;

9 (G) an assessment of the impacts of prison
10 rape on individuals, families, social institutions
11 and the economy generally, including an assess-
12 ment of the extent to which the incidence of
13 prison rape contributes to recidivism and to in-
14 creased incidence of sexual assault;

15 (H) an examination of the feasibility and
16 cost of conducting surveillance, undercover ac-
17 tivities, or both, to reduce the incidence of pris-
18 on rape;

19 (I) an assessment of the safety and secu-
20 rity of prison facilities and the relationship of
21 prison facility construction and design to the in-
22 cidence of prison rape;

23 (J) an assessment of the feasibility and
24 cost of any particular proposals for prison re-
25 form;

1 (K) an identification of the need for addi-
2 tional scientific and social science research on
3 the prevalence of prison rape in Federal, State,
4 and local prisons;

5 (L) an assessment of the general relation-
6 ship between prison rape and prison violence;

7 (M) an assessment of the relationship be-
8 tween prison rape and levels of training, super-
9 vision, and discipline of prison staff; and

10 (N) an assessment of existing Federal and
11 State systems for reporting incidences of prison
12 rape, including an assessment of whether exist-
13 ing systems provide an adequate assurance of
14 confidentiality, impartiality and the absence of
15 reprisal.

16 (3) REPORT.—

17 (A) DISTRIBUTION.—Not later than 24
18 months after the date of the initial meeting of
19 the Commission, the Commission shall submit a
20 report on the study carried out under this sub-
21 section to—

22 (i) the President;

23 (ii) the Committees on the Judiciary
24 of the Senate and the House of Represent-
25 atives;

1 (iii) the Attorney General;

2 (iv) the Secretary of Health and
3 Human Services;

4 (v) the Director of the Federal Bu-
5 reau of Prisons;

6 (vi) the chief executive of each State;

7 and

8 (vii) the head of the department of
9 corrections of each State.

10 (B) CONTENTS.—The report under sub-
11 paragraph (A) shall include—

12 (i) the findings and conclusions of the
13 Commission;

14 (ii) recommended national standards
15 for reducing prison rape;

16 (iii) recommended protocols for pre-
17 serving evidence and treating victims of
18 prison rape; and

19 (iv) a summary of the materials relied
20 on by the Commission in the preparation
21 of the report.

22 (e) RECOMMENDATIONS.—

23 (1) IN GENERAL.—In conjunction with the re-
24 port submitted under subsection (d)(3), the Commis-
25 sion shall provide the Attorney General and the Sec-

1 retary of Health and Human Services with rec-
2 ommended national standards for enhancing the de-
3 tection, prevention, reduction, and punishment of
4 prison rape.

5 (2) MATTERS INCLUDED.—The information
6 provided under paragraph (1) shall include rec-
7 ommended national standards relating to—

8 (A) the classification and assignment of
9 prisoners, using proven standardized instru-
10 ments and protocols, in a manner that limits
11 the occurrence of prison rape;

12 (B) the investigation and resolution of rape
13 complaints by responsible prison authorities,
14 local and State police, and Federal and State
15 prosecution authorities;

16 (C) the preservation of physical and testi-
17 monial evidence for use in an investigation of
18 the circumstances relating to the rape;

19 (D) acute-term trauma care for rape vic-
20 tims, including standards relating to—

21 (i) the manner and extent of physical
22 examination and treatment to be provided
23 to any rape victim; and

24 (ii) the manner and extent of any psy-
25 chological examination, psychiatric care,

1 medication, and mental health counseling
2 to be provided to any rape victim;

3 (E) referrals for long-term continuity of
4 care for rape victims;

5 (F) educational and medical testing meas-
6 ures for reducing the incidence of HIV trans-
7 mission due to prison rape;

8 (G) post-rape prophylactic medical meas-
9 ures for reducing the incidence of transmission
10 of sexual diseases due to prison rape;

11 (H) the training of correctional staff suffi-
12 cient to ensure that they understand and appre-
13 ciate the significance of prison rape and the ne-
14 cessity of its eradication;

15 (I) the timely and comprehensive investiga-
16 tion of staff sexual misconduct involving rape or
17 other sexual assault on inmates;

18 (J) ensuring the confidentiality of prison
19 rape complaints and protecting inmates who
20 make complaints of prison rape;

21 (K) creating a system for reporting
22 incidences of prison rape that will ensure the
23 confidentiality of prison rape complaints, pro-
24 tect inmates who make prison rape complaints

1 from retaliation, and assure the impartial reso-
2 lution of prison rape complaints;

3 (L) data collection and reporting of—

4 (i) prison rape;

5 (ii) prison staff sexual misconduct;

6 and

7 (iii) the resolution of prison rape com-
8 plaints by prison officials and Federal,
9 State, and local investigation and prosecu-
10 tion authorities; and

11 (M) such other matters as may reasonably
12 be related to the detection, prevention, reduc-
13 tion, and punishment of prison rape.

14 (3) LIMITATION.—The Commission shall not
15 propose a recommended standard that would impose
16 substantial additional costs compared to the costs
17 presently expended by Federal, State, and local pris-
18 on authorities.

19 (f) HEARINGS.—

20 (1) IN GENERAL.—The Commission shall hold
21 public hearings. The Commission may hold such
22 hearings, sit and act at such times and places, ad-
23 minister such oaths, take such testimony, and re-
24 ceive such evidence as the Commission considers ad-
25 visable to carry out its duties under this section.

1 (2) WITNESS EXPENSES.—Witnesses requested
2 to appear before the Commission shall be paid the
3 same fees as are paid to witnesses under section
4 1821 of title 28, United State Code. The per diem
5 and mileage allowances for witnesses shall be paid
6 from funds appropriated to the Commission.

7 (g) INFORMATION FROM FEDERAL OR STATE AGEN-
8 CIES.—The Commission may secure directly from any
9 Federal department or agency such information as the
10 Commission considers necessary to carry out its duties
11 under this section. The Commission may request the head
12 of any State or local department or agency to furnish such
13 information to the Commission.

14 (h) PERSONNEL MATTERS.—

15 (1) TRAVEL EXPENSES.—The members of the
16 Commission shall be allowed travel expenses, includ-
17 ing per diem in lieu of subsistence, at rates author-
18 ized for employees of agencies under subchapter I of
19 chapter 57 of title 5, United States Code, while
20 away from their homes or regular places of business
21 in the performance of service for the Commission.

22 (2) DETAIL OF FEDERAL EMPLOYEES.—With
23 the affirmative vote of $\frac{2}{3}$ of the Commission, any
24 Federal Government employee, with the approval of
25 the head of the appropriate Federal agency, may be

1 detailed to the Commission without reimbursement,
2 and such detail shall be without interruption or loss
3 of civil service status, benefits, or privileges.

4 (3) PROCUREMENT OF TEMPORARY AND INTER-
5 MITTENT SERVICES.—Upon the request of the Com-
6 mission, the Attorney General shall provide reason-
7 able and appropriate office space, supplies, and ad-
8 ministrative assistance.

9 (i) CONTRACTS FOR RESEARCH.—

10 (1) NATIONAL RESEARCH COUNCIL.—With a $\frac{2}{3}$
11 affirmative vote, the Commission may select non-
12 governmental researchers and experts to assist the
13 Commission in carrying out its duties under this
14 Act. The National Research Council of the National
15 Academy of Sciences shall contract with the re-
16 searchers and experts selected by the Commission to
17 provide funding in exchange for their services.

18 (2) OTHER ORGANIZATIONS.—Nothing in this
19 subsection shall be construed to limit the ability of
20 the Commission to enter into contracts with other
21 entities or organizations for research necessary to
22 carry out the duties of the Commission under this
23 section.

24 (j) SUBPOENAS.—

1 (1) ISSUANCE.—The Commission may issue
2 subpoenas for the attendance of witnesses and the
3 production of written or other matter.

4 (2) ENFORCEMENT.—In the case of contumacy
5 or refusal to obey a subpoena, the Attorney General
6 may in a Federal court of appropriate jurisdiction
7 obtain an appropriate order to enforce the subpoena.

8 (3) CONFIDENTIALITY OF DOCUMENTARY EVI-
9 DENCE.—Documents provided to the Commission
10 pursuant to a subpoena issued under this subsection
11 shall not be released publicly without the affirmative
12 vote of $\frac{2}{3}$ of the Commission.

13 (k) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the National Acad-
15 emy of Sciences such sums as may be necessary to carry
16 out the purposes of this section. Any sums appropriated
17 shall remain available, without fiscal year limitation, until
18 expended.

19 (l) TERMINATION.—The Commission shall terminate
20 on the date that is 60 days after the date on which the
21 Commission submits the reports required by this section.

22 (m) EXEMPTION.—The Commission shall be exempt
23 from the Federal Advisory Committee Act.

24 **SEC. 8. ADOPTION AND EFFECT OF NATIONAL STANDARDS.**

25 (a) PUBLICATION OF PROPOSED STANDARDS.—

1 (1) IN GENERAL.—Not later than 180 days
2 after receiving the report required under section
3 7(d)(3) from the National Prison Rape Reduction
4 Commission, the Attorney General shall publish a
5 notice of proposed rulemaking for the adoption of
6 national standards for the detection, prevention, re-
7 duction, and punishment of prison rape.

8 (2) INDEPENDENT JUDGMENT.—The standards
9 referred to in paragraph (1) shall be based upon the
10 independent judgment of the Attorney General, after
11 giving due consideration to the recommended na-
12 tional standards provided by the Commission under
13 section 7(e), and being informed by such data, opin-
14 ions, and proposals that the Attorney General deter-
15 mines to be appropriate to consider.

16 (3) LIMITATION.—The Attorney General shall
17 not establish a national standard under this section
18 that would impose substantial additional costs com-
19 pared to the costs presently expended by Federal,
20 State, and local prison authorities. The Attorney
21 General may, however, provide a list of improve-
22 ments for consideration by correctional facilities.

23 (4) FINAL RULE.—Not later than 1 year after
24 receiving the report specified in paragraph (1), the
25 Attorney General shall publish a final rule adopting

1 national standards for the detection, prevention, re-
2 duction, and punishment of prison rape.

3 (5) TRANSMISSION TO STATES.—Upon pub-
4 lishing the final rule under paragraph (4), the Attor-
5 ney General shall transmit the national standards
6 adopted under such paragraph to the chief executive
7 of each State and the head of the department of cor-
8 rections of each State.

9 (b) APPLICABILITY TO FEDERAL BUREAU OF PRIS-
10 ONS.—The national standards referred to in subsection
11 (a) shall apply to the Federal Bureau of Prisons imme-
12 diately upon adoption of the final rule under subsection
13 (a)(4).

14 (c) FUNDING INCREASE.—The proportional share of
15 the total Federal funds of the grant programs designated
16 under section 11 provided to a State shall be increased
17 by 10 percent in the 2 fiscal years following the fiscal year
18 in which the State enacts a statute that expressly adopts
19 the national standards received by the State under sub-
20 section (a)(5), as applicable to that State. This increase
21 shall be in addition to any other increase provided under
22 this Act.

23 (d) CERTIFICATION.—(1) Each State which adopts
24 the national standards pursuant to section 8(c)(1) hereof
25 shall, every two years, obtain, from an accreditation orga-

1 nization that is in compliance with section 10 of this Act,
2 a certification that the State is in compliance with the na-
3 tional standards and in particular has adopted a system
4 that is adequate and effective to ensure compliance with
5 the section 7(e)(2)(K) standards regarding the confiden-
6 tiality of prison rape complaints, protection of complain-
7 ants from retaliation, and impartial resolution of prison
8 rape complaints.

9 (2) The proportional share of the total Federal funds
10 of the grant programs designated under section 11 pro-
11 vided to a State shall be increased by 10 percent for the
12 2 fiscal years following the fiscal year in which the State
13 achieves a certification under paragraph (1). This increase
14 shall be in addition to any other increase provided under
15 this Act, except it shall not be provided in addition to any
16 increase under subsection (c) of this section.

17 **SEC. 9. MODEL STANDARDS FOR ACUTE POST-TRAUMA**
18 **TREATMENT.**

19 (a) REVIEW OF MODEL PROGRAMS AND PROTO-
20 COLS.—Not later than 1 year after the date of enactment
21 of this Act, the Secretary of Health and Human Services,
22 in consultation with the Attorney General, shall complete
23 a review of model programs and protocols for the response
24 to and treatment of acute trauma for male and female
25 rape victims within prisons and jails.

1 (b) MODEL STANDARDS.—

2 (1) IN GENERAL.—Upon completion of the re-
3 view required by subsection (a), the Secretary shall
4 establish model standards relating to—

5 (A) the preservation of physical and testi-
6 monial evidence for use in an investigation of
7 the circumstances relating to the rape;

8 (B) the manner and extent of physical ex-
9 amination and treatment to be provided to any
10 rape victim;

11 (C) the manner and extent of any psycho-
12 logical examination, psychiatric care (including,
13 if appropriate, medication), and mental health
14 counseling to be provided to any rape victim;

15 (D) the preservation of the confidentiality
16 of information relating to prison rape victims;
17 and

18 (E) the production and dissemination with-
19 in a prison system of model response protocols
20 and programs for the treatment of, investiga-
21 tion of, and response to prison rape.

22 (2) LIMITATION.—The Secretary shall not es-
23 tablish a model standard that would impose substan-
24 tial additional costs compared to the costs presently

1 expended by Federal, State, and local prison au-
2 thorities.

3 (c) SUMMARY.—

4 (1) IN GENERAL.—Upon completion of the re-
5 view required by subsection (a) and the establish-
6 ment of model standards required by subsection (b),
7 the Secretary shall submit a summary of the results
8 of the review and the model standards to the Na-
9 tional Prison Rape Reduction Commission.

10 (2) CONTENTS.—The summary shall include,
11 for each model standard, the estimated costs for im-
12 plementation of such standard and the basis for
13 such estimates.

14 **SEC. 10. REQUIREMENT THAT ACCREDITATION ORGANIZA-**
15 **TIONS ADOPT ACCREDITATION STANDARDS.**

16 (a) ELIGIBILITY FOR FEDERAL GRANTS.—Notwith-
17 standing any other provision of law, an organization re-
18 sponsible for the accreditation of Federal, State, local, or
19 private prisons, jails, or other penal facilities may not ben-
20 efit from any Federal grants during any period in which
21 such organization fails to meet any of the requirements
22 of subsection (b).

23 (b) REQUIREMENTS.—To be eligible to receive Fed-
24 eral grants, an accreditation organization referred to in
25 subsection (a) must meet the following requirements:

1 (1) At all times after 90 days after the date of
2 enactment of this Act, the organization shall have in
3 effect, for each facility that it is responsible for ac-
4 crediting, accreditation standards for the detection,
5 prevention, reduction, and punishment of prison
6 rape.

7 (2) At all times after 1 year after the date of
8 the adoption of the final rule under section 8(a)(4),
9 the organization shall, in addition to any other such
10 standards that it may promulgate relevant to the de-
11 tection, prevention, reduction, and punishment of
12 prison rape, adopt accreditation standards consistent
13 with the national standards adopted pursuant to
14 such final rule.

15 **SEC. 11. DESIGNATION OF GRANT PROGRAMS FOR FUND-**
16 **ING INCREASES; ADJUSTMENTS TO IN-**
17 **CREASES.**

18 (a) DESIGNATION OF GRANT PROGRAMS.—Not later
19 than 120 days after the date of enactment of this Act,
20 and on a fixed date each year thereafter, the Attorney
21 General shall designate and publish a list of formula grant
22 programs that, in combination, aggregate no less than
23 \$1,000,000,000 and no more than \$3,000,000,000 in an-
24 nual Federal appropriations, which programs are most re-
25 lated to the failure to abate prison rape.

1 (b) CAP ON INCREASES.—For any formula grant pro-
2 gram identified under subsection (a), the total dollar
3 amount of any increase in the grant provided to any State
4 or other entity under this Act shall not exceed 10 percent
5 of the total Federal funds available under such grant pro-
6 gram.

7 (c) SOURCE OF FUNDS FOR INCREASES.—For any
8 increased grants provided under this Act to any entity
9 under any grant program designated pursuant to sub-
10 section (a), the increased grant shall be provided first by
11 funds redistributed from all grants under the program to
12 entities that are not entitled to any increases under this
13 Act, except that no grant shall be reduced by more than
14 20 percent of the total grant funds that otherwise would
15 have been awarded, and second by funds redistributed
16 from all other grants under the program.

17 (d) EFFECTIVE DATE OF INCREASE.—The programs
18 designated under subsection (a) shall be subject to in-
19 creases under this Act in the first fiscal year that com-
20 mences after the date the Attorney General designates
21 such programs.

22 **SEC. 12. DEFINITIONS.**

23 In this Act, the following definitions shall apply:

24 (1) CARNAL KNOWLEDGE.—The term “carnal
25 knowledge” means contact between the penis and

1 the vulva or the penis and the anus, including pene-
2 tration of any sort, however slight.

3 (2) INMATE.—The term “inmate” means any
4 person incarcerated or detained in any facility who
5 is accused of, convicted of, sentenced for, or adju-
6 dicated delinquent for, violations of criminal law or
7 the terms and conditions of parole, probation, pre-
8 trial release, or diversionary program.

9 (3) JAIL.—The term “jail” means a confine-
10 ment facility of a Federal, State, or local law en-
11 forcement agency to hold—

12 (A) persons pending adjudication of crimi-
13 nal charges; or

14 (B) persons committed to confinement
15 after adjudication of criminal charges for sen-
16 tences of 1 year or less.

17 (4) HIV.—The term “HIV” means the human
18 immunodeficiency virus.

19 (5) ORAL SODOMY.—The term “oral sodomy”
20 means contact between the mouth and the penis, the
21 mouth and the vulva, or the mouth and the anus.

22 (6) POLICE LOCKUP.—The term “police lock-
23 up” means a temporary holding facility of a Federal,
24 State, or local law enforcement agency to hold—

1 (A) inmates pending bail or transport to
2 jail;

3 (B) inebriates until ready for release; or

4 (C) juveniles pending parental custody or
5 shelter placement.

6 (7) PRISON.—The term “prison” means any
7 confinement facility of a Federal, State, or local gov-
8 ernment, whether administered by such government
9 or by a private organization on behalf of such gov-
10 ernment, and includes—

11 (A) any local jail or police lockup; and

12 (B) any juvenile facility used for the cus-
13 tody or care of juvenile inmates.

14 (8) PRISON RAPE.—The term “prison rape” in-
15 cludes the rape of an inmate in the actual or con-
16 structive control of prison officials.

17 (9) RAPE.—The term “rape” means—

18 (A) the carnal knowledge, oral sodomy,
19 sexual assault with an object, or sexual fondling
20 of a person, forcibly or against that person’s
21 will;

22 (B) the carnal knowledge, oral sodomy,
23 sexual assault with an object, or sexual fondling
24 of a person not forcibly or against the person’s
25 will, where the victim is incapable of giving con-

1 sent because of his or her youth or his or her
2 temporary or permanent mental or physical in-
3 capacity; or

4 (C) the carnal knowledge, oral sodomy,
5 sexual assault with an object, or sexual fondling
6 of a person achieved through the exploitation of
7 the fear or threat of physical violence or bodily
8 injury.

9 (10) SEXUAL ASSAULT WITH AN OBJECT.—The
10 term “sexual assault with an object” means the use
11 of any hand, finger, object, or other instrument to
12 penetrate, however slightly, the genital or anal open-
13 ing of the body of another person.

14 (11) SEXUAL FONDLING.—The term “sexual
15 fondling” means the touching of the private body
16 parts of another person (including the genitalia,
17 anus, groin, breast, inner thigh, or buttocks) for the
18 purpose of sexual gratification.

19 (12) EXCLUSIONS.—The terms and conditions
20 described in paragraphs (9) and (10) shall not apply
21 to—

22 (A) custodial or medical personnel gath-
23 ering physical evidence, or engaged in other le-
24 gitimate medical treatment, in the course of in-
25 vestigating prison rape;

1 (B) the use of a health care provider's
2 hands or fingers or the use of medical devices
3 in the course of appropriate medical treatment
4 unrelated to prison rape; or

5 (C) the use of a health care provider's
6 hands or fingers and the use of instruments to
7 perform body cavity searches in order to main-
8 tain security and safety within the prison or de-
9 tention facility, provided that the search is con-
10 ducted in a manner consistent with constitu-
11 tional requirements.

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