

109TH CONGRESS  
1ST SESSION

# S. 1322

To allow for the prosecution of members of criminal street gangs, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 28, 2005

Mr. DURBIN (for himself, Mr. LEAHY, Mr. KENNEDY, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To allow for the prosecution of members of criminal street gangs, 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,*

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

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “American Neighborhoods Taking the Initiative—Guard-  
6 ing Against Neighborhood Gangs Act of 2005” or the  
7 “ANTI-GANG Act”.

8 (b) **TABLE OF CONTENTS.**—The table of contents of  
9 this Act is as follows:

TITLE I—CRIMINAL STREET GANGS



1 being distributed in rural and urban communities  
2 throughout the United States;

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

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

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

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

17 (8) gang recruitment can be deterred both  
18 through increased vigilance, strong criminal pen-  
19 alties, equal partnerships with State and local law  
20 enforcement, and proactive intervention efforts, par-  
21 ticularly targeted at juveniles, prior to gang involve-  
22 ment; and

23 (9) State and local prosecutors, in hearings be-  
24 fore the Committee on the Judiciary of the Senate,  
25 enlisted Congress's help in the prevention, investiga-

1 tion, and prosecution of gang crimes and in the pro-  
 2 tection of witnesses and victims of gang crimes.

3 **SEC. 101. CRIMINAL STREET GANGS; DEFINITIONS.**

4 Section 521 of title 18, United States Code, is  
 5 amended to read as follows:

6 **“§ 521. Criminal street gang; definitions**

7 “As used in this chapter:

8 “(1) CRIMINAL STREET GANG.—

9 “(A) IN GENERAL.—The term ‘criminal  
 10 street gang’ means an ongoing formal or infor-  
 11 mal group, club, organization, or association of  
 12 3 or more persons through or for which they in-  
 13 dividually, jointly, or in combination, have com-  
 14 mitted or attempted to commit, for the direct or  
 15 indirect benefit of, at the direction of, or in as-  
 16 sociation with the group, club, organization, or  
 17 association, 3 or more unrelated predicate gang  
 18 crimes, provided that—

19 “(i) one of the predicate gang crimes  
 20 is a violent gang crime;

21 “(ii) one predicate gang crime must  
 22 occur after the date of enactment of the  
 23 ANTI-GANG Act, and the last of which  
 24 must occur not later than 10 years (ex-  
 25 cluding any period of imprisonment) after

1 the commission of a prior predicate gang  
2 crime; and

3 “(iii) the activities of the criminal  
4 street gang must substantially affect inter-  
5 state or foreign commerce.

6 “(B) ONGOING.—

7 “(i) IN GENERAL.—As used in this  
8 paragraph, the term ‘ongoing’, means that  
9 the criminal street gang has an inde-  
10 pendent identity and existence extending  
11 beyond the planning or carrying out of any  
12 offense or series of offenses which happen  
13 to be predicate gang crimes.

14 “(ii) FACTORS.—The presence or ab-  
15 sence of any of the following evidentiary  
16 factors is relevant to show the existence or  
17 nonexistence of an ongoing criminal street  
18 gang, or to show that any predicate gang  
19 crime was committed through or for a  
20 criminal street gang:

21 “(I) A common name, insignia,  
22 flag, means of recognition, secret sig-  
23 nal or code.

24 “(II) A common creed, belief,  
25 structure, leadership or command

1 structure, method of operation or  
2 criminal enterprise, concentration or  
3 specialty.

4 “(III) Membership, age or other  
5 qualifications, initiation rites, geo-  
6 graphical or territorial situs, bound-  
7 ary, or location, or other unifying  
8 mark, manner, protocol, or method of  
9 expressing or indicating membership.

10 “(C) THREE OR MORE PERSONS.—As used  
11 in this paragraph, the term ‘3 or more persons’,  
12 shall not require that the same 3 or more per-  
13 sons be involved in 2 or more predicate gang  
14 crimes.

15 “(D) UNRELATED.—As used in this para-  
16 graph, the term ‘unrelated’, means that the  
17 predicate gang crimes are not part of a single  
18 course of conduct with a single criminal objec-  
19 tive, and do not represent essentially 1 com-  
20 posite harm even if such gang crimes constitute  
21 legally distinct offenses occurring at different  
22 times. Violent gang crimes committed on dif-  
23 ferent days shall always be considered to be un-  
24 related.

1           “(2) PREDICATE GANG CRIME.—The term  
2           ‘predicate gang crime’, means any act or threat, or  
3           attempted act or threat, which is chargeable under  
4           Federal or State law, and punishable by imprison-  
5           ment for more than 1 year, involving—

6                   “(A) a violent gang crime, which in-  
7                   cludes—

8                           “(i) murder;

9                           “(ii) attempted murder;

10                          “(iii) manslaughter;

11                          “(iv) kidnapping;

12                          “(v) robbery;

13                          “(vi) assault;

14                          “(vii) extortion;

15                          “(viii) arson;

16                          “(ix) burglary;

17                          “(x) sexual assault;

18                          “(xi) carjacking; and

19                          “(xii) explosive materials under sub-  
20                          section (d), (e), (f), or (i) of section 844;

21                          “(B) a ‘serious drug offense’, as that term  
22                          is defined under section 924(e)(2)(A);

23                          “(C) obstruction of justice (including of-  
24                          fenses under sections 1503 and 1510);

1           “(D) tampering with or retaliating against  
2 a witness, victim, or informant (including of-  
3 fenses under sections 1512 and 1513);

4           “(E) fraud and related activity in connec-  
5 tion with identification documents or access de-  
6 vices under sections 1028 and 1029;

7           “(F) interference with commerce by  
8 threats of violence under section 1951;

9           “(G) money laundering under section  
10 1956;

11           “(H) engaging in monetary transactions in  
12 property derived from specified unlawful activ-  
13 ity under section 1957;

14           “(I) the use of interstate commerce facili-  
15 ties in the commission of murder-for-hire;

16           “(J) the interstate transportation, sale, or  
17 receipt of stolen goods under sections 2312  
18 through 2315;

19           “(K) the receipt, possession, and transfer  
20 of firearms, except for violations of section  
21 922(g); or

22           “(L) any act involving the Immigration  
23 and Nationality Act, section 274 (relating to  
24 bringing in and harboring certain aliens), sec-  
25 tion 277 (relating to aiding or assisting certain

1           aliens to enter the United States), or section  
 2           278 (relating to importation of aliens for im-  
 3           moral purposes).

4           “(3) STATE.—The term ‘State’ means each of  
 5           the several States of the United States, the District  
 6           of Columbia, and any commonwealth, territory, or  
 7           possession of the United States.”.

8   **SEC. 102. CRIMINAL STREET GANGS—PROHIBITED ACTS,**  
 9                                   **PENALTIES, AND FORFEITURE.**

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

12   **“§ 522. Prohibited acts; penalties and forfeiture**

13          “(a) RECRUITMENT AND RETENTION IN CRIMINAL  
 14          STREET GANGS.—It shall be unlawful for any person—

15                 “(1) to recruit, solicit, command, employ, per-  
 16                 suade, induce, entice, or coerce any person to be-  
 17                 come a member of or participate in, any criminal  
 18                 street gang with the intent that the person recruited  
 19                 will do any act to effect the criminal activities of a  
 20                 criminal street gang; or

21                 “(2) by use of force, threat, or intimidation di-  
 22                 rected at any person, or by the infliction of bodily  
 23                 injury upon any person, to knowingly prevent a per-  
 24                 son from leaving a criminal street gang.

1       “(b) PARTICIPATION IN A CRIMINAL STREET  
2 GANG.—It shall be unlawful for any person—

3               “(1) to do any act with the intent to effect the  
4 criminal activities of a criminal street gang;

5               “(2) to commit, attempt to commit, aid or abet  
6 the commission of, or conspire to commit any predi-  
7 cate gang crime—

8                       “(A) in furtherance or in aid of the activi-  
9 ties of the criminal street gang;

10                      “(B) for the direct or indirect benefit of  
11 the criminal street gang, or in association with  
12 the criminal street gang; or

13                      “(C) for the purpose of gaining entrance  
14 to, or maintaining or increasing position in, the  
15 criminal street gang;

16 while knowingly being a member of or participating  
17 in a criminal street gang; or

18               “(3) to employ, use, command, counsel, per-  
19 suade, induce, entice, or coerce any individual to  
20 commit any predicate gang crime—

21                      “(A) in furtherance or in aid of the activi-  
22 ties of the criminal street gang;

23                      “(B) for the direct or indirect benefit of  
24 the criminal street gang, or in association with  
25 the criminal street gang; or

1           “(C) for the purpose of gaining entrance to  
2           or maintaining or increasing position in the  
3           criminal street gang;  
4           while knowingly being a member of or participating  
5           in a criminal street gang.

6           “(c) WITNESS INTIMIDATION.—It shall be unlawful  
7           for any person to travel in interstate or foreign commerce,  
8           or use the mail or any facility in interstate or foreign com-  
9           merce, or to employ, use, command, counsel, persuade, in-  
10          duce, entice, or coerce any individual to do the same, to  
11          threaten, influence, or prevent from testifying any witness  
12          in a Federal or State criminal proceeding—

13           “(1) in furtherance or in aid of the activities of  
14          a criminal street gang;

15           “(2) for the direct or indirect benefit of, at the  
16          direction of, or in association with a criminal street  
17          gang; or

18           “(3) for the purpose of gaining entrance to or  
19          maintaining or increasing position in a criminal  
20          street gang.

21          “(d) UNDERLYING OFFENSES.—

22           “(1) NO LIMITATION ON UNDERLYING OF-  
23          FENSES.—Nothing in this section shall be construed  
24          to prohibit the conviction or sentencing of any per-

1 son for an underlying offense that is included in the  
2 definition of ‘predicate gang crimes’.

3 “(2) VENUE FOR UNDERLYING OFFENSES.—

4 Notwithstanding any other provision of law, venue  
5 for any Federal underlying offense charged as a  
6 predicate gang crime in a prosecution under this sec-  
7 tion shall lie in the same district as a prosecution  
8 under this section.

9 “(e) PENALTIES.—

10 “(1) RECRUITING.—Whoever violates sub-  
11 section (a)(1) or (b)(1) of this section shall be fined  
12 under this title, or imprisoned not more than 3  
13 years, or both; provided that if the person recruited  
14 under subsection (a)(1) is a minor and the violator  
15 is 18 years of age or older, then the violator shall  
16 be fined under this title, imprisoned not more than  
17 10 years, or both.

18 “(2) PREVENTING FROM LEAVING.—Whoever  
19 violates subsection (a)(2) or (c) shall be fined under  
20 this title, or imprisoned not more than 10 years, or  
21 both; provided that if the person prevented from  
22 leaving under subsection (a)(2) is a minor and the  
23 violator is 18 years of age or older, then the violator  
24 shall be fined under this title, imprisoned not more  
25 than 15 years, or both.

1           “(3) GANG CRIMES.—Whoever violates sub-  
2 section (b)(2) or (b)(3) shall be fined under this  
3 title, imprisoned not more than 20 years, or both;  
4 except—

5           “(A) where the predicate gang crime is a  
6 serious drug offense, then whoever violates  
7 these subsections shall be fined under this title,  
8 imprisoned not more than 30 years, or both; or

9           “(B) where the predicate gang crime is a  
10 violent gang crime, whoever violates these sub-  
11 sections shall be fined under this title, impris-  
12 oned for any term of years or for life, or both.

13       “(f) FORFEITURE.—

14           “(1) IN GENERAL.—A person who violates any  
15 provision of this section shall, in addition to any  
16 other penalty and irrespective of any provision of  
17 State law, forfeit to the United States—

18           “(A) any property constituting, or derived  
19 from, any proceeds the person obtained, directly  
20 or indirectly, as a result of the violation; and

21           “(B) any property used, or intended to be  
22 used, in any manner or part, to commit, or to  
23 facilitate the commission of the violation.

24       “(2) APPLICATION OF CONTROLLED SUB-  
25 STANCES ACT.—Subsections (b), (c), (e), (f), (g),

1 (h), (i), (j), (k), (l), (m), (n), (o), and (p) of section  
2 413 of the Controlled Substances Act (21 U.S.C.  
3 853) shall apply to a forfeiture under this section.

4 “(g) CERTIFICATION BY THE UNITED STATES AT-  
5 TORNEY.—No prosecution of any offense described under  
6 this section involving a predicate gang crime that is other-  
7 wise exclusively chargeable under State law shall be under-  
8 taken by the United States except upon the certification  
9 in writing of the Attorney General, the Deputy Attorney  
10 General, the Associate Attorney General, any Assistant  
11 Attorney General specially designated by the Attorney  
12 General, or the United States attorney for the district in  
13 which the offense will be prosecuted, after consultation  
14 with State and local prosecutors, that in his judgment a  
15 prosecution by the United States is in the public interest  
16 and necessary to secure substantial justice, which function  
17 of certification may not be delegated.”.

18 **SEC. 103. CLERICAL AMENDMENTS.**

19 The table of sections at the beginning of chapter 26  
20 of title 18, United States Code, is amended to read as  
21 follows:

“521. Criminal street gangs; definitions.

“522. Prohibited acts; penalties and forfeiture.”.

1 **SEC. 104. CONFORMING AMENDMENTS.**

2 (a) AUTHORIZATION OF INTERCEPTION OF WIRE,  
3 ORAL, AND ELECTRONIC COMMUNICATIONS.—Section  
4 2516(1) of title 18, United States Code, is amended—

5 (1) in paragraph (q), by striking “or”;

6 (2) by redesignating paragraph (r) as para-  
7 graph (s); and

8 (3) by inserting after paragraph (q) the fol-  
9 lowing:

10 “(r) any violation of section 522 (relating to  
11 criminal street gangs); or”.

12 (b) ORDERS FOR RESTITUTION.—Section 3663(e)(4)  
13 of title 18, United States Code, is amended by striking  
14 “chapter 46 or chapter 96” and inserting “chapters 26,  
15 46, or 96”.

16 (c) AMENDMENT OF SPECIAL SENTENCING PROVI-  
17 SION PROHIBITING PRISONER COMMUNICATIONS.—Sec-  
18 tion 3582(d) of title 18, United States Code, is amended—

19 (1) by inserting “chapter 26 (criminal street  
20 gangs),” before “chapter 95”; and

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

23 **SEC. 105. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-**  
24 **TENSITY” INTERSTATE GANG ACTIVITY**  
25 **AREAS.**

26 (a) DEFINITIONS.—In this section:

1           (1) GOVERNOR.—The term “Governor” means  
2 a Governor of a State or the mayor of the District  
3 of Columbia.

4           (2) HIGH INTENSITY INTERSTATE GANG ACTIV-  
5 ITY AREA.—The term “high intensity interstate  
6 gang activity area” means an area within a State  
7 that is designated as a high intensity interstate gang  
8 activity area under subsection (b)(1).

9           (3) HIGH INTENSITY INTERSTATE GANG AND  
10 DRUG TRAFFICKING AREA.—The term “high inten-  
11 sity interstate gang and drug trafficking area”  
12 means an area within a State that is cross-des-  
13 igned as a high intensity interstate gang and drug  
14 trafficking area under subsection (b)(2).

15           (4) STATE.—The term “State” means a State  
16 of the United States, the District of Columbia, and  
17 any commonwealth, territory, or possession of the  
18 United States. The term “State” shall include an  
19 “Indian tribe”, as defined under section 102 of the  
20 Federally Recognized Indian Tribe List Act of 1994  
21 (25 U.S.C. 479a).

22           (b) HIGH INTENSITY INTERSTATE GANG ACTIVITY  
23 AREAS.—

24           (1) DESIGNATION.—The Attorney General,  
25 after consultation with the Governors of appropriate

1 States, may designate specific areas that are located  
2 within 1 or more States as high intensity interstate  
3 gang activity areas.

4 (2) CROSS-DESIGNATION.—The Attorney Gen-  
5 eral, after consultation with the Governors of appro-  
6 priate States and the Director of the Office of Na-  
7 tional Drug Control Policy, may cross-designate spe-  
8 cific areas already designated as high intensity inter-  
9 state drug trafficking areas under section 707 of the  
10 Office of National Drug Control Policy Reauthoriza-  
11 tion Act of 1998 (21 U.S.C. 1706) as high intensity  
12 interstate gang and drug trafficking areas.

13 (3) ASSISTANCE.—In order to provide Federal  
14 assistance to high intensity interstate gang activity  
15 areas or high intensity interstate gang and drug  
16 trafficking areas, the Attorney General shall—

17 (A) establish criminal street gang enforce-  
18 ment teams, consisting of Federal, State, and  
19 local law enforcement authorities, for the co-  
20 ordinated investigation, disruption, apprehen-  
21 sion, and prosecution of criminal street gangs  
22 and offenders in each high intensity interstate  
23 gang activity area or high intensity interstate  
24 gang and drug trafficking area;

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

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

13 (4) COMPOSITION OF CRIMINAL STREET GANG  
14 ENFORCEMENT TEAM.—The team established under  
15 paragraph (2)(A) shall consist of agents and offi-  
16 cers, where feasible, from—

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

19 (B) the Department of Homeland Security;

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

22 (D) the Drug Enforcement Administration;

23 (E) the Internal Revenue Service;

24 (F) the Federal Bureau of Investigation;

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

- 1 (H) the United States Postal Service;  
2 (I) State and local law enforcement; and  
3 (J) Federal, State, and local prosecutors.

4 (5) COORDINATION.—In each area cross-des-  
5 igned as a high intensity interstate gang and drug  
6 trafficking area, the team established under para-  
7 graph (2)(A) shall fully coordinate its antigang ac-  
8 tivities with antidrug trafficking activities under-  
9 taken by Federal, State, and local officials under  
10 section 707 of the Office of National Drug Control  
11 Policy Reauthorization Act of 1998 (21 U.S.C.  
12 1706).

13 (6) CRITERIA FOR DESIGNATION.—In consid-  
14 ering an area for designation as a high intensity  
15 interstate gang activity area or high intensity inter-  
16 state gang and drug trafficking area under this sec-  
17 tion, the Attorney General shall consider—

18 (A) the current and predicted levels of  
19 gang crime activity in the area;

20 (B) the extent to which violent crime in  
21 the area appears to be related to criminal street  
22 gang activity, such as drug trafficking, murder,  
23 robbery, assaults, carjacking, arson, kidnap-  
24 ping, extortion, and other criminal activity;

1 (C) the extent to which State and local law  
2 enforcement agencies have committed resources  
3 to—

4 (i) respond to the gang crime prob-  
5 lem; and

6 (ii) participate in a gang enforcement  
7 team;

8 (D) the extent to which a significant in-  
9 crease in the allocation of Federal resources  
10 would enhance local response to the gang crime  
11 activities in the area; and

12 (E) any other criteria that the Attorney  
13 General considers to be appropriate.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized to be appropriated \$40,000,000 for each  
16 of fiscal years 2006 through 2010 to carry out this sec-  
17 tion.

18 **SEC. 106. GANG PREVENTION GRANTS.**

19 (a) AUTHORITY TO MAKE GRANTS.—The Office of  
20 Justice Programs of the Department of Justice shall make  
21 grants, in accordance with such regulations as the Attor-  
22 ney General may prescribe, to States, units of local gov-  
23 ernment, tribal governments, and qualified private enti-  
24 ties, to develop community-based programs that provide

1 crime prevention, research, and intervention services that  
2 are designed for gang members and at-risk youth.

3 (b) USE OF GRANT AMOUNTS.—Amounts received by  
4 a grantee under this section may be used by the grantee,  
5 directly or through subgrants, only for 1 or more of the  
6 following activities:

7 (1) Preventing initial gang recruitment and in-  
8 volvement among younger teenagers.

9 (2) Reducing gang involvement through non-  
10 violent and constructive activities, such as commu-  
11 nity service programs, development of nonviolent  
12 conflict resolution skills, employment and legal as-  
13 sistance, family counseling, and other safe, commu-  
14 nity-based alternatives for high-risk youth.

15 (3) Developing in-school and after-school gang  
16 safety, control, education, and resistance procedures  
17 and programs.

18 (4) Identifying and addressing early childhood  
19 risk factors for gang involvement, including parent  
20 training and childhood skills development.

21 (5) Identifying and fostering protective factors  
22 that buffer children and adolescents from gang in-  
23 volvement.

24 (c) GRANT REQUIREMENTS.—

1           (1) PERIOD.—A grant under this section shall  
2           be made for a period of not more than 2 years.

3           (2) MAXIMUM.—The amount of a grant under  
4           this section may not exceed \$1,000,000.

5           (d) ANNUAL REPORT.—Each recipient of a grant  
6           under this section shall submit to the Attorney General,  
7           for each year in which funds from a grant received under  
8           this section are expended, a report containing—

9                   (1) a summary of the activities carried out with  
10                  grant funds during that year;

11                   (2) an assessment of the effectiveness of the  
12                  crime prevention, research, and intervention activi-  
13                  ties of the recipient;

14                   (3) a strategic plan for the year following the  
15                  year covered under paragraph (1); and

16                   (4) such other information as the Attorney  
17                  General may require.

18           (e) MINIMUM ALLOCATION.—Unless all eligible appli-  
19           cations submitted by any State or unit of local government  
20           within such State for a planning or implementation grant  
21           under this section have been funded, such State, together  
22           with grantees within the State (other than Indian tribes),  
23           shall be allocated in each fiscal year under this section  
24           not less than 0.75 percent of the total amount appro-

1 priated in the fiscal year for planning or implementation  
2 grants under this section.

3 (f) DEFINITION.—In this section, the term “units of  
4 local government” includes sheriffs, police agencies, and  
5 local prosecutor offices.

6 (g) AUTHORIZATION OF APPROPRIATIONS.—

7 (1) IN GENERAL.—There are authorized to be  
8 appropriated for grants under this section  
9 \$50,000,000 for each of the fiscal years 2006  
10 through 2010.

11 (2) LIMITATION.—Of amounts made available  
12 for grants under this section, not less than 50 per-  
13 cent shall be available only for areas designated pur-  
14 suant to section 105 as high intensity interstate  
15 gang activity areas or high intensity interstate gang  
16 and drug trafficking areas.

17 **SEC. 107. GANG PREVENTION INFORMATION GRANTS.**

18 (a) AUTHORITY TO MAKE GRANTS.—The Office of  
19 Justice Programs of the Department of Justice shall make  
20 grants, in accordance with such regulations as the Attor-  
21 ney General may prescribe, to States, units of local gov-  
22 ernment, and tribal governments to fund technology,  
23 equipment, and training for State and local sheriffs, police  
24 agencies, and prosecutor offices in order to—

1           (1) increase accurate identification of gang  
2 members and violent offenders;

3           (2) maintain databases with such information  
4 to facilitate coordination among law enforcement  
5 and prosecutors; and

6           (3) otherwise improve the investigation and  
7 prosecution of criminal street gangs.

8           (b) GRANT REQUIREMENTS.—

9           (1) PERIOD.—A grant under this section shall  
10 be made for a period of not more than 2 years.

11           (2) MAXIMUM.—The amount of a grant under  
12 this section may not exceed \$1,000,000.

13           (c) ANNUAL REPORT.—Each recipient of a grant  
14 under this section shall submit to the Attorney General,  
15 for each year in which funds from a grant received under  
16 this section are expended, a report containing—

17           (1) a summary of the activities carried out with  
18 grant funds during that year;

19           (2) an assessment of the effectiveness of the  
20 crime prevention, research, and intervention activi-  
21 ties of the recipient;

22           (3) a strategic plan for the year following the  
23 year covered under paragraph (1); and

24           (4) such other information as the Attorney  
25 General may require.

1 (d) MINIMUM ALLOCATION.—Unless all eligible appli-  
2 cations submitted by any State or unit of local government  
3 within such State for a planning or implementation grant  
4 under this section have been funded, such State, together  
5 with grantees within the State (other than Indian tribes),  
6 shall be allocated in each fiscal year under this section  
7 not less than 0.75 percent of the total amount appro-  
8 priated in the fiscal year for planning or implementation  
9 grants under this section.

10 (e) DEFINITION.—In this section, the term “units of  
11 local government” includes sheriffs, police agencies, and  
12 local prosecutor offices.

13 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
14 are authorized to be appropriated for grants under this  
15 section \$10,000,000 for each of the fiscal years 2006  
16 through 2010.

17 **SEC. 108. ENHANCEMENT OF PROJECT SAFE NEIGHBOR-**  
18 **HOODS INITIATIVE TO IMPROVE ENFORCE-**  
19 **MENT OF CRIMINAL LAWS AGAINST VIOLENT**  
20 **GANGS.**

21 (a) IN GENERAL.—The Attorney General shall ex-  
22 pand the Project Safe Neighborhoods program to require  
23 each United States attorney to—

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

4           (2) coordinate the identification, investigation,  
5           and prosecution of criminal street gangs among Fed-  
6           eral, State, and local law enforcement agencies;

7           (3) consult with State and local prosecutors to  
8           determine how Federal, State, and local law enforce-  
9           ment resources can best be used to serve the public  
10          interest and secure substantial justice; and

11          (4) coordinate and establish criminal street  
12          gang enforcement teams, established under section  
13          105(b), in high intensity interstate gang activity  
14          areas within the district of the United States attor-  
15          ney.

16          (b) ADDITIONAL ASSISTANT UNITED STATES ATTOR-  
17          NEYS FOR PROJECT SAFE NEIGHBORHOODS.—

18           (1) IN GENERAL.—The Attorney General may  
19           hire 94 additional Assistant United States attorneys  
20           to carry out the provisions of this section.

21           (2) AUTHORIZATION OF APPROPRIATIONS.—  
22           There are authorized to be appropriated \$7,500,000  
23           for each of the fiscal years 2006 through 2010 to  
24           carry out this section.

1 **SEC. 109. ADDITIONAL RESOURCES NEEDED BY THE FED-**  
2 **ERAL BUREAU OF INVESTIGATION TO INVES-**  
3 **TIGATE AND PROSECUTE VIOLENT CRIMINAL**  
4 **STREET GANGS.**

5 (a) RESPONSIBILITIES OF ATTORNEY GENERAL.—

6 The Attorney General shall require the Federal Bureau  
7 of Investigation to—

8 (1) increase funding for the Safe Streets Pro-  
9 gram;

10 (2) support the criminal street gang enforce-  
11 ment teams, established under section 105(b), in  
12 designated high intensity interstate gang activity  
13 areas; and

14 (3) consult with State and local prosecutors to  
15 determine how Federal, State, and local law enforce-  
16 ment resources can best be used to serve the public  
17 interest and secure substantial justice.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—

19 (1) IN GENERAL.—In addition to amounts oth-  
20 erwise authorized, there are authorized to be appro-  
21 priated to the Federal Bureau of Investigation  
22 \$5,000,000 for each of the fiscal years 2006 through  
23 2010 to carry out the Safe Streets Program.

24 (2) AVAILABILITY.—Any amounts appropriated  
25 under paragraph (1) shall remain available until ex-  
26 pended.

1 **SEC. 110. EXPANSION OF FEDERAL WITNESS RELOCATION**  
2 **AND PROTECTION PROGRAM.**

3 Section 3521(a)(1) of title 18 is amended by inserting  
4 “, criminal street gang, serious drug offense, homicide,”  
5 after “organized criminal activity”.

6 **SEC. 111. GRANTS TO STATE AND LOCAL PROSECUTORS TO**  
7 **PROTECT WITNESSES AND VICTIMS OF**  
8 **CRIME.**

9 (a) GRANTS AUTHORIZED.—

10 (1) IN GENERAL.—The Attorney General is au-  
11 thORIZED to make grants to State and local prosecu-  
12 tors and the United States attorney for the District  
13 of Columbia for the purpose of providing short-term  
14 protection to witnesses in trials involving an orga-  
15 nized criminal activity, criminal street gang, serious  
16 drug offense, homicide, or other serious offense.

17 (2) ALLOCATION.—Each prosecutor receiving a  
18 grant under this section may either—

19 (A) use the grant to provide witness relo-  
20 cation and protection; or

21 (B) pursuant to a cooperative agreement  
22 with the Attorney General, credit the grant to  
23 the United States Marshal’s Service to cover  
24 the costs of providing witness relocation and  
25 protection on behalf of the prosecutor.

26 (b) APPLICATION.—

1           (1) IN GENERAL.—Each prosecutor desiring a  
2           grant under this section shall submit an application  
3           to the Attorney General at such time, in such man-  
4           ner, and accompanied by such information as the  
5           Attorney General may reasonably require.

6           (2) CONTENTS.—Each application submitted  
7           pursuant to paragraph (1) shall—

8                   (A) describe the activities for which assist-  
9                   ance under this section is sought; and

10                   (B) provide such additional assurances as  
11                   the Attorney General determines to be essential  
12                   to ensure compliance with the requirements of  
13                   this section.

14           (c) MINIMUM ALLOCATION.—Unless all eligible appli-  
15           cations submitted by State and local prosecutors within  
16           a State for planning or implementation grants under this  
17           section have been funded, the grantees within the State  
18           shall be allocated in each fiscal year under this section  
19           not less than 0.75 percent of the total amount appro-  
20           priated in the fiscal year for planning or implementation  
21           grants pursuant to this section.

22           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
23           are authorized to be appropriated to carry out this section  
24           \$60,000,000 for each of the fiscal years 2006 through  
25           2010.

1 **SEC. 112. WITNESS PROTECTION SERVICES.**

2 Section 3526 of title 18, United States Code (Co-  
3 operation of other Federal agencies and State govern-  
4 ments; reimbursement of expenses) is amended by adding  
5 at the end the following:

6 “(c) In any case in which a State government re-  
7 quests the Attorney General to provide temporary protec-  
8 tion under section 3521(e) of this title, the costs of pro-  
9 viding temporary protection are not reimbursable if the  
10 investigation or prosecution in any way relates to crimes  
11 of violence committed by a gang, as defined under the laws  
12 of the relevant State seeking assistance under this title.”.

13 **TITLE II—RELATED MATTERS IN-**  
14 **VOLVING VIOLENT CRIME**  
15 **PROSECUTION**

16 **SEC. 201. STUDY ON EXPANDING FEDERAL AUTHORITY FOR**  
17 **JUVENILE OFFENDERS.**

18 (a) IN GENERAL.—Not later than 9 months after the  
19 date of enactment of this Act, the Comptroller General  
20 of the United States shall submit to the Committees on  
21 the Judiciary of the Senate and the House of Representa-  
22 tives a report on the costs and benefits associated with  
23 expanding Federal authority to prosecute offenders under  
24 the age of 18 who are gang members who commit criminal  
25 offenses.

1 (b) CONTENTS.—The report submitted under sub-  
2 section (a) shall—

3 (1) examine the ability of the judicial systems  
4 of the States to respond effectively to juveniles who  
5 are members of “criminal street gangs”, as defined  
6 under section 521 of title 18, United States Code;

7 (2) examine the extent to which offenders who  
8 are 16 and 17 years old are members of criminal  
9 street gangs, and are accused of committing violent  
10 crimes and prosecuted in the adult criminal justice  
11 systems of the individual States;

12 (3) determine the percentage of crimes com-  
13 mitted by members of “criminal street gangs” that  
14 are committed by offenders who are 16 and 17 years  
15 old;

16 (4) examine the extent to which United States  
17 attorneys currently bring criminal indictments and  
18 prosecute offenders under the age of 18, and the ex-  
19 tent to which United States attorneys’ offices in-  
20 clude prosecutors with experience prosecuting juve-  
21 niles for adult criminal violations;

22 (5) examine the extent to which the Bureau of  
23 Prisons houses offenders under the age of 18, and  
24 has the ability and experience to meet the needs of  
25 young offenders;

1           (6) estimate the cost to the Federal Govern-  
 2           ment of prosecuting and incarcerating 16 and 17  
 3           year olds who are members of criminal street gangs  
 4           and are accused of violent crimes; and

5           (7) detail any benefits for Federal prosecutions  
 6           that would be realized by expanding Federal author-  
 7           ity to bring charges against 16 and 17 year olds who  
 8           are members of criminal street gangs and are ac-  
 9           cused of violent crimes.

10 **SEC. 202. PROSECUTORS AND DEFENDERS INCENTIVE ACT.**

11           (a) **SHORT TITLE.**—This section may be cited as the  
 12           “Prosecutors and Defenders Incentive Act”.

13           (b) **LOAN REPAYMENT FOR PROSECUTORS AND PUB-**  
 14           **LIC DEFENDERS.**—Title I of the Omnibus Crime Control  
 15           and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.)  
 16           is amended by adding at the end the following:

17                           **“PART HH—LOAN REPAYMENT FOR**  
 18                           **PROSECUTORS AND PUBLIC DEFENDERS**

19           **“SEC. 2901. GRANT AUTHORIZATION.**

20           “(a) **PURPOSE.**—The purpose of this section is to en-  
 21           courage qualified individuals to enter and continue em-  
 22           ployment as prosecutors and public defenders.

23           “(b) **DEFINITIONS.**—In this section:

1           “(1) PROSECUTOR.—The term ‘prosecutor’  
2 means a full-time employee of a State or local agen-  
3 cy who—

4           “(A) is continually licensed to practice law;

5           and

6           “(B) prosecutes criminal cases at the State  
7 or local level.

8           “(2) PUBLIC DEFENDER.—The term ‘public de-  
9 fender’ means an attorney who—

10          “(A) is continually licensed to practice law;

11          and

12          “(B) is—

13               “(i) a full-time employee of a State or  
14 local agency or a nonprofit organization  
15 operating under a contract with a State or  
16 unit of local government, that provides  
17 legal representation to indigent persons in  
18 criminal cases; or

19               “(ii) employed as a full-time Federal  
20 defender attorney in a defender organiza-  
21 tion established pursuant to subsection (g)  
22 of section 3006A of title 18, United States  
23 Code, that provides legal representation to  
24 indigent persons in criminal cases.

1           “(3) STUDENT LOAN.—The term ‘student loan’  
2       means—

3           “(A) a loan made, insured, or guaranteed  
4       under part B of title IV of the Higher Edu-  
5       cation Act of 1965 (20 U.S.C. 1071 et seq.);

6           “(B) a loan made under part D or E of  
7       title IV of the Higher Education Act of 1965  
8       (20 U.S.C. 1087a et seq. and 1087aa et seq.);  
9       and

10          “(C) a loan made under section 428C or  
11       455(g) of the Higher Education Act of 1965  
12       (20 U.S.C. 1078–3 and 1087e(g)) to the extent  
13       that such loan was used to repay a Federal Di-  
14       rect Stafford Loan, a Federal Direct Unsub-  
15       sidized Stafford Loan, or a loan made under  
16       section 428 or 428H of such Act.

17          “(c) PROGRAM AUTHORIZED.—The Attorney General  
18       shall establish a program by which the Department of Jus-  
19       tice shall assume the obligation to repay a student loan,  
20       by direct payments on behalf of a borrower to the holder  
21       of such loan, in accordance with subsection (d), for any  
22       borrower who—

23           “(1) is employed as a prosecutor or public de-  
24       fender; and

1           “(2) is not in default on a loan for which the  
2 borrower seeks forgiveness.

3           “(d) TERMS OF AGREEMENT.—

4           “(1) IN GENERAL.—To be eligible to receive re-  
5 payment benefits under subsection (c), a borrower  
6 shall enter into a written agreement that specifies  
7 that—

8           “(A) the borrower will remain employed as  
9 a prosecutor or public defender for a required  
10 period of service of not less than 3 years, unless  
11 involuntarily separated from that employment;

12           “(B) if the borrower is involuntarily sepa-  
13 rated from employment on account of mis-  
14 conduct, or voluntarily separates from employ-  
15 ment, before the end of the period specified in  
16 the agreement, the borrower will repay the At-  
17 torney General the amount of any benefits re-  
18 ceived by such employee under this section;

19           “(C) if the borrower is required to repay  
20 an amount to the Attorney General under sub-  
21 paragraph (B) and fails to repay such amount,  
22 a sum equal to that amount shall be recoverable  
23 by the Federal Government from the employee  
24 (or such employee’s estate, if applicable) by  
25 such methods as are provided by law for the re-

1 recovery of amounts owed to the Federal Govern-  
2 ment;

3 “(D) the Attorney General may waive, in  
4 whole or in part, a right of recovery under this  
5 subsection if it is shown that recovery would be  
6 against equity and good conscience or against  
7 the public interest; and

8 “(E) the Attorney General shall make stu-  
9 dent loan payments under this section for the  
10 period of the agreement, subject to the avail-  
11 ability of appropriations.

12 “(2) REPAYMENTS.—

13 “(A) IN GENERAL.—Any amount repaid  
14 by, or recovered from, an individual or the es-  
15 tate of an individual under this subsection shall  
16 be credited to the appropriation account from  
17 which the amount involved was originally paid.

18 “(B) MERGER.—Any amount credited  
19 under subparagraph (A) shall be merged with  
20 other sums in such account and shall be avail-  
21 able for the same purposes and period, and sub-  
22 ject to the same limitations, if any, as the sums  
23 with which the amount was merged.

24 “(3) LIMITATIONS.—

1           “(A) STUDENT LOAN PAYMENT  
2 AMOUNT.—Student loan repayments made by  
3 the Attorney General under this section shall be  
4 made subject to such terms, limitations, or con-  
5 ditions as may be mutually agreed upon by the  
6 borrower and the Attorney General in an agree-  
7 ment under paragraph (1), except that the  
8 amount paid by the Attorney General under  
9 this section shall not exceed—

10                   “(i) \$10,000 for any borrower in any  
11                   calendar year; or

12                   “(ii) an aggregate total of \$60,000 in  
13                   the case of any borrower.

14           “(B) BEGINNING OF PAYMENTS.—Nothing  
15 in this section shall authorize the Attorney Gen-  
16 eral to pay any amount to reimburse a borrower  
17 for any repayments made by such borrower  
18 prior to the date on which the Attorney General  
19 entered into an agreement with the borrower  
20 under this subsection.

21           “(e) ADDITIONAL AGREEMENTS.—

22                   “(1) IN GENERAL.—On completion of the re-  
23 quired period of service under an agreement under  
24 subsection (d), the borrower and the Attorney Gen-  
25 eral may, subject to paragraph (2), enter into an ad-

1       ditional agreement in accordance with subsection  
2       (d).

3               “(2) TERM.—An agreement entered into under  
4       paragraph (1) may require the borrower remain em-  
5       ployed as a prosecutor or public defender for less  
6       than 3 years.

7       “(f) AWARD BASIS; PRIORITY.—

8               “(1) AWARD BASIS.—Subject to paragraph (2),  
9       the Attorney General shall provide repayment bene-  
10       fits under this section on a first-come, first-served  
11       basis, and subject to the availability of appropria-  
12       tions.

13               “(2) PRIORITY.—The Attorney General shall  
14       give priority in providing repayment benefits under  
15       this section in any fiscal year to a borrower who—

16                       “(A) received repayment benefits under  
17                       this section during the preceding fiscal year;  
18                       and

19                       “(B) has completed less than 3 years of  
20                       the first required period of service specified for  
21                       the borrower in an agreement entered into  
22                       under subsection (d).

23       “(g) REGULATIONS.—The Attorney General is au-  
24       thorized to issue such regulations as may be necessary to  
25       carry out the provisions of this section.

1       “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 \$25,000,000 for fiscal year 2006 and such sums as may  
4 be necessary for each succeeding fiscal year.”.

○