

109TH CONGRESS  
1ST SESSION

# H. R. 970

To increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2005

Mr. SCHIFF (for himself and Mrs. BONO) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Gang Prevention and Effective Deterrence Act of 2005”.

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

Sec. 1. Short title; table of contents.

**TITLE I—CRIMINAL STREET GANG ABATEMENT ACT**

Sec. 100. Findings.

**Subtitle A—Criminal Law Reforms and Enhanced Penalties to Deter and Punish Illegal Street Gang Activity**

Sec. 101. Solicitation or recruitment of persons in criminal street gang activity.

Sec. 102. Criminal street gangs.

Sec. 103. Violent crimes in furtherance or in aid of criminal street gangs.

Sec. 104. Interstate and foreign travel or transportation in aid of criminal street gangs.

Sec. 105. Amendments relating to violent crime in areas of exclusive Federal jurisdiction.

Sec. 106. Increased penalties for use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence.

Sec. 107. Increased penalties for violent crimes in aid of racketeering activity.

Sec. 108. Murder and other violent crimes committed during and in relation to a drug trafficking crime.

**Subtitle B—Increased Federal Resources to Deter and Prevent At-risk Youth From Joining Illegal Street Gangs**

Sec. 110. Designation of and assistance for “high intensity” interstate gang activity areas.

Sec. 111. Enhancement of project safe neighborhoods initiative to improve enforcement of criminal laws against violent gangs.

Sec. 112. Additional resources needed by the Federal Bureau of Investigation to investigate and prosecute violent criminal street gangs.

Sec. 113. Grants to State and local prosecutors to combat violent crime and to protect witnesses and victims of crimes.

Sec. 114. Reauthorize the gang resistance education and training projects program.

**TITLE II—VIOLENT CRIME REFORMS NEEDED TO DETER AND PREVENT ILLEGAL GANG CRIME**

Sec. 201. Multiple interstate murder.

Sec. 202. Expansion of rebuttable presumption against release of persons charged with firearms offenses.

Sec. 203. Venue in capital cases.

Sec. 204. Statute of limitations for violent crime.

Sec. 205. Predicate crimes for authorization of interception of wire, oral, and electronic communications.

Sec. 206. Clarification to hearsay exception for forfeiture by wrongdoing.

Sec. 207. Clarification of venue for retaliation against a witness.

Sec. 208. Amendment of sentencing guidelines relating to certain gang and violent crimes.

Sec. 209. Increased penalties for criminal use of firearms in crimes of violence and drug trafficking.

Sec. 210. Possession of firearms by dangerous felons.

Sec. 211. Conforming amendment.

#### TITLE III—JUVENILE CRIME REFORM FOR VIOLENT OFFENDERS

Sec. 301. Treatment of Federal juvenile offenders.

Sec. 302. Notification after arrest.

Sec. 303. Release and detention prior to disposition.

Sec. 304. Speedy trial.

Sec. 305. Federal sentencing guidelines.

## 1       **TITLE I—CRIMINAL STREET** 2       **GANG ABATEMENT ACT**

### 3   **SEC. 100. FINDINGS.**

4       Congress finds that—

5           (1) violent crime and drug trafficking are per-  
6       vasive problems at the national, State, and local  
7       level;

8           (2) the crime rate is exacerbated by the associa-  
9       tion of persons in gangs to commit acts of violence  
10      and drug offenses;

11          (3) according to the most recent National Drug  
12      Threat Assessment, criminal street gangs are re-  
13      sponsible for the distribution of much of the cocaine,  
14      methamphetamine, heroin, and other illegal drugs  
15      being distributed in rural and urban communities  
16      throughout the United States;

1           (4) gangs commit acts of violence or drug of-  
2           fenses for numerous motives, such as membership in  
3           or loyalty to the gang, for protecting gang territory,  
4           and for profit;

5           (5) gang presence has a pernicious effect on the  
6           free flow of commerce in local businesses and di-  
7           rectly affects the freedom and security of commu-  
8           nities plagued by gang activity;

9           (6) gangs often recruit and utilize minors to en-  
10          gage in acts of violence and other serious offenses  
11          out of a belief that the criminal justice systems are  
12          more lenient on juvenile offenders;

13          (7) gangs often intimidate and threaten wit-  
14          nesses to prevent successful prosecutions;

15          (8) gang recruitment can be deterred through  
16          increased vigilance, strong criminal penalties, equal  
17          partnerships with State and local law enforcement,  
18          and proactive intervention efforts, particularly tar-  
19          geted at juveniles, prior to gang involvement;

20          (9) State and local prosecutors, in hearings be-  
21          fore the Committee on the Judiciary of the Senate,  
22          enlisted the help of Congress in the prevention, in-  
23          vestigation, and prosecution of gang crimes and in  
24          the protection of witnesses and victims of gang  
25          crimes; and

1           (10) because State and local prosecutors and  
2           law enforcement have the expertise, experience, and  
3           connection to the community that is needed to com-  
4           bat gang violence, consultation and coordination be-  
5           tween Federal, State, and local law enforcement is  
6           critical to the successful prosecutions of criminal  
7           street gangs.

8       **Subtitle A—Criminal Law Reforms**  
9       **and Enhanced Penalties to**  
10      **Deter and Punish Illegal Street**  
11      **Gang Activity**

12   **SEC. 101. SOLICITATION OR RECRUITMENT OF PERSONS IN**  
13                   **CRIMINAL STREET GANG ACTIVITY.**

14           Chapter 26 of title 18, United States Code, is amend-  
15   ed by adding at the end the following:

16   **“§ 522. Recruitment of persons to participate in a**  
17                   **criminal street gang**

18           “(a) PROHIBITED ACTS.—It shall be unlawful for any  
19   person to recruit, employ, solicit, induce, command, or  
20   cause another person to be or remain as a member of a  
21   criminal street gang, or conspire to do so, with the intent  
22   to cause that person to participate in an offense described  
23   in section 521(a).

24           “(b) DEFINITION.—In this section:

1           “(1) CRIMINAL STREET GANG.—The term  
2           ‘criminal street gang’ shall have the same meaning  
3           as in section 521(a) of this title.

4           “(2) MINOR.—The term ‘minor’ means a per-  
5           son who is less than 18 years of age.

6           “(c) PENALTIES.—Any person who violates sub-  
7           section (a) shall—

8           “(1) be imprisoned not more than 5 years, fined  
9           under this title, or both; or

10          “(2) if the person recruited, solicited, induced,  
11          commanded, or caused to participate or remain in a  
12          criminal street gang is under the age of 18—

13                 “(A) be imprisoned for not more than 10  
14                 years, fined under this title, or both; and

15                 “(B) at the discretion of the sentencing  
16                 judge, be liable for any costs incurred by the  
17                 Federal Government, or by any State or local  
18                 government, for housing, maintaining, and  
19                 treating the person until the person attains the  
20                 age of 18 years.”.

21 **SEC. 102. CRIMINAL STREET GANGS.**

22          (a) CRIMINAL STREET GANG PROSECUTIONS.—Sec-  
23          tion 521 of title 18, United States Code, is amended to  
24          read as follows:

1 **“§ 521. Criminal street gang prosecutions**

2 “(a) DEFINITIONS.—As used in this chapter:

3 “(1) CRIMINAL STREET GANG.—The term  
4 ‘criminal street gang’ means a formal or informal  
5 group, club, organization, or association of 3 or  
6 more individuals, who individually, jointly, or in  
7 combination, have committed or attempted to com-  
8 mit for the direct or indirect benefit of, at the direc-  
9 tion of, in furtherance of, or in association with the  
10 group, club organization, or association at least 2  
11 separate acts, each of which is a predicate gang  
12 crime, 1 of which occurs after the date of enactment  
13 of the Gang Prevention and Effective Deterrence  
14 Act of 2004, and the last of which occurs not later  
15 than 10 years (excluding any period of imprison-  
16 ment) after the commission of a prior predicate gang  
17 crime, and 1 predicate gang crime is a crime of vio-  
18 lence or involves manufacturing, importing, distrib-  
19 uting, possessing with intent to distribute, or other-  
20 wise dealing in a controlled substance or listed  
21 chemicals (as those terms are defined in section 102  
22 of the Controlled Substances Act (21 U.S.C. 802))  
23 provided that the activities of the criminal street  
24 gang affect interstate or foreign commerce, or in-  
25 volve the use of any facility of, or travel in, inter-  
26 state or foreign commerce.

1           “(2) PREDICATE GANG CRIME.—The term  
2           ‘predicate gang crime’ means—

3                   “(A) any act, threat, conspiracy, or at-  
4                   tempted act, which is chargeable under Federal  
5                   or State law and punishable by imprisonment  
6                   for more than 1 year involving—

7                           “(i) murder;

8                           “(ii) manslaughter;

9                           “(iii) maiming;

10                          “(iv) assault with a dangerous weap-  
11                          on;

12                          “(v) assault resulting in serious bodily  
13                          injury;

14                          “(vi) gambling;

15                          “(vii) kidnapping;

16                          “(viii) robbery;

17                          “(ix) extortion;

18                          “(x) arson;

19                          “(xi) obstruction of justice;

20                          “(xii) tampering with or retaliating  
21                          against a witness, victim, or informant;

22                          “(xiii) burglary;

23                          “(xiv) sexual assault (which means  
24                          any offense that involves conduct that  
25                          would violate chapter 109A if the conduct



1 occurred in the special maritime and terri-  
2 torial jurisdiction);

3 “(xv) carjacking; or

4 “(xvi) manufacturing, importing, dis-  
5 tributing, possessing with intent to dis-  
6 tribute, or otherwise dealing in a controlled  
7 substance or listed chemicals (as those  
8 terms are defined in section 102 of the  
9 Controlled Substances Act (21 U.S.C.  
10 802));

11 “(B) any act punishable by imprisonment  
12 for more than 1 year under—

13 “(i) section 844 (relating to explosive  
14 materials);

15 “(ii) section 922(g)(1) (where the un-  
16 derlying conviction is a violent felony (as  
17 defined in section 924(e)(2)(B) of this  
18 title) or is a serious drug offense (as de-  
19 fined in section 924(e)(2)(A) of this title));

20 “(iii) subsection (a)(2), (b), (c), (g),  
21 or (h) of section 924 (relating to receipt,  
22 possession, and transfer of firearms);

23 “(iv) sections 1028 and 1029 (relating  
24 to fraud and related activity in connection

1 with identification documents or access de-  
2 vices);

3 “(v) section 1503 (relating to obstruc-  
4 tion of justice);

5 “(vi) section 1510 (relating to ob-  
6 struction of criminal investigations);

7 “(vii) section 1512 (relating to tam-  
8 pering with a witness, victim, or inform-  
9 ant), or section 1513 (relating to retali-  
10 ating against a witness, victim, or inform-  
11 ant);

12 “(viii) section 1708 (relating to theft  
13 of stolen mail matter);

14 “(ix) section 1951 (relating to inter-  
15 ference with commerce, robbery or extor-  
16 tion);

17 “(x) section 1952 (relating to racket-  
18 eering);

19 “(xi) section 1956 (relating to the  
20 laundering of monetary instruments);

21 “(xii) section 1957 (relating to engag-  
22 ing in monetary transactions in property  
23 derived from specified unlawful activity);

1                   “(xiii) section 1958 (relating to use of  
2                   interstate commerce facilities in the com-  
3                   mission of murder-for-hire); or

4                   “(xiv) sections 2312 through 2315  
5                   (relating to interstate transportation of  
6                   stolen motor vehicles or stolen property);  
7                   or

8                   “(C) any act involving the Immigration  
9                   and Nationality Act, section 274 (relating to  
10                  bringing in and harboring certain aliens), sec-  
11                  tion 277 (relating to aiding or assisting certain  
12                  aliens to enter the United States), or section  
13                  278 (relating to importation of alien for im-  
14                  moral purpose).

15                  “(3) STATE.—The term ‘State’ means each of  
16                  the several States of the United States, the District  
17                  of Columbia, and any commonwealth, territory, or  
18                  possession of the United States.

19                  “(b) PARTICIPATION IN CRIMINAL STREET GANGS.—  
20                  It shall be unlawful—

21                         “(1) to commit, or conspire or attempt to com-  
22                         mit a predicate crime—

23                                 “(A) in furtherance or in aid of the activi-  
24                                 ties of a criminal street gang;

1           “(B) for the purpose of gaining entrance  
2           to or maintaining or increasing position in such  
3           a gang; or

4           “(C) for the direct or indirect benefit of  
5           the criminal street gang, or in association with  
6           the criminal street gang; or

7           “(2) to employ, use, command, counsel, per-  
8           suade, induce, entice, or coerce any individual to  
9           commit, cause to commit, or facilitate the commis-  
10          sion of, a predicate gang crime—

11          “(A) in furtherance or in aid of the activi-  
12          ties of a criminal street gang;

13          “(B) for the purpose of gaining entrance  
14          to or maintaining or increasing position in such  
15          a gang; or

16          “(C) for the direct or indirect benefit or  
17          the criminal street gang, or in association with  
18          the criminal street gang.

19          “(c) PENALTIES.—Whoever violates paragraph (1) or  
20          (2) of subsection (b)—

21               “(1) shall be fined under this title, imprisoned  
22               for not more than 30 years, or both; and

23               “(2) if the violation is based on a predicate  
24               gang crime for which the maximum penalty includes

1 life imprisonment, shall be fined under this title, im-  
2 prisoned for any term of years or for life, or both.

3 “(d) FORFEITURE.—

4 “(1) IN GENERAL.—The court, in imposing sen-  
5 tence on a person who is convicted of an offense  
6 under this section, shall order that the defendant  
7 forfeit to the United States—

8 “(A) any property, real or personal, consti-  
9 tuting or traceable to gross proceeds obtained  
10 from such offense; and

11 “(B) any property used or intended to be  
12 used, in any manner or part, to commit or to  
13 facilitate the commission of such violation.

14 “(2) CRIMINAL PROCEDURES.—The procedures  
15 set forth in section 413 of the Controlled Substances  
16 Act (21 U.S.C. 853), other than subsection (d) of  
17 that section, and in rule 32.2 of the Federal Rules  
18 of Criminal Procedure, shall apply to all stages of a  
19 criminal forfeiture proceeding under this section.

20 “(3) CIVIL PROCEDURES.—Property subject to  
21 forfeiture under paragraph (1) may be forfeited in  
22 a civil case pursuant to the procedures set forth in  
23 chapter 46 of this title.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 at the beginning of chapter 26 of title 18, United States  
 3 Code, is amended to read as follows:

“521. Criminal street gang prosecutions.”.

4 **SEC. 103. VIOLENT CRIMES IN FURTHERANCE OR IN AID OF**  
 5 **CRIMINAL STREET GANGS.**

6 (a) VIOLENT CRIMES AND CRIMINAL STREET GANG  
 7 RECRUITMENT.—Chapter 26 of title 18, United States  
 8 Code, as amended by section 101, is amended by adding  
 9 at the end the following:

10 **“§ 523. Violent crimes in furtherance or in aid of a**  
 11 **criminal street gang**

12 “(a) Any person who, for the purpose of gaining en-  
 13 trance to or maintaining or increasing position in, or in  
 14 furtherance or in aid of, or for the direct or indirect ben-  
 15 efit of, or in association with a criminal street gang, or  
 16 as consideration for the receipt of, or as consideration for  
 17 a promise or agreement to pay, anything of pecuniary  
 18 value to or from a criminal street gang, murders, kidnaps,  
 19 sexually assaults (which means any offense that involved  
 20 conduct that would violate chapter 109A if the conduct  
 21 occurred in the special maritime and territorial jurisdic-  
 22 tion), maims, assaults with a dangerous weapon, commits  
 23 assault resulting in serious bodily injury upon, commits  
 24 any other crime of violence or threatens to commit a crime  
 25 of violence against any individual, or attempts or conspires

1 to do so, shall be punished, in addition and consecutive  
2 to the punishment provided for any other violation of this  
3 chapter—

4 “(1) for murder, by death or imprisonment for  
5 any term of years or for life, a fine under this title,  
6 or both;

7 “(2) for kidnapping or sexual assault, by im-  
8 prisonment for any term of years or for life, a fine  
9 under this title, or both;

10 “(3) for maiming, by imprisonment for any  
11 term of years or for life, a fine under this title, or  
12 both;

13 “(4) for assault with a dangerous weapon or as-  
14 sault resulting in serious bodily injury, by imprison-  
15 ment for not more than 30 years, a fine under this  
16 title, or both;

17 “(5) for any other crime of violence, by impris-  
18 onment for not more than 20 years, a fine under  
19 this title, or both;

20 “(6) for threatening to commit a crime of vio-  
21 lence specified in paragraphs (1) through (4), by im-  
22 prisonment for not more than 10 years, a fine under  
23 this title, or both;

24 “(7) for attempting or conspiring to commit  
25 murder, kidnapping, maiming, or sexual assault, by

1 imprisonment for not more than 30 years, a fine  
2 under this title, or both; and

3 “(8) for attempting or conspiring to commit a  
4 crime involving assault with a dangerous weapon or  
5 assault resulting in serious bodily injury, by impris-  
6 onment for not more than 20 years, a fine under  
7 this title, or both.

8 “(b) DEFINITION.—In this section, the term ‘crimi-  
9 nal street gang’ has the same meaning as in section 521  
10 of this title.”.

11 (b) CLERICAL AMENDMENT.—The table of sections  
12 at the beginning of chapter 26 of title 18, United States  
13 Code, is amended by adding at the end the following:

“522. Recruitment of persons to participate in a criminal street gang.  
“523. Violent crimes in furtherance of a criminal street gang.”.

14 **SEC. 104. INTERSTATE AND FOREIGN TRAVEL OR TRANS-**  
15 **PORTATION IN AID OF RACKETEERING EN-**  
16 **TERPRISES AND CRIMINAL STREET GANGS.**

17 Section 1952 of title 18, United States Code, is  
18 amended—

19 (1) in subsection (a)—

20 (A) by striking “and thereafter performs  
21 or attempts to perform” and inserting “and  
22 thereafter performs, or attempts or conspires to  
23 perform”; and



1 (B) by striking “5 years” and inserting  
2 “10 years”;

3 (2) by redesignating subsections (b) and (c) as  
4 subsections (c) and (d), respectively;

5 (3) by inserting after subsection (a) the fol-  
6 lowing:

7 “(b) Whoever travels in interstate or foreign com-  
8 merce or uses the mail or any facility in interstate or for-  
9 eign commerce, with the intent to kill, assault, bribe, force,  
10 intimidate, or threaten any person, to delay or influence  
11 the testimony of, or prevent from testifying, a witness in  
12 a State criminal proceeding and thereafter performs, or  
13 attempts or conspires to perform, an act described in this  
14 subsection, shall—

15 “(1) be fined under this title, imprisoned for  
16 any term of years, or both; and

17 “(2) if death results, be punished by imprison-  
18 ment for any term of years or for life.”; and

19 (4) in subsection (c)(2), as redesignated under  
20 subparagraph (B), by inserting “intimidation of, or  
21 retaliation against, a witness, victim, juror, or in-  
22 formant,” after “extortion, bribery,”.

1 **SEC. 105. AMENDMENTS RELATING TO VIOLENT CRIME IN**  
2 **AREAS OF EXCLUSIVE FEDERAL JURISDIC-**  
3 **TION.**

4 (a) ASSAULT WITHIN MARITIME AND TERRITORIAL  
5 JURISDICTION OF UNITED STATES.—Section 113(a)(3) of  
6 title 18, United States Code, is amended by striking “with  
7 intent to do bodily harm, and without just cause or ex-  
8 cause,”.

9 (b) MANSLAUGHTER.—Section 1112(b) of title 18,  
10 United States Code, is amended by—

11 (1) striking “ten years” and inserting “20  
12 years”; and

13 (2) striking “six years” and inserting “10  
14 years”.

15 (c) OFFENSES COMMITTED WITHIN INDIAN COUN-  
16 TRY.—Section 1153(a) of title 18, United States Code, is  
17 amended by inserting “an offense for which the maximum  
18 statutory term of imprisonment under section 1363 is  
19 greater than 5 years,” after “a felony under chapter  
20 109A,”.

21 (d) RACKETEER INFLUENCED AND CORRUPT ORGA-  
22 NIZATIONS.—Section 1961(1) of title 18, United States  
23 Code, is amended—

24 (1) in subparagraph (A), by inserting “, or  
25 would have been so chargeable if the act or threat  
26 (other than lawful forms of gambling) had not been

1 committed in Indian country (as defined in section  
2 1151) or in any other area of exclusive Federal ju-  
3 risdiction,” after “chargeable under State law”; and  
4 (2) in subparagraph (B), by inserting “section  
5 1123 (relating to multiple interstate murder),” after  
6 “section 1084 (relating to the transmission of wa-  
7 gering information),”.

8 (e) CARJACKING.—Section 2119 of title 18, United  
9 States Code, is amended by striking “, with the intent to  
10 cause death or serious bodily harm”.

11 (f) CLARIFICATION OF ILLEGAL GUN TRANSFERS TO  
12 COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIO-  
13 LENCE.—Section 924(h) of title 18, United States Code,  
14 is amended to read as follows:

15 “(h) ILLEGAL TRANSFERS.—Whoever knowingly  
16 transfers a firearm, knowing that the firearm will be used  
17 to commit, or possessed in furtherance of, a crime of vio-  
18 lence (as defined in subsection (c)(3)) or drug trafficking  
19 crime (as defined in subsection (c)(2)), shall be imprisoned  
20 for not more than 10 years, fined under this title, or  
21 both.”.

22 (g) AMENDMENT OF SPECIAL SENTENCING PROVI-  
23 SION.—Section 3582(d) of title 18, United States Code,  
24 is amended—

1           (1) by striking “chapter 95 (racketeering) or 96  
2           (racketeer influenced and corrupt organizations) of  
3           this title” and inserting “section 521 (criminal  
4           street gangs) or 522 (violent crimes in furtherance  
5           or in aid of criminal street gangs), in chapter 95  
6           (racketeering) or 96 (racketeer influenced and cor-  
7           rupt organizations),”; and

8           (2) by inserting “a criminal street gang or” be-  
9           fore “an illegal enterprise”.

10          (h) CONFORMING AMENDMENT RELATING TO OR-  
11          DERS FOR RESTITUTION.—Section 3663(c)(4) of title 18,  
12          United States Code, is amended by striking “chapter 46  
13          or chapter 96 of this title” and inserting “section 521,  
14          under chapter 46 or 96,”.

15          (i) SPECIAL PROVISION FOR INDIAN COUNTRY.—No  
16          person subject to the criminal jurisdiction of an Indian  
17          tribal government shall be subject to section 3559(e) of  
18          title 18, United States Code, for any offense for which  
19          Federal jurisdiction is solely predicated on Indian country  
20          (as defined in section 1151 of such title 18) and which  
21          occurs within the boundaries of such Indian country un-  
22          less the governing body of such Indian tribe elects to sub-  
23          ject the persons under the criminal jurisdiction of the tribe  
24          to section 3559(e) of such title 18.

1 **SEC. 106. INCREASED PENALTIES FOR USE OF INTERSTATE**  
2 **COMMERCE FACILITIES IN THE COMMISSION**  
3 **OF MURDER-FOR-HIRE AND OTHER FELONY**  
4 **CRIMES OF VIOLENCE.**

5 Section 1958 of title 18, United States Code, is  
6 amended—

7 (1) by striking the header and inserting the fol-  
8 lowing:

9 **“§ 1958. Use of interstate commerce facilities in the**  
10 **Commission of murder-for-hire and other**  
11 **felony crimes of violence”;**

12 and

13 (2) by amending subsection (a) to read as fol-  
14 lows:

15 “(a) Any person who travels in or causes another (in-  
16 cluding the intended victim) to travel in interstate or for-  
17 eign commerce, or uses or causes another (including the  
18 intended victim) to use the mail or any facility in inter-  
19 state or foreign commerce, with intent that a murder or  
20 other felony crime of violence be committed in violation  
21 of the laws of any State or the United States as consider-  
22 ation for the receipt of, or as consideration for a promise  
23 or agreement to pay, anything of pecuniary value, or who  
24 conspires to do so—

25 “(1) may be fined under this title and shall be  
26 imprisoned not more than 20 years;

1           “(2) if personal injury results, may be fined  
2           under this title and shall be imprisoned for not more  
3           than 30 years; and

4           “(3) if death results, may be fined under this  
5           title, and shall be imprisoned for any term of years  
6           or for life.”.

7   **SEC. 107. INCREASED PENALTIES FOR VIOLENT CRIMES IN**  
8                           **AID OF RACKETEERING ACTIVITY.**

9           Section 1959(a) of title 18, United States Code, is  
10          amended to read as follows:

11          “(a) Any person who, as consideration for the receipt  
12          of, or as consideration for a promise or agreement to pay,  
13          anything of pecuniary value from an enterprise engaged  
14          in racketeering activity, or for the purpose of gaining en-  
15          trance to or maintaining or increasing position in an en-  
16          terprise engaged in racketeering activity, or in furtherance  
17          or in aid of an enterprise engaged in racketeering activity,  
18          murders, kidnaps, sexually assaults (which means any of-  
19          fense that involved conduct that would violate chapter  
20          109A if the conduct occurred in the special maritime and  
21          territorial jurisdiction), maims, assaults with a dangerous  
22          weapon, commits assault resulting in serious bodily injury  
23          upon, or threatens to commit a crime of violence against  
24          any individual in violation of the laws of any State or the  
25          United States, or attempts or conspires to do so, shall be

1 punished, in addition and consecutive to the punishment  
2 provided for any other violation of this chapter—

3 “(1) for murder, by death or imprisonment for  
4 any term of years or for life, a fine under this title,  
5 or both;

6 “(2) for kidnapping or sexual assault, by im-  
7 prisonment for any term of years or for life, a fine  
8 under this title, or both;

9 “(3) for maiming, by imprisonment for any  
10 term of years or for life, a fine under this title, or  
11 both;

12 “(4) for assault with a dangerous weapon or as-  
13 sault resulting in serious bodily injury, by imprison-  
14 ment for not more than 30 years, a fine under this  
15 title, or both;

16 “(5) for threatening to commit a crime of vio-  
17 lence, by imprisonment for not more than 10 years,  
18 a fine under this title, or both;

19 “(6) for attempting or conspiring to commit  
20 murder, kidnapping, maiming, or sexual assault, by  
21 imprisonment for not more than 30 years, a fine  
22 under this title, or both; and

23 “(7) for attempting or conspiring to commit as-  
24 sault with a dangerous weapon or assault which  
25 would result in serious bodily injury, by imprison-

1       ment for not more than 20 years, a fine under this  
2       title, or both.”.

3   **SEC. 108. MURDER AND OTHER VIOLENT CRIMES COM-**  
4                   **MITTED DURING AND IN RELATION TO A**  
5                   **DRUG TRAFFICKING CRIME.**

6       (a) IN GENERAL.—Part D of the Controlled Sub-  
7       stances Act (21 U.S.C. 841 et seq.) is amended by adding  
8       at the end the following:

9       “MURDER AND OTHER VIOLENT CRIMES COMMITTED  
10       DURING AND IN RELATION TO A DRUG TRAFFICKING  
11       CRIME

12       “SEC. 424. (a) IN GENERAL.—Any person who, dur-  
13       ing and in relation to any drug trafficking crime, murders,  
14       kidnaps, sexually assaults (which means any offense that  
15       involved conduct that would violate chapter 109A if the  
16       conduct occurred in the special maritime and territorial  
17       jurisdiction), maims, assaults with a dangerous weapon,  
18       commits assault resulting in serious bodily injury upon,  
19       commits any other crime of violence or threatens to com-  
20       mit a crime of violence against, any individual, or attempts  
21       or conspires to do so, shall be punished, in addition and  
22       consecutive to the punishment provided for the drug traf-  
23       ficking crime—

24               “(1) in the case of murder, by death or impris-  
25       onment for any term of years or for life, a fine  
26       under title 18, United States Code, or both;



1           “(2) in the case of kidnapping or sexual assault  
2           by imprisonment for any term of years or for life,  
3           a fine under such title 18, or both;

4           “(3) in the case of maiming, by imprisonment  
5           for any term of years or for life, a fine under such  
6           title 18, or both;

7           “(4) in the case of assault with a dangerous  
8           weapon or assault resulting in serious bodily injury,  
9           by imprisonment not more than 30 years, a fine  
10          under such title 18, or both;

11          “(5) in the case of committing any other crime  
12          of violence, by imprisonment for not more than 20  
13          years, a fine under this title, or both;

14          “(6) in the case of threatening to commit a  
15          crime of violence specified in paragraphs (1) through  
16          (4), by imprisonment for not more than 10 years, a  
17          fine under such title 18, or both;

18          “(7) in the case of attempting or conspiring to  
19          commit murder, kidnapping, maiming, or sexual as-  
20          sault, by imprisonment for not more than 30 years,  
21          a fine under such title 18, or both; and

22          “(8) in the case of attempting or conspiring to  
23          commit a crime involving assault with a dangerous  
24          weapon or assault resulting in serious bodily injury,

1 by imprisonment for not more than 20 years, a fine  
2 under such title 18, or both.

3 “(b) VENUE.—A prosecution for a violation of this  
4 section may be brought in—

5 “(1) the judicial district in which the murder or  
6 other crime of violence occurred; or

7 “(2) any judicial district in which the drug traf-  
8 ficking crime may be prosecuted.

9 “(c) APPLICABLE DEATH PENALTY PROCEDURES.—  
10 A defendant who has been found guilty of an offense under  
11 this section for which a sentence of death is provided shall  
12 be subject to the provisions of chapter 228 of title 18,  
13 United States Code.

14 “(d) DEFINITIONS.—As used in this section—

15 “(1) the term ‘crime of violence’ has the mean-  
16 ing given that term in section 16 of title 18, United  
17 States Code; and

18 “(2) the term ‘drug trafficking crime’ has the  
19 meaning given that term in section 924(c)(2) of title  
20 18, United States Code.”.

21 (b) CLERICAL AMENDMENT.—The table of contents  
22 for the Controlled Substances Act is amended by inserting  
23 after the item relating to section 423, the following:

“Sec. 424. Murder and other violent crimes committed during and in relation  
to a drug trafficking crime.”.

1 **Subtitle B—Increased Federal Re-**  
2 **sources to Suppress, Deter, and**  
3 **Prevent At-risk Youth From**  
4 **Joining Illegal Street Gangs**

5 **SEC. 110. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-**  
6 **TENSITY” INTERSTATE GANG ACTIVITY**  
7 **AREAS.**

8 (a) DEFINITIONS.—In this section the following defi-  
9 nitions shall apply:

10 (1) GOVERNOR.—The term “Governor” means  
11 a Governor of a State or the Mayor of the District  
12 of Columbia.

13 (2) HIGH INTENSITY INTERSTATE GANG ACTIV-  
14 ITY AREA.—The term “high intensity interstate  
15 gang activity area” means an area within a State  
16 that is designated as a high intensity interstate gang  
17 activity area under subsection (b)(1).

18 (3) STATE.—The term “State” means a State  
19 of the United States, the District of Columbia, and  
20 any commonwealth, territory, or possession of the  
21 United States. The term “State” shall include an  
22 “Indian tribe”, as defined by section 102 of the Fed-  
23 erally Recognized Indian Tribe List Act of 1994 (25  
24 U.S.C. 479a).

1       (b) HIGH INTENSITY INTERSTATE GANG ACTIVITY  
2 AREAS.—

3           (1) DESIGNATION.—The Attorney General,  
4 after consultation with the Governors of appropriate  
5 States, may designate as high intensity interstate  
6 gang activity areas, specific areas that are located  
7 within 1 or more States. To the extent that the  
8 goals of a high intensity interstate gang activity area  
9 (HIIGAA) overlap with the goals of a high intensity  
10 drug trafficking area (HIDTA), the Attorney Gen-  
11 eral may merge the 2 areas to serve as a dual-pur-  
12 pose entity. The Attorney General may not make the  
13 final designation of a high intensity interstate gang  
14 activity area without first consulting with and receiv-  
15 ing comment from local elected officials representing  
16 communities within the State of the proposed des-  
17 ignation.

18           (2) ASSISTANCE.—In order to provide Federal  
19 assistance to high intensity interstate gang activity  
20 areas, the Attorney General shall—

21           (A) establish criminal street gang enforce-  
22 ment teams, consisting of Federal, State, and  
23 local law enforcement authorities, for the co-  
24 ordinated investigation, disruption, apprehen-  
25 sion, and prosecution of criminal street gangs

1 and offenders in each high intensity interstate  
2 gang activity area;

3 (B) direct the reassignment or detailing  
4 from any Federal department or agency (sub-  
5 ject to the approval of the head of that depart-  
6 ment or agency, in the case of a department or  
7 agency other than the Department of Justice)  
8 of personnel to each criminal street gang en-  
9 forcement team; and

10 (C) provide all necessary funding for the  
11 operation of the criminal street gang enforce-  
12 ment team in each high intensity interstate  
13 gang activity area.

14 (3) COMPOSITION OF CRIMINAL STREET GANG  
15 ENFORCEMENT TEAM.—The team established pursu-  
16 ant to paragraph (2)(A) shall consist of agents and  
17 officers, where feasible, from—

18 (A) the Bureau of Alcohol, Tobacco, Fire-  
19 arms, and Explosives;

20 (B) the Department of Homeland Security;

21 (C) the Department of Housing and Urban  
22 Development;

23 (D) the Drug Enforcement Administration;

24 (E) the Internal Revenue Service;

25 (F) the Federal Bureau of Investigation;

1 (G) the United States Marshal's Service;

2 (H) the United States Postal Service;

3 (I) State and local law enforcement; and

4 (J) Federal, State and local prosecutors.

5 (4) CRITERIA FOR DESIGNATION.—In consid-  
6 ering an area for designation as a high intensity  
7 interstate gang activity area under this section, the  
8 Attorney General shall consider—

9 (A) the current and predicted levels of  
10 gang crime activity in the area;

11 (B) the extent to which violent crime in  
12 the area appears to be related to criminal street  
13 gang activity, such as drug trafficking, murder,  
14 robbery, assaults, carjacking, arson, kidnap-  
15 ping, extortion, and other criminal activity;

16 (C) the extent to which State and local law  
17 enforcement agencies have committed resources  
18 to—

19 (i) respond to the gang crime prob-  
20 lem; and

21 (ii) participate in a gang enforcement  
22 team;

23 (D) the extent to which a significant in-  
24 crease in the allocation of Federal resources

1 would enhance local response to the gang crime  
2 activities in the area; and

3 (E) any other criteria that the Attorney  
4 General considers to be appropriate.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—

6 (1) IN GENERAL.—There are authorized to be  
7 appropriated \$100,000,000 for each of the fiscal  
8 years 2005 to 2009 to carry out this section.

9 (2) USE OF FUNDS.—Of amounts made avail-  
10 able under paragraph (1) in each fiscal year—

11 (A) 50 percent shall be used to carry out  
12 subsection (b)(2); and

13 (B) 50 percent shall be used to make  
14 grants available for community-based programs  
15 to provide crime prevention, research, and  
16 intervention services that are designed for gang  
17 members and at-risk youth in areas designated  
18 pursuant to this section as high intensity inter-  
19 state gang activity areas.

20 (3) REPORTING REQUIREMENTS.—By February  
21 1st of each year, the Attorney General shall provide  
22 a report to Congress which describes, for each des-  
23 ignated high intensity interstate gang activity  
24 area—

1 (A) the specific long-term and short-term  
2 goals and objectives;

3 (B) the measurements used to evaluate the  
4 performance of the high intensity interstate  
5 gang activity area in achieving the long-term  
6 and short-term goals;

7 (C) the age, composition, and membership  
8 of “gangs”;

9 (D) the number and nature of crimes com-  
10 mitted by “gangs”; and

11 (E) the definition of the term “gang” used  
12 to compile this report.

13 **SEC. 111. ENHANCEMENT OF PROJECT SAFE NEIGHBOR-**  
14 **HOODS INITIATIVE TO IMPROVE ENFORCE-**  
15 **MENT OF CRIMINAL LAWS AGAINST VIOLENT**  
16 **GANGS.**

17 (a) IN GENERAL.—While maintaining the focus of  
18 Project Safe Neighborhoods as a comprehensive, strategic  
19 approach to reducing gun violence in America, the Attor-  
20 ney General is authorized to expand the Project Safe  
21 Neighborhoods program to require each United States at-  
22 torney to—

23 (1) identify, investigate, and prosecute signifi-  
24 cant criminal street gangs operating within their dis-  
25 trict;



(1) IN GENERAL.—The Attorney General may hire Assistant United States attorneys, non-attorney coordinators, or paralegals to carry out the provisions of this section.

18 SEC. 112. ADDITIONAL RESOURCES NEEDED BY THE FED-  
19 ERAL BUREAU OF INVESTIGATION TO INVES-  
20 TIGATE AND PROSECUTE VIOLENT CRIMINAL  
21 STREET GANGS.

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1           (1) increase funding for the Safe Streets Pro-  
2       gram; and

3           (2) support the criminal street gang enforce-  
4       ment teams, established under section 110(b), in  
5       designated high intensity interstate gang activity  
6       areas.

7       (b) AUTHORIZATION OF APPROPRIATIONS.—

8           (1) IN GENERAL.—In addition to amounts oth-  
9       erwise authorized, there are authorized to be appro-  
10      priated to the Attorney General \$5,000,000 for each  
11      of the fiscal years 2005 through 2009 to carry out  
12      the Safe Streets Program.

13          (2) AVAILABILITY.—Any amounts appropriated  
14      pursuant to paragraph (1) shall remain available  
15      until expended.

16 **SEC. 113. GRANTS TO PROSECUTORS AND LAW ENFORCE-**  
17 **MENT TO COMBAT VIOLENT CRIME AND TO**  
18 **PROTECT WITNESSES AND VICTIMS OF**  
19 **CRIMES.**

20       (a) IN GENERAL.—Section 31702 of the Violent  
21      Crime Control and Law Enforcement Act of 1994 (42  
22      U.S.C. 13862) is amended—

23           (1) in paragraph (3), by striking “and” at the  
24      end;

1           (2) in paragraph (4), by striking the period at  
2           the end and inserting a semicolon; and

3           (3) by adding at the end the following:

4           “(5) to hire additional prosecutors to—

5                   “(A) allow more cases to be prosecuted;

6                   and

7                   “(B) reduce backlogs;

8           “(6) to fund technology, equipment, and train-  
9           ing for prosecutors and law enforcement in order to  
10          increase accurate identification of gang members  
11          and violent offenders, and to maintain databases  
12          with such information to facilitate coordination  
13          among law enforcement and prosecutors; and

14          “(7) to create and expand witness and victim  
15          protection programs to prevent threats, intimidation,  
16          and retaliation against victims of, and witnesses to,  
17          violent crimes.”.

18          (b) **AUTHORIZATION OF APPROPRIATIONS.**—Section  
19          31707 of the Violent Crime Control and Law Enforcement  
20          Act of 1994 (42 U.S.C. 13867) is amended to read as  
21          follows:

22          **“SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

23               “(a) **IN GENERAL.**—There are authorized to be ap-  
24          propriated \$20,000,000 for each of the fiscal years 2005  
25          through 2009 to carry out this subtitle.

1       “(b) USE OF FUNDS.—Of the amounts made avail-  
 2     able under subsection (a), in each fiscal year 60 percent  
 3     shall be used to carry out section 31702(7) to create and  
 4     expand witness and victim protection programs to prevent  
 5     threats, intimidation, and retaliation against victims of,  
 6     and witnesses to, violent crimes.”.

7     **SEC. 114. REAUTHORIZE THE GANG RESISTANCE EDU-**  
 8                   **CATION AND TRAINING PROJECTS PROGRAM.**

9       Section 32401(b) of the Violent Crime Control Act  
 10    of 1994 (42 U.S.C. 13921(b)) is amended by striking  
 11    paragraphs (1) through (6) and inserting the following:

12               “(1) \$20,000,000 for fiscal year 2005;  
 13               “(2) \$20,000,000 for fiscal year 2006;  
 14               “(3) \$20,000,000 for fiscal year 2007;  
 15               “(4) \$20,000,000 for fiscal year 2008; and  
 16               “(5) \$20,000,000 for fiscal year 2009.”.

17    **TITLE II—VIOLENT CRIME RE-**  
 18       **FORMS NEEDED TO DETER**  
 19       **AND PREVENT ILLEGAL GANG**  
 20       **CRIME**

21    **SEC. 201. MULTIPLE INTERSTATE MURDER.**

22       Chapter 51 of title 18, United States Code, is amend-  
 23    ed by adding at the end of the new section:

1 **“§ 1123. Multiple murders in furtherance of common**  
2 **scheme of purpose**

3 “(a) IN GENERAL.—Whoever, having committed  
4 murder in violation of the laws of any State or the United  
5 States, moves or travels in interstate or foreign commerce  
6 with the intent to commit one or more murders in violation  
7 of the laws of any State or the United States, and there-  
8 after commits one or more murders in violation of the laws  
9 of any State or the United States in furtherance of a com-  
10 mon scheme or purpose, or who conspires to do so—

11 “(1) shall be fined under this title, imprisoned  
12 for not more than 30 years, or both, for each mur-  
13 der; and

14 “(2) if death results, may be fined not more  
15 than \$250,000 under this title, and shall be pun-  
16 ished by death or imprisoned for any term of years  
17 or for life for each murder.

18 “(b) DEFINITION.—The term ‘State’ means each of  
19 the several States of the United States, the District of  
20 Columbia, and any commonwealth, territory, or possession  
21 of the United States.”.

22 **SEC. 202. EXPANSION OF REBUTTABLE PRESUMPTION**  
23 **AGAINST RELEASE OF PERSONS CHARGED**  
24 **WITH FIREARMS OFFENSES.**

25 Section 3142 of title 18, United States Code, is  
26 amended—

1 (1) in subsection (e), in the matter following  
2 paragraph (3)—

3 (A) by inserting “an offense under section  
4 922(g)(1) where the underlying conviction is a  
5 serious drug offense as defined in section  
6 924(e)(2)(A) of title 18, United States Code,  
7 for which a period of not more than 10 years  
8 has elapsed since the date of the conviction or  
9 the release of the person from imprisonment,  
10 whichever is later, or is a serious violent felony  
11 as defined in section 3559(c)(2)(F) of title 18,  
12 United States Code,” after “that the person  
13 committed”; and

14 (B) by inserting “or” before “the Mari-  
15 time”;

16 (2) in subsection (f)(1)—

17 (A) in subparagraph (C), by striking “or”  
18 at the end; and

19 (B) by adding at the end the following:

20 “(E) an offense under section 922(g); or”;

21 and

22 (3) in subsection (g), by amending paragraph  
23 (1) to read as follows:

24 “(1) the nature and circumstances of the of-  
25 fense charged, including whether the offense is a

1 crime of violence, or involves a drug, firearm, explo-  
2 sive, or destructive devise;”.

3 **SEC. 203. VENUE IN CAPITAL CASES.**

4 Section 3235 of title 18, United States Code, is  
5 amended to read as follows:

6 **“§ 3235. Venue in capital cases**

7 “(a) The trial for any offense punishable by death  
8 shall be held in the district where the offense was com-  
9 mitted or in any district in which the offense began, con-  
10 tinued, or was completed.

11 “(b) If the offense, or related conduct, under sub-  
12 section (a) involves activities which affect interstate or for-  
13 eign commerce, or the importation of an object or person  
14 into the United States, such offense may be prosecuted  
15 in any district in which those activities occurred.”.

16 **SEC. 204. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

17 (a) IN GENERAL.—Chapter 214 of title 18, United  
18 States Code, is amended by adding at the end the fol-  
19 lowing:

20 **“§ 3297. Violent crime offenses**

21 “Except as otherwise expressly provided by law, no  
22 person shall be prosecuted, tried, or punished for any non-  
23 capital felony, crime of violence (as defined in section 16),  
24 including any racketeering activity or gang crime which

1 involves any violent crime, unless the indictment is found  
 2 or the information is instituted by the later of—

3 “(1) 10 years after the date on which the al-  
 4 leged violation occurred;

5 “(2) 10 years after the date on which the con-  
 6 tinuing offense was completed; or

7 “(3) 8 years after the date on which the alleged  
 8 violation was first discovered.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
 10 at the beginning of chapter 214 of title 18, United States  
 11 Code, is amended by adding at the end the following:

“3296. Violent crime offenses.”.

12 **SEC. 205. PREDICATE CRIMES FOR AUTHORIZATION OF**  
 13 **INTERCEPTION OF WIRE, ORAL, AND ELEC-**  
 14 **TRONIC COMMUNICATIONS.**

15 Section 2516(1) of title 18, United States Code, is  
 16 amended—

17 (1) in paragraph (q), by striking “or’.”;

18 (2) by redesignating paragraph (r) as para-  
 19 graph (u); and

20 (3) by inserting after paragraph (q) the fol-  
 21 lowing:

22 “(r) any violation of section 424 of the Con-  
 23 trolled Substances Act (relating to murder and other  
 24 violent crimes in furtherance of a drug trafficking  
 25 crime);



1 “(s) any violation of 1123 of title 18, United  
2 States Code (relating to multiple interstate murder);

3 “(t) any violation of section 521, 522, or 523  
4 (relating to criminal street gangs); or”.

5 **SEC. 206. CLARIFICATION TO HEARSAY EXCEPTION FOR**  
6 **FORFEITURE BY WRONGDOING.**

7 Rule 804(b)(6) of the Federal Rules of Evidence is  
8 amended to read as follows:

9 “(6) FORFEITURE BY WRONGDOING.—A state-  
10 ment offered against a party that has engaged, ac-  
11 quiesced, or conspired, in wrongdoing that was in-  
12 tended to, and did, procure the unavailability of the  
13 declarant as a witness.”.

14 **SEC. 207. CLARIFICATION OF VENUE FOR RETALIATION**  
15 **AGAINST A WITNESS.**

16 Section 1513 of title 18, United States Code, is  
17 amended by—

18 (1) redesignating subsection (e) beginning with  
19 “Whoever conspires” as subsection (f); and

20 (2) adding at the end the following:

21 “(g) A prosecution under this section may be brought  
22 in the district in which the official proceeding (whether  
23 or not pending, about to be instituted or was completed)  
24 was intended to be affected or was completed, or in which  
25 the conduct constituting the alleged offense occurred.”.

1 **SEC. 208. AMENDMENT OF SENTENCING GUIDELINES RE-**  
2 **LATING TO CERTAIN GANG AND VIOLENT**  
3 **CRIMES.**

4 (a) **DIRECTIVE TO THE UNITED STATES SEN-**  
5 **TENCING COMMISSION.**—Pursuant to its authority under  
6 section 994(p) of title 28, United States Code, and in ac-  
7 cordance with this section, the United States Sentencing  
8 Commission shall review and, if appropriate, amend its  
9 guidelines and its policy statements to conform to the pro-  
10 visions of title I and this title.

11 (b) **REQUIREMENTS.**—In carrying out this section,  
12 the Sentencing Commission shall—

13 (1) establish new guidelines and policy state-  
14 ments, as warranted, in order to implement new or  
15 revised criminal offenses created under this title;

16 (2) ensure that the sentencing guidelines and  
17 policy statements reflect the serious nature of the of-  
18 fenses and the penalties set forth in this title, the  
19 growing incidence of serious gang and violent  
20 crimes, and the need to modify the sentencing guide-  
21 lines and policy statements to deter, prevent, and  
22 punish such offenses;

23 (3) consider the extent to which the guidelines  
24 and policy statements adequately address—

1           (A) whether the guideline offense levels  
2           and enhancements for gang and violent  
3           crimes—

4                   (i) are sufficient to deter and punish  
5           such offenses; and

6                   (ii) are adequate in view of the statu-  
7           tory increases in penalties contained in the  
8           Act; and

9           (B) whether any existing or new specific  
10          offense characteristics should be added to re-  
11          flect congressional intent to increase gang and  
12          violent crime penalties, punish offenders, and  
13          deter gang and violent crime;

14          (4) assure reasonable consistency with other  
15          relevant directives and with other sentencing guide-  
16          lines;

17          (5) account for any additional aggravating or  
18          mitigating circumstances that might justify excep-  
19          tions to the generally applicable sentencing ranges;

20          (6) make any necessary conforming changes to  
21          the sentencing guidelines; and

22          (7) assure that the guidelines adequately meet  
23          the purposes of sentencing under section 3553(a)(2)  
24          of title 18, United States Code.

1 **SEC. 209. INCREASED PENALTIES FOR CRIMINAL USE OF**  
2 **FIREARMS IN CRIMES OF VIOLENCE AND**  
3 **DRUG TRAFFICKING.**

4 (a) IN GENERAL.—Section 924(c)(1)(A) of title 18,  
5 United States Code, is amended—

6 (1) by striking “shall” and inserting “or con-  
7 spires to commit any of the above acts, shall, for  
8 each instance in which the firearm is used, carried,  
9 or possessed”;

10 (2) in clause (i), by striking “5 years” and in-  
11 serting “7 years”; and

12 (3) by striking clause (ii).

13 (b) CONFORMING AMENDMENTS.—Section 924 of  
14 title 18, United States Code, is amended—

15 (1) in subsection (c), by striking paragraph (4);  
16 and

17 (2) by striking subsection (o).

18 **SEC. 210. POSSESSION OF FIREARMS BY DANGEROUS FEL-**  
19 **ONS.**

20 (a) IN GENERAL.—Section 924(e) of title 18, United  
21 States Code, is amended to read as follows:

22 “(e)(1) In the case of a person who violates section  
23 922(g) of this title and has previously been convicted by  
24 any court referred to in section 922(g)(1) for a violent  
25 felony or a serious drug offense shall—

1           “(A) in the case of 1 such prior conviction,  
2       where a period of not more than 10 years has  
3       elapsed since the date of conviction or release of the  
4       person from imprisonment for that conviction, be  
5       subject to imprisonment for not more than 15 years,  
6       a fine under this title, or both;

7           “(B) in the case of 2 such prior convictions,  
8       committed on occasions different from one another,  
9       and where a period of not more than 10 years has  
10      elapsed since the date of conviction or release of the  
11      person from imprisonment for that conviction, be  
12      subject to imprisonment for not more than 20 years,  
13      a fine under this title, or both; and

14          “(C) in the case of 3 such prior convictions,  
15      committed on occasions different from one another,  
16      be subject to imprisonment for not less than 15  
17      years, a fine under this title, or both, and notwith-  
18      standing any other provision of law, the court shall  
19      not suspend the sentence of, or grant a probationary  
20      sentence to, such person with respect to the convic-  
21      tion under section 922(g).

22      “(2) As used in this subsection—

23          “(A) the term ‘serious drug offense’ means—

24              “(i) an offense under the Controlled Sub-  
25              stances Act (21 U.S.C. 801 et seq.), the Con-

1           trolled Substances Import and Export Act (21  
2           U.S.C. 951 et seq.), or the Maritime Drug Law  
3           Enforcement Act (46 U.S.C. App. 1901 et  
4           seq.), punishable by a maximum term of impris-  
5           onment of not less than 10 years; or

6           “(ii) an offense under State law, involving  
7           manufacturing, distributing, or possessing with  
8           intent to manufacture or distribute, a controlled  
9           substance (as defined in section 102 of the Con-  
10          trolled Substances Act (21 U.S.C. 802)), pun-  
11          ishable by a maximum term of imprisonment of  
12          not less than 10 years;

13          “(B) the term ‘violent felony’ means any crime  
14          punishable by a term of imprisonment exceeding 1  
15          year, or any act of juvenile delinquency involving the  
16          use or carrying of a firearm, knife, or destructive de-  
17          vice that would be punishable by a maximum term  
18          of imprisonment for such term if committed by an  
19          adult, that—

20               “(i) has, as an element of the crime or act,  
21               the use, attempted use, or threatened use of  
22               physical force against the person of another; or

23               “(ii) is burglary, arson, or extortion, in-  
24               volves the use of explosives, or otherwise in-

1 involves conduct that presents a serious potential  
 2 risk of physical injury to another; and

3 “(C) the term ‘conviction’ includes a finding  
 4 that a person has committed an act of juvenile delin-  
 5 quency involving a violent felony.”.

6 (b) AMENDMENT TO SENTENCING GUIDELINES.—  
 7 Pursuant to its authority under section 994(p) of title 28,  
 8 United States Code, the United States Sentencing Com-  
 9 mission shall amend the Federal Sentencing Guidelines to  
 10 provide for an appropriate increase in the offense level for  
 11 violations of section 922(g) of title 18, United States  
 12 Code, in accordance with section 924(e) of such title 18,  
 13 as amended by subsection (a).

14 **SEC. 211. CONFORMING AMENDMENT.**

15 The matter before paragraph (1) in section 922(d)  
 16 of title 18, United States Code, is amended by inserting  
 17 “, transfer,” after “sell”.

18 **TITLE III—JUVENILE CRIME RE-**  
 19 **FORM FOR VIOLENT OFFEND-**  
 20 **ERS**

21 **SEC. 301. TREATMENT OF FEDERAL JUVENILE OFFENDERS.**

22 (a) IN GENERAL.—Section 5032 of title 18, United  
 23 States Code, is amended to read as follows:

1 **“§ 5032. Delinquency proceedings in district courts;**  
2 **juveniles tried as adults; transfer for**  
3 **criminal prosecution**

4 “(a) DELINQUENCY PROCEEDINGS IN DISTRICT  
5 COURTS.—

6 “(1) IN GENERAL.—A juvenile alleged to have  
7 committed an act of juvenile delinquency, other than  
8 a violation of law committed within the special mari-  
9 time and territorial jurisdiction of the United States  
10 for which the maximum authorized term of impris-  
11 onment does not exceed 6 months, shall not be pro-  
12 ceeded against in any court of the United States un-  
13 less the Attorney General, after investigation, cer-  
14 tifies to the appropriate district court of the United  
15 States that—

16 “(A) the juvenile court or other appro-  
17 priate court of a State does not have jurisdic-  
18 tion or refuses to assume jurisdiction over that  
19 juvenile with respect to such alleged act of juve-  
20 nile delinquency;

21 “(B) the State does not have available pro-  
22 grams and services adequate for the needs of  
23 juveniles; or

24 “(C) the offense charged is a crime of vio-  
25 lence that is a felony or an offense described in  
26 section 401 of the Controlled Substances Act



1 (21 U.S.C. 841), section 1002(a), 1003, 1005,  
2 1009, or 1010(b) (1), (2), or (3) of the Con-  
3 trolled Substances Import and Export Act (21  
4 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2),  
5 (3)), section 922(x), or section 924 (b), (g), or  
6 (h) of this title, and there is a substantial Fed-  
7 eral interest in the case or the offense to war-  
8 rant the exercise of Federal jurisdiction.

9 “(2) FAILURE TO CERTIFY.—If the Attorney  
10 General does not certify under paragraph (1), the  
11 juvenile shall be surrendered to the appropriate legal  
12 authorities of such State.

13 “(3) FEDERAL PROCEEDINGS.—If an alleged  
14 juvenile delinquent is not surrendered to the authori-  
15 ties of a State pursuant to this section, any pro-  
16 ceedings against him shall be in an appropriate dis-  
17 trict court of the United States. For such purposes,  
18 the court may be convened at any time and place  
19 within the district, in chambers or otherwise. The  
20 Attorney General shall proceed by information or as  
21 authorized under section 3401(g) of this title, and  
22 no criminal prosecution shall be instituted for the al-  
23 leged act of juvenile delinquency except as provided  
24 below.

1       “(b) TRANSFER FOR FEDERAL CRIMINAL PROSECU-  
2 TION.—

3               “(1) IN GENERAL.—A juvenile who is alleged to  
4 have committed an act of juvenile delinquency and  
5 who is not surrendered to State authorities shall be  
6 proceeded against under this chapter unless—

7               “(A) the juvenile has requested in writing  
8 upon advice of counsel to be proceeded against  
9 as an adult;

10              “(B) with respect to a juvenile 15 years  
11 and older alleged to have committed an act  
12 after his fifteenth birthday which if committed  
13 by an adult would be a felony that is a crime  
14 of violence or an offense described in section  
15 401 of the Controlled Substances Act (21  
16 U.S.C. 841), or section 1002(a), 1005, or 1009  
17 of the Controlled Substances Import and Ex-  
18 port Act (21 U.S.C. 952(a), 955, 959), or sec-  
19 tion 922(x) of this title, or in section 924 (b),  
20 (g), or (h) of this title, the Attorney General  
21 makes a motion to transfer the criminal pros-  
22 ecution on the basis of the alleged act in the  
23 appropriate district court of the United States  
24 and the court finds, after hearing, such transfer

1 would be in the interest of justice as provided  
2 in paragraph (2); or

3 “(C) with respect to a juvenile 13 years  
4 and older alleged to have committed an act  
5 after his thirteenth birthday which if committed  
6 by an adult would be a felony that is the crime  
7 of violence under section 113 (a), (b), (c), 1111,  
8 1113, or, if the juvenile possessed a firearm  
9 during the offense, an offense under section  
10 2111, 2113, 2241(a), or 2241(c), the Attorney  
11 General makes a motion to transfer the crimi-  
12 nal prosecution on the basis of the alleged act  
13 in the appropriate district court of the United  
14 States and the court finds, after hearing, such  
15 transfer would be in the interest of justice as  
16 provided in paragraph (2).

17 Notwithstanding sections 1152 and 1153, no person  
18 subject to the criminal jurisdiction of an Indian trib-  
19 al government shall be subject to subparagraph (C)  
20 for any offense the Federal jurisdiction for which is  
21 predicated solely on Indian country (as defined in  
22 section 1151), and which has occurred within the  
23 boundaries of such Indian country, unless the gov-  
24 erning body of the tribe has elected that the pre-

ceding sentence have effect over land and persons  
subject to its criminal jurisdiction.

“(2) FACTORS.—

“(A) IN GENERAL.—Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing whether a transfer under subparagraph (B) or (C) of paragraph (1), and paragraph (4) of subsection (d), would be in the interest of justice:

“(i) The age and social background of the juvenile.

“(ii) The nature of the alleged offense, including the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities.

“(iii) Whether prosecution of the juvenile as an adult would protect public safety.

“(iv) The extent and nature of the juvenile’s prior delinquency record.

“(v) The juvenile’s present intellectual development and psychological maturity.

1           “(vi) The nature of past treatment ef-  
2           forts and the juvenile’s response to such  
3           efforts.

4           “(vii) The availability of programs de-  
5           signed to treat the juvenile’s behavioral  
6           problems.

7           “(B) NATURE OF THE OFFENSE.—In con-  
8           sidering the nature of the offense, as required  
9           by this paragraph, the court shall consider the  
10          extent to which the juvenile played a leadership  
11          role in an organization, or otherwise influenced  
12          other persons to take part in criminal activities,  
13          involving the use or distribution of controlled  
14          substances or firearms. Such a factor, if found  
15          to exist, shall weigh in favor of a transfer to  
16          adult status, but the absence of this factor shall  
17          not preclude such a transfer.

18          “(C) NOTICE.—Reasonable notice of the  
19          transfer hearing under subparagraph (B) or (C)  
20          of paragraph (1) shall be given to the juvenile,  
21          the juvenile’s parents, guardian, or custodian  
22          and to the juvenile’s counsel. The juvenile shall  
23          be assisted by counsel during the transfer hear-  
24          ing, and at every other critical stage of the pro-  
25          ceedings.

1       “(c) MANDATORY TRANSFER OF JUVENILE 16 OR  
2 OLDER.—A juvenile who is alleged to have committed an  
3 act on or after his sixteenth birthday, which if committed  
4 by an adult would be a felony offense, that has an element  
5 thereof the use, attempted use, or threatened use of phys-  
6 ical force against the person of another, or that, by its  
7 very nature, involves a substantial risk that physical force  
8 against the person of another, may be used in committing  
9 the offense or would be an offense described in section  
10 32, 81, or 2275 or subsection (d), (e), (f), (h), or (i) of  
11 section 844 of this title, subsection (d) or (e) or subpara-  
12 graphs (A), (B), (C), (D), or (E) of subsection (b)(1) of  
13 section 401 of the Controlled Substances Act, or section  
14 1002(a), 1003, or 1009, or paragraphs (1), (2), or (3)  
15 of section 1010(b) of the Controlled Substances Import  
16 and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1),  
17 (2), and (3)), and who has previously been found guilty  
18 of an act which if committed by an adult would have been  
19 one of the offenses set forth in this subsection or sub-  
20 section (b), or an offense in violation of a State felony  
21 statute that would have been such an offense if a cir-  
22 cumstance giving rise to Federal jurisdiction had existed,  
23 shall be transferred, upon notification by the United  
24 States, to the appropriate district court of the United  
25 States for criminal prosecution.

1       “(d) SIXTEEN AND SEVENTEEN YEAR OLDS  
2 CHARGED WITH THE MOST SERIOUS VIOLENT FELO-  
3 NIES.—

4           “(1) IN GENERAL.—Notwithstanding any other  
5 provision of law, a juvenile may be prosecuted as an  
6 adult if the juvenile is alleged to have committed,  
7 conspired, solicited or attempted to commit, on or  
8 after the day the juvenile attains the age of 16 any  
9 offense involving—

10           “(A) murder;

11           “(B) manslaughter;

12           “(C) assault with intent to commit murder;

13           “(D) sexual assault (which means any of-  
14 fense that involves conduct that would violate  
15 chapter 109A if the conduct occurred in the  
16 special maritime and territorial jurisdiction);

17           “(E) robbery (as described in section 2111,  
18 2113, or 2118);

19           “(F) carjacking with a dangerous weapon;

20           “(G) extortion;

21           “(H) arson;

22           “(I) firearms use;

23           “(J) firearms possession (as described in  
24 section 924(c);

25           “(K) drive-by shooting;

1 “(L) kidnapping;

2 “(M) maiming;

3 “(N) assault resulting in serious bodily in-  
4 jury; or

5 “(O) obstruction of justice (as described in  
6 1512(a)(1)) on or after the day the juvenile at-  
7 tains the age of 16.

8 “(2) OTHER OFFENSES.—In a prosecution  
9 under this subsection the juvenile may be prosecuted  
10 and convicted as an adult for any other offense  
11 which is properly joined under the Federal Rules of  
12 Criminal Procedure, and may also be convicted as an  
13 adult of a lesser included offense.

14 “(3) REVIEWABILITY.—Except as otherwise  
15 provided by this subsection, a determination to ap-  
16 prove or not to approve, or to institute or not to in-  
17 stitute, a prosecution under this subsection shall not  
18 be reviewable in any court.

19 “(4) PROSECUTION.—(A) In any prosecution of  
20 a juvenile under this subsection, upon motion of the  
21 defendant, the court in which the criminal charges  
22 have been filed shall after a hearing determine  
23 whether to issue an order that the defendant should  
24 be transferred to juvenile status.



1           “(B) A motion by a defendant under this para-  
2           graph shall not be considered unless filed no later  
3           than 30 days after the date on which the defendant  
4           initially appears through counsel or expressly waives  
5           the right to counsel and elects to proceed pro se.

6           “(C) The court shall not order the transfer of  
7           a defendant to juvenile status under this paragraph  
8           unless the defendant establishes by the preponder-  
9           ance of the evidence that removal to juvenile status  
10          would be in the interest of justice. In making a de-  
11          termination under this paragraph, the court shall  
12          consider the factors specified in subsection (b)(2) of  
13          this section.

14          “(5) ORDER.—An order of the court made in  
15          ruling on a motion by a defendant to transfer a de-  
16          fendant to juvenile status under this subsection shall  
17          not be a final order for the purpose of enabling an  
18          appeal, except that an appeal by the United States  
19          shall lie to a court of appeals pursuant to section  
20          3731 of this title from an order of a district court  
21          removing a defendant to juvenile status. Upon re-  
22          ceipt of a notice of appeal of an order under this  
23          paragraph, a court of appeals shall hear and deter-  
24          mine the appeal on an expedited basis. The court of  
25          appeals shall give due regard to the opportunity of

1 the district court to judge the credibility of the wit-  
2 nesses, and shall accept the findings of fact of the  
3 district court unless they are clearly erroneous, and  
4 the court of appeals shall review de novo the district  
5 court's application of the law to the facts.

6 “(e) SIXTEEN AND SEVENTEEN YEAR OLDS  
7 CHARGED WITH OTHER SERIOUS VIOLENT FELONIES.—

8 “(1) IN GENERAL.—Except as provided by sub-  
9 section (d), a juvenile may be prosecuted as an adult  
10 if the juvenile is alleged to have committed an act  
11 on or after the day the juvenile attains the age of  
12 16 which is committed by an adult would be a seri-  
13 ous violent felony as described in paragraphs (2) and  
14 (3) of section 3559(a).

15 “(2) OTHER OFFENSES.—In a prosecution  
16 under this subsection the juvenile may be prosecuted  
17 and convicted as an adult for any other offense  
18 which is properly joined under the Federal Rules of  
19 Criminal Procedure, and may also be convicted as an  
20 adult of a lesser included offense.

21 “(3) REVIEWABILITY.—Except as otherwise  
22 provided by this subsection, a determination to ap-  
23 prove or not to approve, or to institute or not to in-  
24 stitute, a prosecution under this subsection shall not  
25 be reviewable in any court.

1           “(4) PROSECUTION.—(A) In any prosecution of  
2           a juvenile under this subsection, upon motion of the  
3           defendant, the court in which the criminal charges  
4           have been filed shall after a hearing determine  
5           whether to issue an order that the defendant should  
6           be transferred to juvenile status.

7           “(B) A motion by a defendant under this para-  
8           graph shall not be considered unless filed no later  
9           than 30 days after the date on which the defendant  
10          initially appears through counsel or expressly waives  
11          the right to counsel and elects to proceed pro se.

12          “(C) The court shall not order the transfer of  
13          a defendant to juvenile status under this paragraph  
14          unless the defendant establishes by the preponder-  
15          ance of the evidence that removal to juvenile status  
16          would be in the interest of justice. In making a de-  
17          termination under this paragraph, the court shall  
18          consider the factors specified in subsection (b)(2) of  
19          this section.

20          “(5) ORDER.—An order of the court made in  
21          ruling on a motion by a defendant to transfer a de-  
22          fendant to juvenile status under this subsection shall  
23          be a final order for the purpose of enabling an ap-  
24          peal. Upon receipt of a notice of appeal of an order  
25          under this paragraph, a court of appeals shall hear

1 and determine the appeal on an expedited basis. The  
2 court of appeals shall give due regard to the oppor-  
3 tunity of the district court to judge the credibility of  
4 the witnesses, and shall accept the findings of fact  
5 of the district court unless they are clearly erro-  
6 neous, and the court of appeals shall review de novo  
7 the district court's application of the law to the  
8 facts.

9 “(f) PROCEEDINGS.—

10 “(1) SUBSEQUENT PROCEEDING BARRED.—

11 Once a juvenile has entered a plea of guilty or the  
12 proceeding has reached the stage that evidence has  
13 begun to be taken with respect to a crime or an al-  
14 leged act of juvenile delinquency subsequent criminal  
15 prosecution or juvenile proceedings based upon such  
16 alleged act of delinquency shall be barred.

17 “(2) STATEMENTS.—Statements made by a ju-

18 venile prior to or during a transfer hearing under  
19 this section shall not be admissible at subsequent  
20 criminal prosecutions except for impeachment pur-  
21 poses or in a prosecution for perjury or making a  
22 false statement.

23 “(3) FURTHER PROCEEDINGS.—Whenever a ju-

24 venile transferred to district court under subsection  
25 (b) or (c) is not convicted of the crime upon which

1 the transfer was based on another crime which would  
2 have warranted transfer had the juvenile been ini-  
3 tially charged with that crime, further proceedings  
4 concerning the juvenile shall be conducted pursuant  
5 to the provisions of this chapter.

6 “(4) RECEIPT OF RECORDS.—A juvenile shall  
7 not be transferred to adult prosecution under sub-  
8 section (b) nor shall a hearing be held under section  
9 5037 (disposition after a finding of juvenile delin-  
10 quency) until any prior juvenile court records of  
11 such juvenile have been received by the court, or the  
12 clerk of the juvenile court has certified in writing  
13 that the juvenile has no prior record, or that the ju-  
14 venile’s record is unavailable and why it is unavail-  
15 able.

16 “(5) SPECIFIC ACTS DESCRIBED.—Whenever a  
17 juvenile is adjudged delinquent pursuant to the pro-  
18 visions of this chapter, the specific acts which the ju-  
19 venile has been found to have committed shall be de-  
20 scribed as part of the official record of the pro-  
21 ceedings and part of the juvenile’s official record.

22 “(g) STATE.—For purposes of this section, the term  
23 ‘State’ includes a State of the United States, the District  
24 of Columbia, and any commonwealth, territory, or posses-  
25 sion of the United States.”.

1 (b) CONFORMING AMENDMENT.—The analysis for  
 2 chapter 403 of title 18, United States Code, is amended  
 3 by striking the item relating to section 5032 and inserting  
 4 the following:

“5032. Delinquency proceedings in district courts; juveniles tried as adults;  
 transfer for criminal prosecution.”.

5 **SEC. 302. NOTIFICATION AFTER ARREST.**

6 Section 5033 of title 18, United States Code, is  
 7 amended in the first sentence, by striking “immediately  
 8 notify the Attorney General and” and inserting “imme-  
 9 diately, or as soon as practicable thereafter, notify the At-  
 10 torney General and shall promptly take reasonable steps  
 11 to notify”.

12 **SEC. 303. RELEASE AND DETENTION PRIOR TO DISPOSI-**  
 13 **TION.**

14 (a) DUTIES OF MAGISTRATE JUDGE.—Section 5034  
 15 of title 18, United States Code, is amended—

16 (1) in the first undesignated paragraph, by  
 17 striking “The magistrate judge shall insure” and in-  
 18 serting the following:

19 “(a) IN GENERAL.—

20 “(1) REPRESENTATION BY COUNSEL.—The  
 21 magistrate judge shall ensure”;

22 (2) in the second undesignated paragraph, by  
 23 striking “The magistrate judge may appoint” and  
 24 inserting the following:

1           “(2) GUARDIAN AD LITEM.—The magistrate  
2       judge may appoint”;

3           (3) in the third undesignated paragraph, by  
4       striking “If the juvenile” and inserting the following:

5       “(b) RELEASE PRIOR TO DISPOSITION.—Except as  
6       provided in subsection (c), if the juvenile”; and

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

8       “(c) RELEASE OF CERTAIN JUVENILES.—

9           “(1) IN GENERAL.—A juvenile, who is to be  
10       tried as an adult under section 5032, shall be re-  
11       leased pending trial in accordance with the applica-  
12       ble provisions of chapter 207.

13           “(2) CONDITIONS.—A release under paragraph  
14       (1) shall be conducted in the same manner, and  
15       shall be subject to the same terms, conditions, and  
16       sanctions for violation of a release condition, as pro-  
17       vided for an adult under chapter 207.

18       “(d) PENALTY FOR AN OFFENSE COMMITTED WHILE  
19       ON RELEASE.—

20           “(1) IN GENERAL.—A juvenile alleged to have  
21       committed, while on release under this section, an  
22       offense that, if committed by an adult, would be a  
23       Federal criminal offense, shall be subject to prosecu-  
24       tion under section 5032.

1 “(2) APPLICABILITY OF CERTAIN PENALTIES.—

2 Section 3147 shall apply to a juvenile who is to be  
3 tried as an adult under section 5032 for an offense  
4 committed while on release under this section.”.

5 (b) DETENTION PRIOR TO DISPOSITION.—Section  
6 5035 of title 18, United States Code, is amended—

7 (1) by striking “A juvenile” and inserting the  
8 following:

9 “(a) IN GENERAL.—Except as provided in subsection  
10 (b), a juvenile”; and

11 (2) by adding at the end the following:

12 “(b) DETENTION OF CERTAIN JUVENILES.—A juve-  
13 nile who is to be tried as an adult under section 5032  
14 shall be subject to detention in accordance with chapter  
15 207.”.

16 **SEC. 304. SPEEDY TRIAL.**

17 Section 5036 of title 18, United States Code, is  
18 amended to read as follows:

19 **“§ 5036. Speedy trial**

20 “(a) IN GENERAL.—If an alleged delinquent, who is  
21 to be proceeded against as a juvenile pursuant to section  
22 5032 and who is in detention pending trial, is not brought  
23 to trial within 70 days from the date upon which such  
24 detention began, the information shall be dismissed on mo-



1 tion of the alleged delinquent or at the direction of the  
2 court.

3 “(b) PERIODS OF EXCLUSION.—The periods of exclu-  
4 sion under section 3161(h) shall apply to this section.

5 “(c) JUDICIAL CONSIDERATIONS.—In determining  
6 whether an information should be dismissed with or with-  
7 out prejudice, the court shall consider—

8 “(1) the seriousness of the alleged act of juve-  
9 nile delinquency;

10 “(2) the facts and circumstances of the case  
11 that led to the dismissal; and

12 “(3) the impact of a reprosecution on the ad-  
13 ministration of justice.”.

14 **SEC. 305. FEDERAL SENTENCING GUIDELINES.**

15 (a) APPLICATION OF GUIDELINES TO CERTAIN JU-  
16 VENILE DEFENDANTS.—Section 994(h) of title 28, United  
17 States Code, is amended by inserting “, or in which the  
18 defendant is a juvenile who is tried as an adult,” after  
19 “old or older”.

20 (b) GUIDELINES FOR JUVENILE CASES.—Section  
21 994 of title 28, United States Code, is amended by adding  
22 at the end the following:

23 “(z) GUIDELINES FOR JUVENILE CASES.—Not later  
24 than May 1, 2006, the Commission, pursuant to its rules  
25 and regulations and consistent with all pertinent provi-

1 sions of any Federal statute, shall promulgate and dis-  
2 tribute, to all courts of the United States and to the  
3 United States Probation System, guidelines, as described  
4 in this section, for use by a sentencing court in deter-  
5 mining the sentence to be imposed in a criminal case if  
6 the defendant committed the offense as a juvenile, and is  
7 tried as an adult pursuant to section 5032 of title 18.”.

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