

110TH CONGRESS
1ST SESSION

S. 1860

To control violent crime.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2007

Mr. CORNYN (for himself and Mr. KYL) introduced the following bill; which
was read twice and referred to the Committee on the Judiciary

A BILL

To control violent crime.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Violent Crime Control
5 Act of 2007”.

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

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—VIOLENT CRIME PREVENTION AND ENFORCEMENT

Subtitle A—Improving Violent Crime Prevention and Strengthening Antigang
Measures

Sec. 101. Amendments relating to violent crime.

Sec. 102. Possession of firearms by dangerous felons.

- Sec. 103. Expansion of rebuttable presumption against release of persons charged with firearms offenses.
- Sec. 104. Conforming amendment.
- Sec. 105. Increased penalties for interstate and foreign travel or transportation in aid of racketeering.
- 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. Statute of limitations for violent crime.
- Sec. 108. Statute of limitations for terrorism offenses.
- Sec. 109. Crimes of violence and drug crimes committed by illegal aliens.

Subtitle B—Death Penalty Procedures Improvement Act

- Sec. 121. Short title.
- Sec. 122. Elimination of death penalty hearing discrepancies.
- Sec. 123. Amendments relating to section 3593 of title 18.
- Sec. 124. Amendments relating to section 3592 of title 18.
- Sec. 125. Amendments relating to section 3594 of title 18.
- Sec. 126. Amendments relating to sections 3596 and 3597 of title 18.

Subtitle C—Clarifying the Authority To Issue Cell Location Orders

- Sec. 131. Amendment to section 2703 of title 18 to clarify ongoing scope of orders and warrants.
- Sec. 132. Pen register and trap and trace amendment.
- Sec. 133. Amendment to mobile tracking devices statute.
- Sec. 134. Amendment to Communications Assistance for Law Enforcement Act.

TITLE II—ENDING DEMAND FOR CHILD PORNOGRAPHY AND CHILD SEXUAL EXPLOITATION

- Sec. 201. Mandatory minimum for possession of child pornography.
- Sec. 202. Strengthening section 13032 of title 42, United States Code, to ensure that child pornography is effectively reported.
- Sec. 203. Conspiracy provision for chapter 77 offenses.
- Sec. 204. Amend definition of illicit sexual conduct.
- Sec. 205. Expand the use of the sex trafficking statute.
- Sec. 206. Increased penalties for sexual exploitation of children.
- Sec. 207. Increased penalties for activities relating to material involving the sexual exploitation of children.
- Sec. 208. Increased penalties for activities relating to material constituting or containing child pornography.
- Sec. 209. Additional resources for the Innocent Images National Initiative.

TITLE III—THE PROCEEDS OF CRIME ACT

- Sec. 301. Short title.

Subtitle A—Property Subject to Forfeiture to the United States

- Sec. 302. Additions to the general forfeiture statute.
- Sec. 303. Drugs and money laundering.
- Sec. 304. Alien smuggling.
- Sec. 305. Food stamp fraud.
- Sec. 306. Devices used to create or replicate counterfeit computer software.
- Sec. 307. Property used to escape Federal custody or remain a fugitive.

- Sec. 308. Copyright violations.
- Sec. 309. Trade secrets.
- Sec. 310. Contraband cigarettes.
- Sec. 311. Recently enacted title 31 violations.
- Sec. 312. Archaeological Resources Protection Act.
- Sec. 313. Computer fraud.
- Sec. 314. False impersonation.
- Sec. 315. Conspiracies involving trafficking in persons.

Subtitle B—Money Laundering

- Sec. 321. Interstate transportation of criminal proceeds and “reverse” money laundering.
- Sec. 322. Freezing bank accounts of persons arrested for offenses involving the movement of money across international borders.
- Sec. 323. Procedure for issuing subpoenas in certain money laundering and forfeiture cases.
- Sec. 324. Using blank checks in bearer form to smuggle money.
- Sec. 325. Treating electronic funds as fungible property.
- Sec. 326. Bulk cash smuggling.
- Sec. 327. Making the international money laundering statute apply to tax evasion.
- Sec. 328. Prohibiting money laundering through hawalas, other informal value transfer systems, and closely related transactions.
- Sec. 329. Section 1957 violations involving commingled funds and structured transactions.
- Sec. 330. Charging money laundering as a course of conduct.
- Sec. 331. Knowledge that the property is the proceeds of a specific felony.
- Sec. 332. Other specified activity for money laundering.
- Sec. 333. Illegal money transmitting businesses.
- Sec. 334. Technical correction to the USA Patriot Act.
- Sec. 335. Technical amendment to restore wiretap authority for certain money laundering offenses.
- Sec. 336. Miscellaneous minor and technical amendments.
- Sec. 337. Technical correction regarding forfeiture authority for Secretary, Homeland Security.
- Sec. 338. Stored value cards.

Subtitle C—Recovering the Proceeds of Crime and Victim Restitution

CHAPTER 1—CRIMINAL FORFEITURE PROCEDURE

- Sec. 341. Restraint of property subject to criminal forfeiture.
- Sec. 342. Authorizing forfeiture pursuant to a guilty plea.
- Sec. 343. Criminal seizure warrants.
- Sec. 344. Discovery procedure for locating forfeited assets.
- Sec. 345. Collection of criminal forfeiture judgment.
- Sec. 346. Abatement of forfeiture when defendant dies.
- Sec. 347. Forfeitable property transferred to third parties.
- Sec. 348. Forfeiture of third-party interests in criminal cases.
- Sec. 349. Severance of jointly held property.
- Sec. 350. Closing of loophole to defeat criminal forfeiture through bankruptcy.
- Sec. 351. Uniform procedures for criminal forfeiture.
- Sec. 352. Appeals.
- Sec. 353. Victims, restitution, and forfeiture.
- Sec. 354. Authority of Secretary of Homeland Security.

CHAPTER 2—INTERNATIONAL PROVISIONS

- Sec. 361. Procedures for enforcement of foreign forfeiture judgments and protective orders.
- Sec. 362. Extraterritorial jurisdiction.
- Sec. 363. Suspension of the statute of limitations to obtain foreign evidence.

CHAPTER 3—CIVIL FORFEITURE

- Sec. 371. Computers and other devices used for counterfeiting.
- Sec. 372. Fungible property in bank accounts.
- Sec. 373. Availability of tax records.
- Sec. 374. Civil order to repatriate assets.
- Sec. 375. Clarification of 18 U.S.C. 3322.
- Sec. 376. Inapplicability of liability for attorneys fees in international money laundering cases.
- Sec. 377. Venue for prisoner challenges to seizure of crime proceeds.
- Sec. 378. Affording property owners a hearing on the seizure of real property.
- Sec. 379. Jurisdiction of magistrates.
- Sec. 380. Minor amendments to the Civil Asset Forfeiture Reform Act of 2000.
- Sec. 381. Property detained at the border.
- Sec. 382. Obstruction of justice.
- Sec. 383. Source of payment for attorney's fees.
- Sec. 384. Excessive fines challenges.
- Sec. 385. Payment in lieu of forfeiture.
- Sec. 386. Statutory standing.
- Sec. 387. Updating the cross reference to forfeiture procedures.
- Sec. 388. Protecting the rights of victims.
- Sec. 389. Other minor and technical amendments.
- Sec. 390. Frivolous claims by prisoners.

TITLE IV—DRUG TRAFFICKING ENFORCEMENT

Subtitle A—Regulation of Analogue Substances

- Sec. 401. Short title.
- Sec. 402. Identification of analogues.

Subtitle B—Clarification of Venue for Certain Drug Trafficking Offenses

- Sec. 411. Clarification of venue for certain drug trafficking offenses.

TITLE V—CRIMINAL RESTITUTION IMPROVEMENT

- Sec. 501. Mandatory restitution for Federal offenses.
- Sec. 502. Table of sections amendment.
- Sec. 503. Effect of restitution order on sentence of probation.
- Sec. 504. Conforming amendments and repeals.
- Sec. 505. Special forfeiture of collateral profits from crime.
- Sec. 506. Amendments to the Mandatory Victims Restitution Act.
- Sec. 507. Amendments to the anti-fraud injunction statute.
- Sec. 508. Amendments to the Federal Debt Collection Procedures Act.
- Sec. 509. Authorization of appropriations.

TITLE VI—COUNTERTERRORISM AND NATIONAL SECURITY

- Sec. 601. Providing material support to facilitate, reward, or encourage acts of terrorism.

- Sec. 602. Prohibiting attempts and conspiracies to obtain military-type training from a foreign terrorist organization.
- Sec. 603. Kidnapping and rape overseas.
- Sec. 604. Hostage taking.
- Sec. 605. Interference with flight crew or threat to safety of aircraft.
- Sec. 606. Increased penalties for providing material support to terrorists.
- Sec. 607. Denial of Federal benefits to convicted terrorists.
- Sec. 608. Improve investigation of terrorist crimes.
- Sec. 609. Solicitation to commit a crime of violence or terrorism.
- Sec. 610. Terrorist offense resulting in death.
- Sec. 611. Death penalty for certain terror related crimes.
- Sec. 612. Increase in certain penalties.
- Sec. 613. Modernization of state of mind requirement for section 2339C offenses.
- Sec. 614. Providing material support to terrorist groups.
- Sec. 615. Wiretap predicate.

TITLE VII—GANG DETERRENCE AND COMMUNITY PROTECTION

- Sec. 701. Short title.

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

- Sec. 711. Revision and extension of penalties related to criminal street gang activity.
- Sec. 712. Increased penalties for interstate and foreign travel or transportation in aid of racketeering.
- Sec. 713. Amendments relating to violent crime.
- Sec. 714. Increased penalties for use of interstate commerce facilities in the Commission of murder-for-hire and other felony crimes of violence.
- Sec. 715. Increased penalties for violent crimes in aid of racketeering activity.
- Sec. 716. Murder and other violent crimes committed during and in relation to a drug trafficking crime.
- Sec. 717. Multiple interstate murder.
- Sec. 718. Additional racketeering activity.
- Sec. 719. Expansion of rebuttable presumption against release of persons charged with firearms offenses.
- Sec. 720. Venue in capital cases.
- Sec. 721. Statute of limitations for violent crime.
- Sec. 722. Modification of definition of crime of violence.
- Sec. 723. Clarification to hearsay exception for forfeiture by wrongdoing.
- Sec. 724. Increased penalties for criminal use of firearms in crimes of violence and drug trafficking.
- Sec. 725. Transfer of juveniles.

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

- Sec. 731. Designation of and assistance for “high intensity” interstate gang activity areas.
- Sec. 732. Grants to State and local prosecutors to combat violent crime and to protect witnesses and victims of crimes.

1 **TITLE I—VIOLENT CRIME PRE-**
2 **VENTION AND ENFORCEMENT**
3 **Subtitle A—Improving Violent**
4 **Crime Prevention and Strength-**
5 **ening Antigung Measures**

6 **SEC. 101. AMENDMENTS RELATING TO VIOLENT CRIME.**

7 (a) CLARIFICATION OF ILLEGAL GUN TRANSFERS TO
8 COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIO-
9 LENCE.—Section 924(h) of title 18, United States Code,
10 is amended to read as follows:

11 “(h) Whoever, in or affecting interstate or foreign
12 commerce, knowingly transfers a firearm, knowing that
13 the firearm will be used to commit, or possessed in fur-
14 therance of, a crime of violence or drug trafficking crime
15 (as defined in subsection (c)(2)), shall be fined under this
16 title and imprisoned not more than 20 years.”.

17 (b) CONSPIRACY PENALTY.—Section 371 of title 18,
18 United States Code, is amended by striking “five years,
19 or both.” and inserting “20 years (unless the maximum
20 penalty for the crime that served as the object of the con-
21 spiracy has a maximum penalty of imprisonment of less
22 than 20 years, in which case the maximum penalty under
23 this section shall be the penalty for such crime), or both.
24 This paragraph does not supersede any other penalty spe-
25 cifically set forth for a conspiracy offense.”.

1 **SEC. 102. POSSESSION OF FIREARMS BY DANGEROUS FEL-**
2 **ONS.**

3 (a) IN GENERAL.—Section 924(e) of title 18, United
4 States Code, is amended by striking paragraph (1) and
5 inserting the following:

6 “(1) In the case of a person who violates section
7 922(g) of this title and has previously been convicted by
8 any court referred to in section 922(g)(1) of a violent fel-
9 ony or a serious drug offense shall—

10 “(A) in the case of 1 such prior conviction,
11 where a period of not more than 10 years has
12 elapsed since the later of the date of conviction and
13 the date of release of the person from imprisonment
14 for that conviction, be imprisoned for not more than
15 15 years, fined under this title, or both;

16 “(B) in the case of 2 such prior convictions,
17 committed on occasions different from one another,
18 and where a period of not more than 10 years has
19 elapsed since the later of the date of conviction and
20 the date of release of the person from imprisonment
21 for the most recent such conviction, be imprisoned
22 for not more than 20 years, fined under this title,
23 or both; and

24 “(C) in the case of 3 such prior convictions,
25 committed on occasions different from one another,
26 be fined under this title and imprisoned not less

1 than 15 years or more than life, and notwith-
 2 standing any other provision of law, the court shall
 3 not suspend the sentence of, or grant a probationary
 4 sentence to, such person with respect to the convic-
 5 tion under section 922(g).”.

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 that title 18,
 13 as amended by subsection (a).

14 **SEC. 103. EXPANSION OF REBUTTABLE PRESUMPTION**
 15 **AGAINST RELEASE OF PERSONS CHARGED**
 16 **WITH FIREARMS OFFENSES.**

17 Section 3142(e) of title 18, United States Code, is
 18 amended in the matter following paragraph (3) by insert-
 19 ing “an offense under subsection (g)(1), (g)(2), (g)(4),
 20 (g)(5), (g)(8), or (g)(9) of section 922,” after “that the
 21 person committed”.

22 **SEC. 104. CONFORMING AMENDMENT.**

23 Section 922(d) of title 18, United States Code, is
 24 amended in the matter preceding paragraph (1) by insert-
 25 ing “, transfer,” after “sell”.

1 **SEC. 105. INCREASED PENALTIES FOR INTERSTATE AND**
2 **FOREIGN TRAVEL OR TRANSPORTATION IN**
3 **AID OF RACKETEERING.**

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

6 (1) in subsection (a), by striking “perform” and
7 all that follows through the end of the subsection
8 and inserting “perform or attempts to perform an
9 act described in paragraph (1), (2), or (3), or con-
10 spires to do so, shall be punished as provided in sub-
11 section (d).”; and

12 (2) by adding at the end following:

13 “(d) The punishment for an offense under subsection
14 (a) is—

15 “(1) in the case of a violation of paragraph (1)
16 or (3), a fine under this title and imprisonment for
17 not more than 20 years; and

18 “(2) in the case of a violation of paragraph (2),
19 a fine under this title and imprisonment for any
20 term of years or for life, but if death results the of-
21 fender may be sentenced to death.”.

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 (a) IN GENERAL.—Section 1958 of title 18, United
6 States Code, is amended—

7 (1) by striking the section heading and insert-
8 ing the following:

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) in subsection (a), by—

14 (A) inserting “or other crime of violence,
15 punishable by imprisonment for more than 1
16 year,” after “intent that a murder”; and

17 (B) striking “shall be fined” the first place
18 it appears and all that follows through the end
19 of such subsection and inserting the following:
20 “shall, in addition to being subject to a fine
21 under this title—

22 “(1) if death results, be sentenced to death or
23 life in prison;

24 “(2) if the crime of violence is kidnapping, ag-
25 gravated sexual abuse (as defined in section 521), or

1 maiming, or a conspiracy to commit such a crime of
2 violence, be imprisoned any term of years or for life;

3 “(3) if the crime of violence is an assault, or a
4 conspiracy to assault, that results in serious bodily
5 injury (as defined in section 1365), be imprisoned
6 not more than 30 years; and

7 “(4) in any other case, be imprisoned not more
8 than 20 years.”.

9 (b) CLERICAL AMENDMENT.—The item relating to
10 section 1958 in the table of sections at the beginning of
11 chapter 95 of title 18, United States Code, is amended
12 to read as follows:

“1958. Use of interstate commerce facilities in the commission of murder-for-
hire and other felony crimes of violence.”.

13 **SEC. 107. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

14 (a) IN GENERAL.—Chapter 213 of title 18, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

17 **“§ 3299A. Violent crime offenses**

18 “No person shall be prosecuted, tried, or punished
19 for any noncapital felony crime of violence, including any
20 racketeering activity or gang crime which involves any
21 crime of violence, unless the indictment is found or the
22 information is instituted not later than 10 years after the
23 date on which the alleged violation occurred or the con-
24 tinuing offense was completed.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 213 of title 18, United States
 3 Code, is amended by adding at the end the following:

“3299A. Violent crime offenses.”.

4 **SEC. 108. STATUTE OF LIMITATIONS FOR TERRORISM OF-**
 5 **FENSES.**

6 Section 3286(a) of title 18, United States Code, is
 7 amended—

8 (1) in the subsection heading, by striking
 9 “Eight-Year” and inserting “Ten-Year”; and

10 (2) in the first sentence, by striking “8 years”
 11 and inserting “10 years”.

12 **SEC. 109. CRIMES OF VIOLENCE AND DRUG CRIMES COM-**
 13 **MITTED BY ILLEGAL ALIENS.**

14 (a) OFFENSES.—Part 1 of title 18, United States
 15 Code, is amended by inserting after chapter 51 the fol-
 16 lowing:

17 **“CHAPTER 52—ILLEGAL ALIENS**

18 **“§ 1131. Enhanced penalties for certain crimes com-**
 19 **mitted by illegal aliens**

20 “(a) IN GENERAL.—Whoever, being an alien who is
 21 present in the United States in violation of section 275
 22 or 276 of the Immigration and Nationality Act (8 U.S.C.
 23 1325 and 1326), knowingly commits, conspires, or at-
 24 tempts to commit a felony crime of violence for which im-
 25 prisonment for a period of more than 1 year may be im-

1 posed, or a drug trafficking crime (as defined in section
 2 924(c)), shall be fined under this title, imprisoned not
 3 more than 20 years, or both.

4 “(b) PREVIOUSLY ORDERED REMOVED.—If the de-
 5 fendant in a prosecution under subsection (a) was pre-
 6 viously ordered removed under the Immigration and Na-
 7 tionality Act on the grounds of having committed a crime,
 8 the defendant shall be fined under this title, imprisoned
 9 not more than 30 years, or both.

10 “(c) RUNNING OF SENTENCE.—A term of imprison-
 11 ment imposed for an offense pursuant to this section may
 12 not run concurrently with any other sentence of imprison-
 13 ment imposed for another offense.”.

14 (b) CLERICAL AMENDMENT.—The table of chapters
 15 at the beginning of part I of title 18, United States Code,
 16 is amended by inserting after the item relating to chapter
 17 51 the following new item:

“52. **Illegal Aliens** **1131**”.

18 **Subtitle B—Death Penalty**
 19 **Procedures Improvement Act**

20 **SEC. 121. SHORT TITLE.**

21 This subtitle may be cited as the “Death Penalty
 22 Procedures Improvement Act of 2007”.

23 **SEC. 122. ELIMINATION OF DEATH PENALTY HEARING DIS-**
 24 **CREPANCIES.**

25 (a) **TITLE 18 AMENDMENTS.—**

1 (1) REVIEW OF SENTENCE.—Section
2 3595(b)(4) of title 18, United States Code, is
3 amended by striking “3593(d)” and inserting
4 “3593(e)”.

5 (2) COUNSEL FOR INDIGENTS.—Section
6 3599(g)(1) of title 18, United States Code, is
7 amended by striking “\$125” and inserting “\$160”.

8 (b) TITLE 28 AMENDMENTS.—Chapter 153 of title
9 28, United States Code, is amended—

10 (1) in section 2254(h) by striking “section 408
11 of the Controlled Substances Act” and inserting
12 “section 3599 of title 18”; and

13 (2) in section 2255 by striking “section 408 of
14 the Controlled Substances Act” and inserting “sec-
15 tion 3599 of title 18”.

16 **SEC. 123. AMENDMENTS RELATING TO SECTION 3593 OF**
17 **TITLE 18.**

18 Section 3593 of title 18, United States Code, is
19 amended—

20 (1) in subsection (a)—

21 (A) by striking “, a reasonable time before
22 trial or before acceptance by the court of a plea
23 of guilty,”; and

24 (B) in the flush text—

1 (i) in the second to last sentence, by
2 inserting after “other relevant informa-
3 tion” the following: “, including any factor
4 concerning the state of mind, intent, or
5 other aspect of culpability of the defendant
6 in committing the offense.”; and

7 (ii) by inserting at the end the fol-
8 lowing: “The notice must be filed a reason-
9 able time before trial or before acceptance
10 by the court of a plea of guilty. The court
11 shall, where necessary to ensure adequate
12 preparation time for the defense, grant a
13 reasonable continuance of the trial. If the
14 government has not filed a notice of intent
15 to seek the death penalty or informed the
16 court that a notice of intent to seek the
17 death penalty will not be filed, the court
18 shall not accept a plea of guilty to an of-
19 fense described in section 3591 without the
20 concurrence of the government.”;

21 (2) in subsection (b), by inserting at the end of
22 the flush text the following: “The court shall retain
23 alternate jurors until the completion of the sen-
24 tencing hearing, unless the sentencing is before the
25 court alone under paragraph (3). The replacement of

1 jurors with alternate jurors during the sentencing
2 hearing will be conducted in accordance with Rule
3 24 of the Rules of Criminal Procedure.”;

4 (3) in subsection (c)—

5 (A) in the fourth sentence, by inserting
6 “for which notice has been provided under sub-
7 section (b)” before the period;

8 (B) in the fifth sentence, by inserting “,
9 including information pertaining to criminal
10 conduct that has not resulted in a conviction”
11 before the period;

12 (C) by inserting after the eighth sentence
13 the following: “The government shall be per-
14 mitted to cross-examine the defendant regard-
15 ing any statements or testimony by the defend-
16 ant to the sentencing jury.”;

17 (D) by inserting after the fourth sentence
18 the following: “If the defendant has raised the
19 issue of mental retardation as required under
20 subsection (b), the defendant may introduce in-
21 formation relevant to mental retardation.”; and

22 (E) by inserting at the end the following:
23 “The defendant shall have the burden of prov-
24 ing mental retardation by the preponderance of
25 the information.”;

1 (4) in subsection (d)—

2 (A) in the second sentence by inserting
3 “determine the truth of the allegations in the
4 notice filed under subsection (a) regarding any
5 mental state set forth in section 3591(a), and”
6 after “It shall”;

7 (B) by inserting after the second sentence
8 the following: “In any case in which the defend-
9 ant has raised the issue of mental retardation
10 as required under subsection (b), the jury, or if
11 there is no jury, the court, shall determine the
12 issue of mental retardation only if any aggra-
13 vating factor set forth in section 3592 is found
14 to exist. Such determination shall occur prior to
15 the consideration of any mitigating factor.”;
16 and

17 (C) by inserting at the end the following:
18 “If the jury, or if there is no jury, the court,
19 determines that the defendant is mentally re-
20 tarded, the court shall sentence the defendant
21 to life imprisonment without the possibility of
22 release, or some other lesser sentence author-
23 ized by law.”;

24 (5) in subsection (e)—

1 (A) by inserting before the last sentence
2 the following: “In assessing the appropriateness
3 of a sentence of death, the jury, or if there is
4 no jury, the court must base the decision on the
5 facts of the offense and the aggravating and
6 mitigating factors and avoid any influence of
7 passion, prejudice, or other arbitrary factor
8 when imposing sentence.”;

9 (B) by striking “, to life imprisonment
10 without the possibility of release or some other
11 lesser sentence”; and

12 (C) by inserting at the end the following:
13 “The jury’s sentencing recommendation must
14 be unanimous. In cases in which the jury unani-
15 mously rejects a sentence of death but finds at
16 least 1 aggravating factor under section 3592
17 and the existence of at least 1 intent factor nec-
18 essary under section 3591 to impose a sentence
19 of death, the court shall impose a sentence of
20 life without the possibility of release.”;

21 (6) by redesignating subsections (b) through (f)
22 as subsections (c) through (g); and

23 (7) by adding after subsection (a) the following:
24 “(b) NOTICE BY THE DEFENDANT.—

1 “(1) IN GENERAL.—If, as required under sub-
2 section (a), the government has filed notice seeking
3 a sentence of death, the defendant shall, a reason-
4 able time before the trial, sign and file with the
5 court, and serve on the attorney for the government,
6 notice setting forth the mitigating factor or factors
7 that the defendant proposes to prove mitigate
8 against imposition of a sentence of death. In any
9 case in which the defendant intends to raise the
10 issue of mental retardation as precluding a sentence
11 of death, the defendant shall, a reasonable time be-
12 fore trial, sign and file with the court, and serve on
13 the attorney for the government, notice of such in-
14 tent.

15 “(2) MENTAL EXAMINATION.—When a defend-
16 ant makes a claim of mental retardation or intends
17 to rely on evidence of mental impairment, or other
18 mental defect or disease as a mitigating factor under
19 this section, the government shall have the right to
20 an independent mental health examination of the de-
21 fendant. If the court finds it appropriate, more than
22 1 such professional shall perform the examination.
23 To facilitate the examination, the court may commit
24 the person to be examined for a reasonable period,

1 to the custody of the Attorney General for placement
2 in a suitable facility.

3 “(3) PREPARATION TIME.—Following the filing
4 of a defendant’s notice under this subsection, the
5 court shall, where necessary to ensure adequate
6 preparation time for the government, grant a rea-
7 sonable continuance of the trial.

8 “(4) DETERMINATION OF MENTAL RETARDA-
9 TION.—For purposes of this chapter, a defendant is
10 mentally retarded if, since some point in time prior
11 to age 18, he or she has continuously had an intel-
12 ligence quotient of 70 or lower and, as a result of
13 that significantly subaverage mental functioning, has
14 since that point in time continuously had a dimin-
15 ished capacity to understand and process informa-
16 tion, abstract from mistakes and learn from experi-
17 ence, engage in logical reasoning, control impulses,
18 and understand others’ reactions.”.

19 **SEC. 124. AMENDMENTS RELATING TO SECTION 3592 OF**
20 **TITLE 18.**

21 Section 3592 of title 18, United States Code, is
22 amended—

23 (1) in subsection (a), by inserting “for which
24 notice has been provided” after “factor”;

25 (2) in subsection (c)(1)—

1 (A) by inserting “section 241 (conspiracy
2 against rights), section 245 (federally protected
3 activities), section 247 (interference with reli-
4 gious exercise),” after “section 37 (violence at
5 international airports),”; and

6 (B) by inserting “section 1512 (tampering
7 with a witness, victim, or an informant), section
8 1513 (retaliating against a witness, victim, or
9 an informant),” after “section 1203 (hostage
10 taking),”;

11 (3) so that paragraph (2) of subsection (c)
12 reads as follows:

13 “(2) PREVIOUS CONVICTION OF VIOLENT FEL-
14 ONY INVOLVING FIREARM.—The defendant has pre-
15 viously been convicted of a Federal or State offense
16 punishable by a term of imprisonment of more than
17 1 year, involving the use or attempted use or threat-
18 ened use of a firearm (as defined in section 921)
19 against another person.”;

20 (4) in subsection (c)(8)—

21 (A) by striking “or”; and

22 (B) by inserting “or in order to retain pos-
23 session” before “of anything”;

1 (5) in subsection (c)(12), by striking “had pre-
2 viously” each place that term appears and inserting
3 “has previously”; and

4 (6) by adding after subsection (c)(16) the fol-
5 lowing:

6 “(17) OBSTRUCTION OF JUSTICE.—The defend-
7 ant in commission of the offense, or in an attempt
8 to avoid apprehension, or conviction for the offense,
9 engaged in conduct, which resulted in harm or a
10 threat of harm to another person, intending to ob-
11 struct the investigation or prosecution of any of-
12 fense.”.

13 **SEC. 125. AMENDMENTS RELATING TO SECTION 3594 OF**
14 **TITLE 18.**

15 Section 3594 of title 18, United States Code, is
16 amended—

17 (1) in the first sentence—

18 (A) by striking “3593(e)” and inserting
19 “3593(f)”; and

20 (B) by striking “or life imprisonment with-
21 out the possibility of release”; and

22 (2) in the second sentence—

23 (A) by inserting “life imprisonment with-
24 out the possibility of release, or” after “shall
25 impose”; and

1 (B) by inserting “as limited by section
2 3593(f)” before the period.

3 **SEC. 126. AMENDMENTS RELATING TO SECTIONS 3596 AND**
4 **3597 OF TITLE 18.**

5 (a) IMPLEMENTATION OF DEATH SENTENCE.—Sec-
6 tion 3596 of title 18, United States Code, is amended—

7 (1) in subsection (a), by striking “When the
8 sentence is to be implemented” and all that follows
9 through “such law” and inserting the following: “A
10 sentence of death for any offense against the United
11 States shall be implemented pursuant to regulations
12 promulgated by the Attorney General”; and

13 (2) in subsection (c)—

14 (A) by striking the first sentence; and

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

16 “The Government shall not be limited in its op-
17 portunities to seek rehearing, based on changed
18 circumstances, of a finding of mental incapacity
19 under this subsection.”.

20 (b) USE OF FACILITIES.—

21 (1) IN GENERAL.—Section 3597 of title 18,
22 United States Code is amended—

23 (A) in the heading, by striking “**STATE**”;

24 (B) in subsection (a), by striking “A
25 United States marshal” and all that follows

1 through “Attorney General” and inserting the
2 following: “An official charged with supervising
3 the implementation of a sentence of death shall
4 use appropriate Federal or State facilities for
5 the purpose”; and

6 (C) by adding at the end the following new
7 subsection:

8 “(c) CONFIDENTIALITY.—Notwithstanding any other
9 law, the identity of any employee of the United States De-
10 partment of Justice, the Federal Bureau of Prisons, the
11 United States Marshals Service, any State department of
12 corrections, or of any person providing services under con-
13 tract or victim or victim’s survivor, who participates in or
14 witnesses the administration of an execution pursuant to
15 this section shall not be publicly disclosed, absent the con-
16 sent of any such individual.”.

17 (2) CONFORMING AMENDMENT.—The analysis
18 for chapter 228 of title 18, United States Code is
19 amended by striking the item relating to section
20 3597 and inserting the following:

“3597. Use of facilities.”.

1 **Subtitle C—Clarifying the Author-**
2 **ity To Issue Cell Location Or-**
3 **ders**

4 **SEC. 131. AMENDMENT TO SECTION 2703 OF TITLE 18 TO**
5 **CLARIFY ONGOING SCOPE OF ORDERS AND**
6 **WARRANTS.**

7 (a) DISCLOSURE OF CUSTOMER COMMUNICATIONS.—
8 Section 2703 of title 18, United States Code, is amended
9 by adding at the end the following:

10 “(h)(1) IN GENERAL.—A court order under sub-
11 section (d) or a warrant under subsection (c)(1)(A) may
12 require that records or other information (not including
13 the contents of communications) be disclosed to a govern-
14 mental entity on an ongoing basis.

15 “(2) STANDARD.—The court shall issue an order or
16 warrant requiring such ongoing disclosure if—

17 “(A) in the case of a court order under sub-
18 section (d), the court finds that the application con-
19 tains specific and articulable facts showing that
20 there are reasonable grounds to believe that the
21 records or other information (not including the con-
22 tents of communications) will be relevant and mate-
23 rial to an ongoing criminal investigation; or

1 “(B) in the case of a warrant under subsection
2 (c)(1)(A), the court finds that probable cause sup-
3 ports issuing the warrant.

4 “(3) DURATION.—An order or warrant requiring on-
5 going disclosure under this subsection may require ongo-
6 ing disclosure for a period not to exceed 60 days. Exten-
7 sions of such an order or warrant may be granted, but
8 only upon an application for an extension under this sub-
9 section and upon the judicial finding required by para-
10 graph (2). The period of extension shall be for a period
11 not to exceed 60 days.

12 “(4) NONDISCLOSURE.—An order or warrant requir-
13 ing ongoing disclosure under this subsection shall direct
14 that—

15 “(A) the order or warrant be sealed until other-
16 wise ordered by the court; and

17 “(B) the person or entity who is obligated by
18 the order or warrant to disclose records or other in-
19 formation on an ongoing basis to the applicant shall
20 not disclose the existence of the order or warrant or
21 the existence of the investigation to any other per-
22 son, unless or until otherwise ordered by the court.

23 “(5) SCOPE AND ASSISTANCE.—

24 “(A) IN GENERAL.—An order or warrant re-
25 quiring ongoing disclosure under this subsection,

1 upon service of that order or warrant, shall apply to
2 any person or entity providing wire or electronic
3 communication service or remote computing service
4 in the United States whose assistance may facilitate
5 the execution of the order or warrant. Whenever
6 such an order or warrant is served on any person or
7 entity not specifically named in the order or war-
8 rant, upon request of such person or entity, the at-
9 torney for the Government or law enforcement or in-
10 vestigative officer that is serving the order or war-
11 rant shall provide written or electronic certification
12 that the order or warrant applies to the person or
13 entity being served.

14 “(B) INFORMATION PROVIDED.—Upon the re-
15 quest of an attorney for the Government or an offi-
16 cer of a law enforcement agency authorized to re-
17 ceive the results of an order or warrant requiring
18 ongoing disclosure under this subsection, a provider
19 of a wire or electronic communication service or a
20 provider of remote computing services shall furnish
21 such investigative or law enforcement officer all in-
22 formation, facilities, technical, and other assistance
23 including execution of such warrant or order unob-
24 trusively and with no more interference with the
25 services that the person so ordered by the court ac-

1 cords the party with respect to whom the warrant or
2 order pertains than is necessary to effect the disclo-
3 sure required under the warrant or order, if such in-
4 stallation and assistance is directed by a court. Un-
5 less otherwise ordered by the court, records or other
6 information disclosed under such warrant or order
7 shall be furnished to the officer of a law enforcement
8 agency designated in the court order, at reasonable
9 intervals during regular business hours for the dura-
10 tion of the order. Pursuant to section 2522, an order
11 may be issued to enforce the assistance capability
12 and capacity requirements under the Communica-
13 tions Assistance for Law Enforcement Act.

14 “(6) NONEXCLUSIVITY.—Nothing in this subsection
15 shall preclude a governmental entity from requiring or re-
16 ceiving the production on an ongoing basis of records or
17 other information (not including the contents of commu-
18 nications) with consent of the subscriber or user, or under
19 any other lawful authority.”.

20 (b) ELECTRONIC COMMUNICATIONS.—Subsection
21 2703(c)(1) of title 18, United States Code, is amended
22 by—

23 (1) redesignating subparagraph (E) as subpara-
24 graph (F); and

1 (2) inserting after subparagraph (D) the fol-
2 lowing:

3 “(E) certifies in writing that it is inves-
4 tigating the disappearance of the subscriber or
5 customer, that it has the purpose of locating
6 that subscriber or customer, and—

7 “(i) the subscriber or customer is a
8 minor; or

9 “(ii) the governmental entity reason-
10 ably believes that the subscriber or cus-
11 tomer is suffering from a condition or cir-
12 cumstance that may create an imminent
13 danger of his or her death or serious phys-
14 ical injury, and the customer or sub-
15 scriber’s spouse, parent, lawful guardian,
16 adult child, or adult sibling has consented
17 to the disclosure; or”.

18 **SEC. 132. PEN REGISTER AND TRAP AND TRACE AMEND-**
19 **MENT.**

20 Section 3121 of title 18, United States Code, is
21 amended—

22 (1) in subsection (a), by inserting “2703(h) or
23 section” after “under section”; and

24 (2) in subsection (b)—

1 (A) by striking “by a provider of electronic
2 or wire communication service”;

3 (B) in paragraph (1), by inserting “by a
4 provider of electronic or wire communication
5 service,” before “relating to”;

6 (C) in paragraph (2)—

7 (i) by inserting “by a provider of elec-
8 tronic or wire communication service,” be-
9 fore “to record”; and

10 (ii) by striking the period at the end
11 and inserting a semicolon; and

12 (D) by inserting after paragraph (2) the
13 following:

14 “(3) with the consent of a party to a commu-
15 nication, or under any other circumstances in which
16 the contents of a communication may be lawfully
17 intercepted under chapter 119 of this title; or

18 “(4) by a government agency, or a provider of
19 electronic or wire communication service acting upon
20 the written request of a government agency, when
21 the government agency certifies in writing that—

22 “(A) it is investigating the disappearance
23 of a subscriber, customer, or user, that it has
24 the purpose of locating such subscriber, cus-
25 tomer, or user; and

1 “(B)(i) the subscriber, customer, or user is
2 a minor; or

3 “(ii) the governmental entity reasonably
4 believes that the subscriber, customer, or user
5 is suffering from a condition or circumstance
6 that may create an imminent danger of his or
7 her death or serious physical injury, and the
8 subscriber, customer, or user’s spouse, parent,
9 lawful guardian, adult child, or adult sibling
10 has consented to the use of the pen register or
11 trap and trace device.”.

12 **SEC. 133. AMENDMENT TO MOBILE TRACKING DEVICES**
13 **STATUTE.**

14 Section 3117 of title 18, United States Code, is
15 amended—

16 (1) in subsection (a), by inserting at the end
17 the following: “Nothing in this section shall be con-
18 strued to require a warrant when the Constitution of
19 the United States does not require a warrant.”;

20 (2) in subsection (b)—

21 (A) by striking “section, the term” and in-
22 sserting “section—

23 “(1) the term”;

24 (B) by striking the period and inserting “;
25 and”; and

1 (C) by inserting at the end the following:

2 “(2) the term ‘installation’ means the physical
3 attachment to a person or object.”.

4 **SEC. 134. AMENDMENT TO COMMUNICATIONS ASSISTANCE**
5 **FOR LAW ENFORCEMENT ACT.**

6 Section 103(a)(2) of the Communications Assistance
7 for Law Enforcement Act (47 U.S.C. 1002(a)(2)) is
8 amended by striking “(except to the extent that the loca-
9 tion may be determined from the telephone number)” and
10 inserting “(except to the extent that the location may be
11 determined from the telephone number or other device
12 identifier). Such call-identifying information may include
13 information that may disclose such physical location if it
14 is acquired pursuant to a court order or warrant, under
15 section 2703 of title 18, United States Code, or other law-
16 ful authorization).”.

17 **TITLE II—ENDING DEMAND FOR**
18 **CHILD PORNOGRAPHY AND**
19 **CHILD SEXUAL EXPLOI-**
20 **TATION**

21 **SEC. 201. MANDATORY MINIMUM FOR POSSESSION OF**
22 **CHILD PORNOGRAPHY.**

23 (a) **SEXUAL EXPLOITATION.**—Section 2252(b)(2) of
24 title 18, United States Code, is amended by striking “or
25 imprisoned not more than 10 years, or both” and inserting

1 “and imprisoned not less than 2 years nor more than 15
2 years”.

3 (b) PORNOGRAPHY.—Section 2252A(b)(2) of title 18,
4 United States Code, is amended by striking “or impris-
5 oned not more than 10 years, or both” and inserting “and
6 imprisoned not less than 2 years nor more than 15 years”.

7 **SEC. 202. STRENGTHENING SECTION 13032 OF TITLE 42,**
8 **UNITED STATES CODE, TO ENSURE THAT**
9 **CHILD PORNOGRAPHY IS EFFECTIVELY RE-**
10 **PORTED.**

11 Section 227(b)(2) of the Victims of Child Abuse Act
12 of 1990 (42 U.S.C. 13032) is amended to read as follows:

13 “(4) FAILURE TO REPORT.—

14 “(A) KNOWINGLY.—A provider of elec-
15 tronic communication services or remote com-
16 puting services described in paragraph (1) who
17 knowingly and willfully fails to make a report
18 under that paragraph shall be fined—

19 “(i) in the case of an initial failure to
20 make a report, not more than \$150,000;
21 and

22 “(ii) in the case of any second or sub-
23 sequent failure to make a report, not more
24 than \$300,000.

1 “(B) NEGLIGENTLY.—A provider of elec-
 2 tronic communication services or remote com-
 3 puting services described in paragraph (1) who
 4 negligently fails to make a report under that
 5 paragraph shall be subject to a civil penalty
 6 of—

7 “(i) in the case of an initial failure to
 8 make a report, not more than \$50,000;
 9 and

10 “(ii) in the case of any second or sub-
 11 sequent failure to make a report, not more
 12 than \$100,000.

13 “(C) FCC AUTHORITY.—For the purposes
 14 of this paragraph, the Federal Communications
 15 Commission shall have the authority to levy
 16 civil penalties and shall promulgate regulations,
 17 in consultation with the Attorney General, to
 18 effectuate the purposes of this paragraph and
 19 to provide for appropriate administrative review
 20 of any civil penalties levied thereunder.”.

21 **SEC. 203. CONSPIRACY PROVISION FOR CHAPTER 77 OF-**
 22 **FENSES.**

23 Section 1594(a) of title 18, United States Code, is
 24 amended by inserting after “attempts” the following: “or
 25 conspires to”.

1 **SEC. 204. AMEND DEFINITION OF ILLICIT SEXUAL CON-**
2 **DUCT.**

3 Section 2423(f) of title 18, United States Code, is
4 amended by—

5 (1) striking “or”; and

6 (2) striking the period at the end of the sub-
7 section and inserting “; or (3) production of child
8 pornography, as defined in section 2256(8).”.

9 **SEC. 205. EXPAND THE USE OF THE SEX TRAFFICKING**
10 **STATUTE.**

11 (a) **SEXUAL EXPLOITATION.**—Section 2252(b)(2) of
12 title 18, United States Code, is amended by inserting after
13 “this chapter,” the following: “section 1591,”.

14 (b) **PORNOGRAPHY.**—Section 2252A(b)(2) of title 18,
15 United States Code, is amended by inserting after “this
16 chapter,” the following: “section 1591,”.

17 (c) **REPEAT OFFENDERS.**—Section 2426(b)(1)(A) of
18 title 18, United States Code, is amended—

19 (1) following “109A,” by striking “or” ; and

20 (2) by inserting after “chapter 110” the fol-
21 lowing “or section 1591”.

22 (d) **RELEASE AND DETENTION.**—Section
23 3156(a)(4)(C) of title 18, United States Code, is amended
24 by inserting after “117” the following: “, or section
25 1591”.

1 (e) ADMINISTRATIVE SUBPOENAS.—Section
2 3486(a)(1)(D) of title 18, United States Code, is amended
3 by inserting after “1201,” the following: “1591,”.

4 **SEC. 206. INCREASED PENALTIES FOR SEXUAL EXPLOI-**
5 **TATION OF CHILDREN.**

6 Section 2251(e) of title 18, United States Code, is
7 amended—

8 (1) by striking “15 years nor more than 30
9 years” and inserting “20 years or for life”; and

10 (2) by striking “not less than 25 years nor
11 more than 50 years,” and all that follows through
12 “not less than 35 years nor more than life.” and in-
13 serting “life.”.

14 **SEC. 207. INCREASED PENALTIES FOR ACTIVITIES RELAT-**
15 **ING TO MATERIAL INVOLVING THE SEXUAL**
16 **EXPLOITATION OF CHILDREN.**

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

19 (1) in paragraph (1)—

20 (A) by striking “5 years and not more
21 than 20 years” and inserting “15 years or for
22 life”; and

23 (B) by striking “not less than 15 years nor
24 more than 40 years.” and inserting “life.”; and

25 (2) in paragraph (2)—

1 (A) by striking “or imprisoned not more
2 than 10 years, or both” and inserting “and im-
3 prisoned for not less than 3 years nor more
4 than 20 years”; and

5 (B) by striking “10 years nor more than
6 20 years.” and inserting “20 years or for life.”.

7 **SEC. 208. INCREASED PENALTIES FOR ACTIVITIES RELAT-**
8 **ING TO MATERIAL CONSTITUTING OR CON-**
9 **TAINING CHILD PORNOGRAPHY.**

10 Section 2252A(b) of title 18, United States Code, is
11 amended—

12 (1) in paragraph (1)—

13 (A) by striking “5 years and not more
14 than 20 years” and inserting “15 years or for
15 life”; and

16 (B) by striking “not less than 15 years nor
17 more than 40 years” and inserting “life”; and

18 (2) in paragraph (2)—

19 (A) by striking “or imprisoned not more
20 than 10 years, or both” and inserting “and im-
21 prisoned for not less than 3 years nor more
22 than 20 years”; and

23 (B) by striking “10 years nor more than
24 20 years” and inserting “20 years or for life”.

1 **SEC. 209. ADDITIONAL RESOURCES FOR THE INNOCENT IM-**
 2 **AGES NATIONAL INITIATIVE.**

3 (a) AUTHORIZATION OF APPROPRIATIONS.—There
 4 are authorized to be appropriated to the Director of the
 5 Federal Bureau of Investigation to carry out the Innocent
 6 Images National Initiative, \$30,000,000 for each of the
 7 fiscal years 2008 through 2012.

8 (b) AVAILABILITY.—Any amounts appropriated pur-
 9 suant to subsection (a) shall remain available until ex-
 10 pended.

11 **TITLE III—THE PROCEEDS OF**
 12 **CRIME ACT**

13 **SEC. 301. SHORT TITLE.**

14 This title may be cited as the “Proceeds of Crime
 15 Act of 2007”.

16 **Subtitle A—Property Subject to**
 17 **Forfeiture to the United States**

18 **SEC. 302. ADDITIONS TO THE GENERAL FORFEITURE STAT-**
 19 **UTE.**

20 (a) TERRORISM.—Section 981(a)(1)(H) of title 18,
 21 United States Code, is amended by striking “section
 22 2339C” and inserting “sections 2339A, 2339B, 2339C,
 23 or 2339D”.

24 (b) FRAUD AND COMPUTER CRIMES.—

1 (1) CIVIL FORFEITURE.—Section 981(a)(1) of
2 title 18, United States Code, is amended by adding
3 the following at the end:

4 “(I)(i) Any computer, Internet domain name,
5 photostatic reproduction machine, electronic commu-
6 nications device or other article, apparatus, device or
7 thing made, possessed, fitted, used or intended to be
8 used to commit, or to facilitate the commission of a
9 violation of sections 513, 514, 1028 through 1032,
10 and 1341 through 1350 of this title, or a conspiracy
11 to commit such offense, and any property traceable
12 to such property.”.

13 (2) DEFINITIONS.—Section 982(a)(2) of title
14 18, United States Code, is amended by—

15 (A) striking “, affecting a financial institu-
16 tion”; and

17 (B) inserting the following at the end:
18 “For purposes of this subsection, if the viola-
19 tion giving rise to the forfeiture is part of a
20 continuing scheme or plan, the court shall order
21 the person convicted of the offense to forfeit the
22 proceeds of the entire scheme or plan.”.

23 (c) PROPERTY USED TO COMMIT A CRIMINAL OF-
24 FENSE.—Section 981(a)(1)(C) of title 18, United States
25 Code, is amended to read as follows:

1 “(C) Any property, real or personal, that con-
2 stitutes or is derived from the proceeds of any of-
3 fense constituting a specified unlawful activity (as
4 defined in section 1956(c)(7)), or a conspiracy to
5 commit such offense, any property used or intended
6 to be used to commit or to facilitate the commission
7 of such offense, and any property traceable there-
8 to.”.

9 (d) ODOMETER TAMPERING OFFENSES.—Section
10 981(a)(1)(F) of title 18, United States Code, is amend-
11 ed—

12 (1) in clause (iv), by striking “or” at the end;

13 (2) in clause (v) by striking the period at the
14 end and inserting “; or”;

15 (3) by inserting after clause (v) the following:

16 “(vi) sections 32703 (motor vehicle
17 odometer tampering), 32704 (odometer
18 tampering by replacing odometers), and
19 32705(a)(2) (false odometer certification)
20 of title 49, United States Code.”; and

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

22 “‘In the case of a violation described in clause (i) or
23 (vi), any vehicles or other property involved in the
24 commission of the offense shall also be subject to
25 forfeiture.’”.

1 (e) REPEAL OF OBSOLETE PROVISION.—Section
2 981(a)(1)(E) of title 18, United States Code, is repealed.

3 **SEC. 303. DRUGS AND MONEY LAUNDERING.**

4 (a) MONEY LAUNDERING CONSPIRACIES.—Section
5 982(a)(1) of title 18, United States Code, is amended by
6 inserting “, or any conspiracy to commit any such offense”
7 after “of this title”.

8 (b) PROPERTY USED TO COMMIT A DRUG OF-
9 FENSE.—

10 (1) CONVEYANCES.—Section 511(a)(4) of the
11 Controlled Substances Act (21 U.S.C. 881(a)(4)) is
12 amended to read as follows:

13 “(4) Any property used or intended to be used
14 to commit or to facilitate the commission of an of-
15 fense under this subchapter punishable by more than
16 one year’s imprisonment, and any property traceable
17 to such property.”.

18 (2) REAL PROPERTY.—Section 511(a)(7) of the
19 Controlled Substances Act (21 U.S.C. 881(a)(7)) is
20 amended by inserting “, and any property traceable
21 to such property” after “one year’s imprisonment”.

22 (c) NEGOTIABLE INSTRUMENTS, SECURITIES, AND
23 OTHER THINGS OF VALUE.—Section 511(a)(6) of the
24 Controlled Substances Act (21 U.S.C. 881(a)(6)) is
25 amended by—

1 (1) inserting “, and any property traceable to
2 such property” after “this subchapter” the second
3 time it appears; and

4 (2) inserting “or other things of value” before
5 “used or intended to be used”.

6 (d) AMMUNITION.—Section 511(a)(11) of the Con-
7 trolled Substances Act (21 U.S.C. 881(a)(11)) is amended
8 by striking “Any firearm (as defined in section 921 of title
9 18)” and inserting “Any firearm or ammunition (as de-
10 fined in section 921 of title 18) or any holster or other
11 carrying case, body armor, sighting device, or magazine”.

12 (e) BODY ARMOR.—Section 924(d)(1) of title 18,
13 United States Code is amended by inserting “or any body
14 armor involved in or used in any knowing violation of sec-
15 tion 931,” after “by clear and convincing evidence,”.

16 (f) CRIMINAL FORFEITURE.—

17 (1) PERSON’S PROPERTY.—Section 413(a)(2) of
18 the Controlled Substances Act (21 U.S.C. 853(a)(2))
19 is amended by inserting “, or any property traceable
20 thereto” before the semicolon.

21 (2) PAYMENT OF AMOUNTS TO BE RECEIVED.—
22 Section 413(a) of the Controlled Substances Act (21
23 U.S.C. 853(a)), is amended by adding at the end the
24 following: “In addition to any other money judgment
25 that may be imposed under this section, a person

1 who does not receive any proceeds from the sale, im-
2 portation, or distribution of a controlled substance
3 because the person is arrested, or the controlled sub-
4 stance is seized, before the sale, importation, or dis-
5 tribution is complete, shall pay a money judgment
6 equal to the amount of money that would have been
7 paid if such sale, importation, or distribution had
8 been completed.”

9 (g) SUMMARY FORFEITURE OF CONTRABAND.—

10 (1) IN GENERAL.—Chapter 46 of title 18,
11 United States Code, is amended by adding the fol-
12 lowing after section 987:

13 **“§ 988. Summary forfeiture of contraband**

14 “(a) IN GENERAL.—Any property constituting con-
15 traband that is lawfully seized or obtained by a Federal
16 law enforcement officer, or that is lawfully delivered to a
17 Federal law enforcement officer by a State, local, or for-
18 eign law enforcement officer, may be summarily forfeited
19 to the United States.

20 “(b) STANDING.—No person shall have standing to
21 contest the forfeiture of property subject to summary for-
22 feiture under this section, and no person shall be entitled
23 to notice of such forfeiture.

24 “(c) DISPOSAL OF PROPERTY.—The Federal law en-
25 forcement agency in possession of the property subject to

1 summary forfeiture may destroy or otherwise dispose of
2 such property and any equipment or container that cannot
3 be separated safely from it.

4 “(d) For purposes of this section, contraband
5 means—

6 “(1) any controlled substance, hazardous raw
7 material, equipment or container, plants, or other
8 property subject to summary forfeiture pursuant to
9 section 511(f) or (g) of the Controlled Substances
10 Act (21 U.S.C. 881(f) or (g));

11 “(2) any controlled substance imported into the
12 United States in violation of law;

13 “(3) any money or other thing of value given
14 voluntarily to a Federal law enforcement officer, or
15 person acting at the direction of a Federal law en-
16 forcement officer, in the course of an undercover or
17 ‘sting’ operation; or

18 “(4) any property that is illegal to possess.”.

19 (2) CONFORMING AMENDMENT.—The section
20 analysis for chapter 46 of title 18, United States
21 Code, is amended by inserting the following after the
22 entry relating to section 987:

“Sec. 988. Summary Forfeiture of Contraband.”.

1 **SEC. 304. ALIEN SMUGGLING.**

2 (a) **REAL PROPERTY USED IN ALIEN SMUGGLING.**—
3 Section 274(b)(1) of the Immigration and Nationality Act
4 (8 U.S.C. 1324(b)(1)) is amended by—

5 (1) striking “Any conveyance, including any
6 vessel, vehicle, or aircraft, that has been used in the
7 commission of a violation” and inserting “Any prop-
8 erty, real or personal, used or intended to be used
9 to commit or to facilitate the commission of a viola-
10 tion”; and

11 (2) striking “such conveyance” and inserting
12 “such property”.

13 (b) **PROCEEDS OF ALIEN SMUGGLING.**—Section
14 274(b) of the Immigration and Nationality Act (8 U.S.C.
15 1324(b)) is amended by adding the following after para-
16 graph (3):

17 “(4) For purposes of this subsection and sec-
18 tion 982(a)(6) of title 18, the term ‘proceeds’ in-
19 cludes any property, real or personal, or interest in
20 such property obtained or retained as a consequence
21 of an act or omission in violation of this section.”.

22 (c) **TECHNICAL CORRECTIONS.**—Section 274 of the
23 Immigration and Nationality Act (8 U.S.C. 1324(b)(2))
24 is amended—

1 (1) in subsection (b)(2), by inserting “or the
2 Secretary for Homeland Security” after “Attorney
3 General”; and

4 (2) in subsection (b)(3)(B), by striking “the
5 Service” and inserting “the Department of Home-
6 land Security”.

7 **SEC. 305. FOOD STAMP FRAUD.**

8 Section 15(h) of the Food Stamp Act of 1977 (7
9 U.S.C. 2024(h)) is amended to read as follows:

10 “(h) FORFEITURE.—

11 “(1) IN GENERAL.—Any property, real or per-
12 sonal—

13 “(A) used or intended to be used to com-
14 mit or to facilitate the commission of a violation
15 (other than a misdemeanor) of subsection (b) or
16 (c), or

17 “(B) constituting, derived from, or trace-
18 able to proceeds of a violation of subsection (b)
19 or (c),

20 shall be subject to forfeiture to the United States.

21 “(2) APPLICATION OF TITLE 18.—The provi-
22 sions of chapter 46 of title 18, United States Code,
23 relating to civil forfeitures, shall extend to any sei-
24 zure or civil forfeiture under this section.”.

1 **SEC. 306. DEVICES USED TO CREATE OR REPLICATE COUN-**
2 **TERFEIT COMPUTER SOFTWARE.**

3 (a) IN GENERAL.—Section 2318(d) of title 18,
4 United States Code, is amended to read as follows:

5 “(d) FORFEITURES.—

6 “(1) IN GENERAL.—The following property is
7 subject to forfeiture to the United States—

8 “(A) any counterfeit label and any article
9 to which a counterfeit label has been affixed or
10 which was intended to have such label affixed;

11 “(B) any implement, device, or equipment
12 used or intended to be used in the manufacture
13 of counterfeit labels; and

14 “(C) any replicator or other device or thing
15 used or intended to be used to copy or produce
16 a computer program or other item to which a
17 counterfeit label has been affixed.

18 “(2) APPLICATION OF CHAPTER 46.—The provi-
19 sions of chapter 46 of this title relating to civil for-
20 feitures shall extend to any seizure or civil forfeiture
21 under this section.”.

22 (b) CONFORMING AMENDMENT.—Section 492 of title
23 18, United States Code, is amended by striking “or 1720”
24 and inserting “, 1720 or 2318”.

1 **SEC. 307. PROPERTY USED TO ESCAPE FEDERAL CUSTODY**
2 **OR REMAIN A FUGITIVE.**

3 Section 981(a)(1) of title 18, United States Code, is
4 amended by adding the following after subparagraph (I),
5 as added by this Act:

6 “(J) Any property, real or personal, used or in-
7 tended to be used—

8 “(i) to commit, or to facilitate the commis-
9 sion of a violation of section 751 or 752 of this
10 title; or

11 “(ii) to facilitate the efforts of any person
12 to remain a fugitive from justice, as defined in
13 section 2466(a)(1) of title 28, and any property
14 traceable to such property.”.

15 **SEC. 308. COPYRIGHT VIOLATIONS.**

16 Section 2319A(b) of title 18, United States Code, is
17 amended to read as follows:

18 “(b) FORFEITURES.—

19 “(1) IN GENERAL.—The following property is
20 subject to forfeiture to the United States—

21 “(A) all copies or phonorecords made, as
22 well as any plates, molds, matrices, masters,
23 tapes, and film negatives by means of which
24 such copies or phonorecords may be made; and

25 “(B) all implements, devices, or equipment
26 used, in any manner or part, to commit or to

1 facilitate the commission of a violation of sub-
2 section (a).

3 “(2) APPLICATION OF CHAPTER 46.—The provi-
4 sions of chapter 46 of this title relating to civil for-
5 feitures shall extend to any seizure or civil forfeiture
6 under this section.”.

7 **SEC. 309. TRADE SECRETS.**

8 Section 1834 of title 18, United States Code, is
9 amended to read as follows:

10 **“§ 1834. Forfeiture**

11 “(a) The following property is subject to forfeiture
12 to the United States:

13 “(1) any property constituting or derived from
14 any proceeds obtained directly or indirectly as a re-
15 sult of a violation of this chapter; and

16 “(2) any property used, or intended to be used,
17 in any manner or part, to commit or to facilitate the
18 commission of such violation.

19 “(b) The provisions of chapter 46 of this title relating
20 to civil forfeitures shall extend to any seizure or civil for-
21 feiture under this section.”.

22 **SEC. 310. CONTRABAND CIGARETTES.**

23 Section 2344(c) of title 18, United States Code, is
24 amended to read as follows:

25 “(c) FORFEITURES.—

1 “(1) IN GENERAL.—Any contraband cigarettes
 2 involved in any violation or conspiracy to violate any
 3 of the provisions of this chapter, and any proceeds
 4 of such violation or conspiracy to commit such viola-
 5 tion, or any property traceable thereto, shall be sub-
 6 ject to seizure and forfeiture to the United States.

7 “(2) The provisions of chapter 46 of this title
 8 relating to civil forfeitures shall extend to any sei-
 9 zure or civil forfeiture under this section.”.

10 **SEC. 311. RECENTLY ENACTED TITLE 31 VIOLATIONS.**

11 Section 5317(c) of title 31, United States Code, is
 12 amended—

13 (1) in paragraph (1)(A), by striking “or” after
 14 5316, and adding “, 5331, or 5363” after 5324; and

15 (2) in paragraph (2), by striking “or” after
 16 5316, and adding “, 5331, or 5363” after 5324.

17 **SEC. 312. ARCHAEOLOGICAL RESOURCES PROTECTION**
 18 **ACT.**

19 (a) FORFEITURE UNDER THE ARCHAEOLOGICAL RE-
 20 SOURCES PROTECTION ACT.—Section 8(b) of the Archeo-
 21 logical Resources Protection Act of 1979 (Public Law 96-
 22 95; 16 U.S.C. 477gg(b)) is repealed.

23 (b) CODIFICATION OF ARCHAEOLOGICAL RESOURCE
 24 PROTECTION ACT’S CRIMINAL PROVISION IN TITLE 18.—

1 (1) REPEAL.—Section 6 of the Archaeological
2 Resources Protection Act of 1979 (Public Law 96–
3 95; 16 U.S.C. 470ee) is repealed.

4 (2) CODIFICATION.—

5 (A) IN GENERAL.—Chapter 65 of title 18,
6 United States Code, is amended by adding at
7 the end the following new section:

8 **“§ 1370. Archaeological resources—prohibited acts**
9 **and criminal penalties**

10 “(a) DAMAGE OR REMOVE.—No person may exca-
11 vate, remove, damage, or otherwise alter or deface or at-
12 tempt to excavate, remove, damage, or otherwise alter or
13 deface any archaeological resource located on public lands
14 or Indian lands unless such activity is pursuant to a per-
15 mit issued under section 4 of the Archaeological Resources
16 Protection Act of 1979 (16 U.S.C. 470aa et seq.), a per-
17 mit referred to in section 4(h)(2) of the Archaeological Re-
18 sources Protection Act of 1979 (16 U.S.C. 470aa et seq.),
19 or the exemption contained in section 4(g)(1) of the Ar-
20 chaeological Resources Protection Act of 1979 (16 U.S.C.
21 470aa et seq.).

22 “(b) SALE OR PURCHASE.—

23 “(1) IN GENERAL.—No person may sell, pur-
24 chase, exchange, transport, receive, or offer to sell,
25 purchase, or exchange any archaeological resource if

1 such resource was excavated or removed from public
2 lands or Indian lands in violation of—

3 “(A) the prohibition contained in sub-
4 section (a) of this section; or

5 “(B) any provision, rule, regulation, ordi-
6 nance, or permit in effect under any other pro-
7 vision of Federal law.

8 “(2) PRIOR POSSESSION.—Nothing in para-
9 graph (1) shall be deemed applicable to any person
10 with respect to any archaeological resource which
11 was in the lawful possession of such person prior to
12 October 31, 1979.

13 “(c) STATE OR LOCAL LAW.—No person may sell,
14 purchase, exchange, transport, receive, or offer to sell,
15 purchase, or exchange, in interstate or foreign commerce,
16 any archaeological resource excavated, removed, sold, pur-
17 chased, exchanged, transported, or received in violation of
18 any provision, rule, regulation, ordinance, or permit in ef-
19 fect under State or local law.

20 “(d) PENALTY.—

21 “(1) IN GENERAL.—Any person who knowingly
22 violates, or counsels, procures, solicits, or employs
23 any other person to violate, any prohibition con-
24 tained in subsection (a), (b), or (c) of this section
25 shall, upon conviction, be fined in accordance with

1 this title, or imprisoned not more than 10 years, or
2 both; but if the sum of the commercial and archae-
3 ological value of the archaeological resources in-
4 volved and the cost of restoration and repair does
5 not exceed \$500, such person shall be fined under
6 this title, imprisoned not more than 1 year, or both.
7 In the case of a second or subsequent such violation,
8 upon conviction such person shall be fined in accord-
9 ance with this title, or imprisoned not more than 20
10 years, or both.

11 “(2) ARROWHEADS.—Nothing in subsection (d)
12 shall be deemed applicable to any person with re-
13 spect to the removal of arrowheads located on the
14 surface of the ground.

15 “(e) EFFECTIVE DATE.—The prohibitions contained
16 in this section shall take effect on October 31, 1979.

17 “(f) FORFEITURES.—

18 “(1) IN GENERAL.—The following property is
19 subject to forfeiture to the United States:

20 “(A) All archeological resources involved in
21 a violation of subsection (a), (b) or (c) of this
22 section.

23 “(B) All proceeds derived directly or indi-
24 rectly from such violation.

1 “(C) Any vehicle, equipment, or other
2 property used or intended to be used to commit
3 or to facilitate the commission of such violation.

4 “(D) All property traceable to such prop-
5 erty.

6 “(2) APPLICATION OF CHAPTER 46.—The provi-
7 sions of chapter 46 of this title relating to civil for-
8 feitures shall extend to any seizure or civil forfeiture
9 under this section.”.

10 (B) CHAPTER ANALYSIS.—The chapter
11 analysis at the beginning of chapter 65 of title
12 18, United States Code, is amended by adding
13 at the end the following new item:

“1370. Archaeological resources—prohibited acts and criminal penalties.”.

14 (c) STATUTE OF LIMITATIONS FOR CRIMINAL VIOLA-
15 TIONS OF ARCHAEOLOGICAL RESOURCES PROTECTION
16 ACT.—

17 (1) IN GENERAL.—Chapter 213 of title 18,
18 United States Code, is amended by adding at the
19 end the following new section:

20 **“§ 3298. Archeological resources offenses**

21 “No person shall be prosecuted, tried, or punished
22 for a violation of, or conspiracy to violate, section 1370,
23 title 18, United States Code, unless the indictment is re-
24 turned or the information is filed within 20 years after
25 the commission of the offense.”.

1 (2) CHAPTER ANALYSIS.—The chapter analysis
2 at the beginning of chapter 213 of title 18, United
3 States Code, is amended by adding at the end the
4 following new item:

“3298. Archeological resources offenses.”.

5 **SEC. 313. COMPUTER FRAUD.**

6 Section 1030 of title 18, United States Code, is
7 amended by inserting after subsection (h) the following:

8 “(i)(1) The court, in imposing sentence on any person
9 convicted of a violation of this section, or convicted of con-
10 spiracy to violate this section, shall order, in addition to
11 any other sentence imposed and irrespective of any provi-
12 sion of State law, that such person forfeit to the United
13 States—

14 “(A) such person’s interest in any personal
15 property that was used or intended to be used to
16 commit or to facilitate the commission of such viola-
17 tion; and

18 “(B) any property, real or personal, consti-
19 tuting or derived from, any proceeds that such per-
20 son obtained, directly or indirectly, as a result of
21 such violation.

22 “(2) The criminal forfeiture of property under this
23 subsection, any seizure and disposition thereof, and any
24 judicial proceeding in relation thereto, shall be governed
25 by the provisions of section 413 of the Comprehensive

1 Drug Abuse Prevention and Control Act of 1970 (21
2 U.S.C. 853), except subsection (d) of that section.

3 “(j)(1) The following shall be subject to forfeiture to
4 the United States and no property right shall exist in
5 them:

6 “(A) Any personal property used or intended to
7 be used to commit or to facilitate the commission of
8 any violation of this section, or a conspiracy to vio-
9 late this section.

10 “(B) Any property, real or personal, which con-
11 stitutes or is derived from proceeds traceable to any
12 violation of this section, or a conspiracy to violate
13 this section.

14 “(2) The provisions of chapter 46 of this title relating
15 to civil forfeiture shall apply to any seizure or civil for-
16 feiture under this subsection.”.

17 **SEC. 314. FALSE IMPERSONATION.**

18 (a) IN GENERAL.—Chapter 43 of title 18, United
19 States Code, is amended by inserting the following after
20 section 917:

21 **“SEC. 918. FORFEITURE.**

22 “(a)(1) The court, in imposing sentence on any per-
23 son convicted of a violation of this chapter or convicted
24 of conspiracy to violate this section, shall order, in addi-
25 tion to any other sentence imposed and irrespective of any

1 provision of State law, that such person forfeit to the
2 United States—

3 “(A) any property that was used or intended to
4 be used to commit or to facilitate the commission of
5 such violation; and

6 “(B) any property constituting or derived from,
7 any proceeds that such person obtained, directly or
8 indirectly, as a result of such violation.

9 “(2) The criminal forfeiture of property under this
10 subsection, any seizure and disposition thereof, and any
11 judicial proceeding in relation thereto, shall be governed
12 by the provisions of section 413 of the Comprehensive
13 Drug Abuse Prevention and Control Act of 1970 (21
14 U.S.C. 853), except subsection (d) of that section.

15 “(b)(1) The following shall be subject to forfeiture
16 to the United States and no property right shall exist in
17 them:

18 “(A) Any property used or intended to be
19 used to commit or to facilitate the commission
20 of any violation of this chapter or any con-
21 spiracy to commit such violation, and any prop-
22 erty traceable to such property.

23 “(B) Any property that constitutes or is
24 derived from proceeds traceable to any violation

1 of this chapter or a conspiracy to commit such
2 violation.

3 “(2) The provisions of chapter 46 of this title
4 relating to civil forfeiture shall apply to any seizure
5 or civil forfeiture under this subsection.”.

6 (b) CHAPTER ANALYSIS.—The chapter analysis for
7 chapter 43 of title 18, United States Code, is amended
8 by adding the following at the end:

“918. Forfeiture.”.

9 **SEC. 315. CONSPIRACIES INVOLVING TRAFFICKING IN PER-**
10 **SONS.**

11 (a) MONEY LAUNDERING.—Section 1956(e)(7)(D) of
12 title 18, United States Code, is amended by inserting “sec-
13 tion 241 (involving conspiracies against rights),” before
14 “section 351”.

15 (b) ASSET FORFEITURE.—Section 1594(b) of title
16 18, United States Code, is amended by inserting “or a
17 conspiracy to commit such violation” after “a violation of
18 this chapter”.

19 **Subtitle B—Money Laundering**

20 **SEC. 321. INTERSTATE TRANSPORTATION OF CRIMINAL**
21 **PROCEEDS AND “REVERSE” MONEY LAUN-**
22 **DERING.**

23 (a) IN GENERAL.—Section 1957(a) of title 18,
24 United States Code, is amended to read as follows:

1 “(a)(1) Whoever, in any of the circumstances set
2 forth in subsection (d)—

3 “(A) conducts or attempts to conduct a mone-
4 tary transaction involving property of a value great-
5 er than \$10,000 that is derived from specified un-
6 lawful activity, knowing that the property is derived
7 from some form of unlawful activity; or

8 “(B) conducts or attempts to conduct a mone-
9 tary transaction involving property of a value great-
10 er than \$10,000, with the intent to promote the car-
11 rying on of specified unlawful activity,
12 shall be punished as provided in subsection (b).

13 “(2) Whoever, in the any of the circumstances set
14 forth in subsection (d), transports, attempts to transport,
15 or conspires to transport more than \$10,000 in currency
16 in interstate commerce—

17 “(A) knowing that the currency was derived
18 from some form of unlawful activity; or

19 “(B) knowing that the currency was intended to
20 be used to promote some form of unlawful activity,
21 shall be punished as provided in subsection (b).”.

22 (b) PENALTY.—Section 1957(b) of title 18, United
23 States Code, is amended—

24 (1) in paragraph (1), by striking “paragraph
25 (2)” and inserting “paragraphs (2) and (3)”; and

1 (2) by inserting after paragraph (2) the fol-
2 lowing:

3 “(3) The maximum period of incarceration for a per-
4 son convicted of an offense under subsection (a)(1)(B)
5 must not exceed the statutory maximum for the offense
6 being promoted.”.

7 (c) CONFORMING AMENDMENT.—Section 1957(f) of
8 title 18, United States Code, is amended—

9 (1) in paragraph (2) by striking “and” after
10 the semicolon;

11 (2) in paragraph (3), by striking the period and
12 inserting “; and”; and

13 (3) by inserting at the end the following:

14 “(4) the term ‘conducts’ has the same meaning
15 as it does for purposes of section 1956 of this title.”.

16 (d) HEADING.—

17 (1) IN GENERAL.—Section 1957 of title 18,
18 United States Code, is amended in the heading by
19 inserting “or in support of criminal activity” after
20 “specified unlawful activity”.

21 (2) CHAPTER ANALYSIS.—The item relating to
22 section 1957 in the chapter analysis for chapter 95
23 of title 18, United States Code, is amended to read
24 as follows:

“1957. Conducting monetary transactions in property derived from specified un-
lawful activity or in support of criminal activity.”.

1 **SEC. 322. FREEZING BANK ACCOUNTS OF PERSONS AR-**
2 **RESTED FOR OFFENSES INVOLVING THE**
3 **MOVEMENT OF MONEY ACROSS INTER-**
4 **NATIONAL BORDERS.**

5 Section 981(b) of title 18, United States Code, is
6 amended by adding at the end the following:

7 “(5)(A) If a person is arrested or charged in
8 connection with an offense described in subpara-
9 graph (C) involving the movement of funds into or
10 out of the United States, the Attorney General may
11 apply to any Federal judge or magistrate judge in
12 the district in which the arrest is made or the
13 charges are filed for an ex parte order restraining
14 any account held by the person arrested or charged
15 for not more than 30 days, except that the time may
16 be extended for good cause shown at a hearing con-
17 ducted in the manner provided in rule 43(e) of the
18 Federal Rules of Civil Procedure. The court may re-
19 ceive and consider evidence and information sub-
20 mitted by the Government that would be inadmis-
21 sible under the Federal Rules of Evidence.

22 “(B) The application for the restraining order
23 referred to in subparagraph (A) shall—

24 “(i) identify the offense for which the per-
25 son has been arrested or charged;

1 “(ii) identify the location and description
2 of the accounts to be restrained; and

3 “(iii) state that the restraining order is
4 needed to prevent the removal of the funds in
5 the account by the person arrested or charged,
6 or by others associated with such person, dur-
7 ing the time needed by the Government to con-
8 duct such investigation as may be necessary to
9 establish whether there is probable cause to be-
10 lieve that the funds in the accounts are subject
11 to forfeiture in connection with the commission
12 of any criminal offense.

13 “(C) A restraining order may be issued pursu-
14 ant to subparagraph (A) if a person is arrested or
15 charged with any offense for which forfeiture is au-
16 thorized under this title, title 31, or the Controlled
17 Substances Act.

18 “(D) For purposes of this paragraph—

19 “(i) the term ‘account’ includes any safe
20 deposit box and any account (as defined in sec-
21 tion 5318A(e)(1) and (e)(2)) at any financial
22 institution; and

23 “(ii) the term ‘account held by the person
24 arrested or charged’ includes an account held in
25 the name of such person, and any account over

1 which such person has effective control as a sig-
2 natory or otherwise.

3 “(E) Restraint pursuant to this paragraph shall
4 not be deemed a seizure for purposes of subsection
5 983(a) of this title.

6 “(F) A restraining order issued pursuant to
7 this paragraph may be executed in any district in
8 which the subject account is found, or transmitted
9 to the central authority of any foreign state for serv-
10 ice in accordance with any treaty or other inter-
11 national agreement.”.

12 **SEC. 323. PROCEDURE FOR ISSUING SUBPOENAS IN CER-**
13 **TAIN MONEY LAUNDERING AND FORFEITURE**
14 **CASES.**

15 (a) IN GENERAL.—Section 986 of title 18, United
16 States Code, is amended—

17 (1) in subsection (a)—

18 (A) by inserting “(1)” before “At any
19 time”;

20 (B) by striking “section 1956, 1957, or
21 1960 of this title, section 5322 or 5324 of title
22 31, United States Code” and inserting “section
23 981 or 982 of this title, or sections 5317 and
24 5332 of title 31”;

25 (C) by striking “in rem”; and

1 (D) by striking the last sentence and in-
2 serting the following:

3 “(2) The United States may request the Clerk
4 of the Court in any district where a civil forfeiture
5 action may be filed pursuant to 1355(b) of title 28
6 to issue a subpoena duces tecum under paragraph
7 (1) before the filing of the verified complaint.”;

8 (2) in subsection (c), by inserting “or the Fed-
9 eral Rules of Criminal Procedure” after “Proce-
10 dure”; and

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

12 “(e) PROCEDURE FOR ISSUING SUBPOENAS.—The
13 Attorney General, a United States Attorney, an Assistant
14 United States Attorney, or an attorney in the Criminal
15 Division of the Department of Justice may issue a sub-
16 poena for evidence in any investigation of a violation of
17 sections 1956, 1957, or 1960 of this title 18, or section
18 5332 of title 31, in the manner set forth in section 3486
19 of this title.”.

20 (b) GRAND JURY SUBPOENAS.—Section
21 5318(k)(3)(A) of title 31, United States Code, is amended
22 by—

23 (1) in clause (i) by striking “related to such
24 correspondent account”; and

25 (2) adding after clause (ii) the following:

1 “(iii) GRAND JURY OR TRIAL SUB-
2 POENA.—In addition to a subpoena issued
3 by the Attorney General or the Secretary
4 of the Treasury, a subpoena under clause
5 (i) may also be a grand jury or trial sub-
6 poena.”.

7 (c) FAIR CREDIT REPORTING ACT AMENDMENT.—
8 Section 604(a)(1) of the Fair Credit Reporting Act (15
9 U.S.C. 1681b(a)(1)) is amended by inserting before the
10 period at the end “, or an investigative subpoena issued
11 pursuant to 31 U.S.C. 5318”.

12 (d) OBSTRUCTION OF JUSTICE.—Section 1510(b) of
13 title 18, United States Code, is amended—

14 (1) in paragraph (b)(2)(A), by inserting “or an
15 investigative subpoena issued pursuant to 31 U.S.C.
16 5318” after “grand jury subpoena”; and

17 (2) in paragraph (b)(3)(B), by inserting “, an
18 investigative subpoena issued pursuant to 31 U.S.C.
19 5318,” after “grand jury subpoena”.

20 (e) RIGHT TO FINANCIAL PRIVACY ACT.—Section
21 1120 of the Financial Institutions Regulatory and Interest
22 Rate Control Act of 1978 (12 U.S.C. 3420), is amended—

23 (1) in subsection (a)(1) by inserting “or to the
24 Government” after “to the grand jury”; and

25 (2) in subsection (b)(1)—

1 (A) by inserting “, or an investigative sub-
2 poena issued pursuant to 31 U.S.C. 5318,”
3 after “grand jury subpoena”; and

4 (B) by striking subparagraph (A) and in-
5 serting the following:

6 “(A) crime against any financial institution
7 or supervisory agency or crime involving a viola-
8 tion of the Controlled Substances Act (21
9 U.S.C. 801 et seq.), the Controlled Substances
10 Import and Export Act (21 U.S.C. 951 et seq.),
11 section 1956, 1957, or 1960 of title 18, sections
12 5313, 5316, 5322, 5324, 5331, or 5332 of title
13 31, or section 6050I of title 26; or”.

14 **SEC. 324. USING BLANK CHECKS IN BEARER FORM TO**
15 **SMUGGLE MONEY.**

16 Section 5316 of title 31, United States Code, is
17 amended by adding at the end the following:

18 “(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT
19 BLANK.—For purposes of this section, a monetary instru-
20 ment that has the amount left blank shall be considered
21 to have a value in excess of \$10,000 if the instrument was
22 drawn on an account that contained or was intended to
23 contain more than \$10,000 at the time the instrument was
24 being transported, or at the time it was negotiated or was
25 intended to be negotiated.”.

1 **SEC. 325. TREATING ELECTRONIC FUNDS AS FUNGIBLE**
2 **PROPERTY.**

3 Section 5317(c) of title 31, United States Code, is
4 amended by adding after paragraph (2) the following:

5 “(3)(A) In any civil forfeiture action brought
6 pursuant to this section, section 5332, or section
7 981(a)(1)(A) of title 18, currency, precious metals,
8 gemstones, and funds held in any account or safe
9 deposit box at any financial institution shall be con-
10 sidered fungible property identical to other property
11 located in the same place or account at an earlier
12 time.

13 “(B) In any case where (A) applies, it shall not
14 be necessary for the Government to identify the spe-
15 cific property involved in the offense that is the basis
16 for the forfeiture, nor shall it be a defense that the
17 property involved in such offense has been removed
18 and replaced by identical property.”.

19 **SEC. 326. BULK CASH SMUGGLING.**

20 Section 5332(a) of title 31, United States Code, is
21 amended in subsection (b)(1), by striking “5” and insert-
22 ing “10”.

23 **SEC. 327. MAKING THE INTERNATIONAL MONEY LAUN-**
24 **DERING STATUTE APPLY TO TAX EVASION.**

25 Section 1956(a)(2)(A) of title 18, United States
26 Code, is amended by—

1 (1) inserting “(i)” before “with the intent to
2 promote”; and

3 (2) inserting the following after “or”:

4 “(ii) with the intent to engage in con-
5 duct constituting a violation of section
6 7201 or 7206 of the Internal Revenue
7 Code of 1986; or”.

8 **SEC. 328. PROHIBITING MONEY LAUNDERING THROUGH**
9 **HAWALAS, OTHER INFORMAL VALUE TRANS-**
10 **FER SYSTEMS, AND CLOSELY RELATED**
11 **TRANSACTIONS.**

12 Section 1956(a)(1) of title 18, United States Code,
13 is amended by striking “For purposes of this paragraph,
14 a financial transaction” and inserting “For purposes of
15 this paragraph and section 1957, a financial transaction
16 or a monetary transaction”.

17 **SEC. 329. SECTION 1957 VIOLATIONS INVOLVING COMMIN-**
18 **GED FUNDS AND STRUCTURED TRANS-**
19 **ACTIONS.**

20 Section 1957 of title 18, United States Code, is
21 amended by adding after subsection (f) the following:

22 “(g) The Government may satisfy the \$10,000 re-
23 quirement in subsection (a)(1) by showing that—

24 “(1) the monetary transaction involved the
25 transfer, withdrawal, encumbrance, or other disposi-

1 tion of more than \$10,000 from an account in which
2 more than \$10,000 in proceeds of specified unlawful
3 activity was commingled with other funds; or

4 “(2) the defendant conducted a series of mone-
5 etary transactions in amounts under \$10,000 that ex-
6 ceeded \$10,000 in the aggregate and that were
7 closely related to each other in terms of such factors
8 as time, the identity of the parties involved, the na-
9 ture or purpose of the transactions or the manner in
10 which they are conducted.”.

11 **SEC. 330. CHARGING MONEY LAUNDERING AS A COURSE OF**
12 **CONDUCT.**

13 (a) IN GENERAL.—Section 1956 of title 18, United
14 States Code, as amended by this Act, is further amended
15 by adding at the end the following:

16 “(k) Multiple violations of this section that are part
17 of the same scheme or continuing course of conduct may
18 be charged, at the election of the Government, in a single
19 count in an indictment or information.”.

20 (b) CONSPIRACIES.—Section 1956(h) of title 18 is
21 amended by inserting “, or section 1960” after “section
22 1957.”.

1 **SEC. 331. KNOWLEDGE THAT THE PROPERTY IS THE PRO-**
 2 **CEEDS OF A SPECIFIC FELONY.**

3 (a) PROCEEDS OF A FELONY.—Section 1956(c)(1) of
 4 title 18, United States Code, is amended by inserting “,
 5 and regardless of whether or not the person knew that
 6 the activity constituted a felony” before the semicolon.

7 (b) INTENT TO CONCEAL OR DISGUISE.—Sections
 8 1956(a)(1)(B)(i) and 1956(a)(2)(B)(i) of title 18, United
 9 States Code, are amended by striking “specified unlawful
 10 activity” and inserting “some form of unlawful activity”.

11 **SEC. 332. OTHER SPECIFIED ACTIVITY FOR MONEY LAUN-**
 12 **DERING.**

13 (a) AMENDMENTS TO RICO.—Section 1961(1) of
 14 title 18, United States Code, is amended as follows:

15 (1) BURGLARY AND EMBEZZLEMENT.—In sub-
 16 paragraph (A), by inserting “burglary, embezzle-
 17 ment,” after “robbery,”.

18 (2) SECURITIES FRAUD.—(A) In subparagraph
 19 (D), by striking “fraud in the sale of securities” and
 20 inserting “fraud in the purchase or sale of securi-
 21 ties”; and (B) in subparagraph (B) by inserting
 22 “section 1348 (relating to securities fraud), section
 23 1349 (relating to attempt and conspiracy),” before
 24 “section 1425”.

25 (3) ALIEN SMUGGLING.—In subparagraph (F),
 26 by inserting “and 274A” after “274”.

1 (b) IDENTITY THEFT.—

2 (1) SOCIAL SECURITY NUMBER.—Section
3 1956(c)(7)(D) of title 18, United States Code, is
4 amended by inserting the following at the end before
5 the semicolon: “, or 42 U.S.C. 408 (relating to ob-
6 taining funds through misuse of a social security
7 number)”.

8 (2) IDENTITY THEFT.—Section 1961(1)(B) of
9 title 18, United States Code, is amended by insert-
10 ing “section 1028A (relating to aggravated identity
11 theft),” before “section 1029”.

12 (c) COUNTERFEITING.—Section 1956(c)(7)(D) of
13 title 18, United States Code, is amended by inserting “sec-
14 tions 474, 476, 477, 478, 479, 480, 481, 485, 486, 487,
15 or 488 (relating to counterfeiting),” before “any of sec-
16 tions 500 through 503”.

17 (d) FORGERY.—Section 1956(c)(7)(D) of title 18,
18 United States Code, is amended by inserting “, section
19 510 (relating to forgery)” before “section 513”.

20 (e) EXPLOSIVES.—Section 1956(c)(7)(D) of title 18,
21 United States Code, is amended by striking “section
22 844(f) or (i)” and inserting “sections 842 and 844”.

23 (f) FOREIGN AGENTS.—Section 1956(c)(7)(D) of
24 title 18, United States Code, is amended by inserting “sec-

1 tion 951 (relating to agents of foreign governments),”
2 after “section 924(n) (relating to firearms trafficking),”.

3 (g) OBSCENITY.—Section 1956(c)(7)(D) of title 18,
4 United States Code, is amended by inserting “section
5 1470 (relating to obscenity and minors),” before “section
6 1708”, and by inserting “section 2252B (relating to mis-
7 leading Internet domain names),” before “section 2280”.

8 (h) FALSE CLAIMS.—Section 1956(c)(7)(D) of title
9 18, United States Code, is amended by inserting “sections
10 286–87 (relating to false claims against the United
11 States),” before “section 351”.

12 (i) PROTECTION OF NATURAL RESOURCES AND CUL-
13 TURAL ASSETS.—Section 1956(c)(7) of title 18, United
14 States Code, is amended—

15 (1) in subparagraph (E), by striking “or” and
16 inserting “, or the Clean Air Act (42 U.S.C. 7401
17 et seq.), the Federal Insecticide, Fungicide, and
18 Rodenticide Act of 1988 (7 U.S.C. 136 et seq.), the
19 Federal Cave Resources Protection Act (16 U.S.C.
20 4301 et seq.), or any wildlife protection offense, as
21 defined in section 49,” after “the Resources Con-
22 servation and Recovery Act (42 U.S.C. 6901 et
23 seq.)”; and

24 (2) by inserting after paragraph (F) the fol-
25 lowing:

1 “(G) any violation of the Archaeological
2 Resources Protection Act (16 U.S.C. 470aa, et
3 seq. and 18 U.S.C. 1370), or the Native Amer-
4 ican Graves Protection and Repatriation Act
5 (25 U.S.C. 3001, et seq.).”

6 (j) WILDLIFE PROTECTION OFFENSE.—

7 (1) IN GENERAL.—Chapter 3 of title 18, United
8 States Code, is amended by inserting after section
9 48 the following:

10 **“§ 49. Definition of wildlife protection offense**

11 “(a) As used in this title, the term ‘wildlife protection
12 offense’ means any violation of a provision of this chapter
13 or of any Act listed in subsection (b), or any regulation
14 promulgated thereunder, that may be prosecuted as a
15 criminal offense.

16 “(b) The statutes referred to in subsection (a) include
17 the following:

18 “(1) The Lacey Act (16 U.S.C. 3371–78 and
19 18 U.S.C. 42).

20 “(2) The Endangered Species Act (16 U.S.C.
21 1538–1540).

22 “(3) The Marine Mammal Protection Act (16
23 U.S.C. 1371–1377).

24 “(4) The African Elephant Conservation Act
25 (16 U.S.C. 4222–24).

1 “(5) The Wild Exotic Bird Conservation Act
2 (16 U.S.C. 4910–4912).

3 “(6) The Bald and Golden Eagle Protection Act
4 (16 U.S.C. 668).

5 “(7) The Migratory Bird Treaty Act (16 U.S.C.
6 703–707).

7 “(8) The Migratory Bird Hunting Conservation
8 Stamp Act (16 U.S.C. 718f).

9 “(9) The Airborne Hunting Act (16 U.S.C.
10 742j–1).

11 “(10) The Antarctic Conservation Act (16
12 U.S.C. 2403–2410).

13 “(11) The National Wildlife Refuge System Ad-
14 ministration Act (16 U.S.C. 668dd).

15 “(12) The Rhinoceros and Tiger Conservation
16 Act (16 U.S.C. 5305a).

17 “(13) The Antarctic Marine Living Resources
18 Convention (16 U.S.C. 2435).

19 “(14) The Fur Seal Act (16 U.S.C. 1152–
20 1156).”.

21 (2) CHAPTER ANALYSIS.—The chapter analysis
22 for chapter 3 of title 18, United States Code, is
23 amended by inserting after the item for section 48
24 the following:

“49. Definition of wildlife protection offense.”.

1 **SEC. 333. ILLEGAL MONEY TRANSMITTING BUSINESSES.**

2 (a) “MONEY TRANSMITTING BUSINESS” DE-
3 FINED.—Section 1960(b)(2) of title 18, United States
4 Code, is amended to read as follows:

5 “(2) the term ‘money transmitting business’
6 means any business other than the United States
7 Postal Service, which provides check cashing, cur-
8 rency exchange, money transmitting or remittance
9 services, or issues, sells or redeems money orders,
10 travelers’ checks, or other similar instruments or,
11 any other person or association of persons, formal or
12 informal, engaging as a business in transporting,
13 transferring, exchanging, or transmitting currency
14 or funds in any form, including any person or asso-
15 ciation of persons, formal or informal, engaging as
16 a business in any informal money transfer system or
17 any network of people who engage as a business in
18 facilitating the transfer of money domestically or
19 internationally outside of the conventional financial
20 institutions systems.”.

21 (b) GENERAL INTENT REQUIREMENT FOR SECTION
22 1960(b)(1)(B).—Section 1960(b)(1)(B) of title 18,
23 United States Code, is amended by inserting before the
24 semicolon the following: “, whether or not the defendant
25 knew that the operation was required to comply with such
26 registration requirements”.

1 (c) AUTHORITY To INVESTIGATE.—Section 1960 of
2 title 18, United States Code, is amended by adding at the
3 end the following:

4 “(c) Violations of this section may be investigated by
5 the Attorney General, the Secretary of the Treasury, and
6 the Secretary of the Department of Homeland Security.”.

7 (d) TECHNICAL AMENDMENTS.—Section 1960 of
8 title 18, United States Code, is amended—

9 (1) in the title by striking “unlicensed” and in-
10 sserting “illegal”;

11 (2) in subsection (a) by striking “unlicensed”
12 and inserting “illegal”;

13 (3) in subsection (b)(1) by striking “unli-
14 censed” and inserting “illegal”; and

15 (4) in subsection (b)(1)(C) by inserting “, ex-
16 change” after “transportation.”

17 **SEC. 334. TECHNICAL CORRECTION TO THE USA PATRIOT**
18 **ACT.**

19 Section 5317(c) of title 31, United States Code, is
20 amended by inserting “5314,” after “5313,”.

21 **SEC. 335. TECHNICAL AMENDMENT TO RESTORE WIRETAP**
22 **AUTHORITY FOR CERTAIN MONEY LAUN-**
23 **DERING OFFENSES.**

24 (a) CURRENCY REPORTING OFFENSES.—Section
25 2516(1)(g) of title 18, United States Code, is amended

1 by striking “or section 5324 of title 31, United States
2 Code (relating to structuring transactions to evade report-
3 ing requirement prohibited” and inserting “or sections
4 5324 and 5332 of title 31, United States Code (relating
5 to structuring financial transactions and bulk cash smug-
6 gling)”.

7 (b) MONEY LAUNDERING.—Section 2516(1)(c) is
8 amended by inserting “section 1960 (relating to illegal
9 money transmitting businesses),” before “section 659”.

10 **SEC. 336. MISCELLANEOUS MINOR AND TECHNICAL**
11 **AMENDMENTS.**

12 (a) CRIMINAL FORFEITURE.—Section 982(b) of title
13 18, United States Code, is amended in subsection (b)(2),
14 by striking “The substitution” and inserting “With re-
15 spect to a forfeiture under subsection (a)(1), the substi-
16 tution”.

17 (b) DEFINITION OF FINANCIAL INSTITUTION.—Sec-
18 tion 1956(c)(6) of title 18, United States Code, is amend-
19 ed by—

20 (1) in subparagraph (A), by striking “and” at
21 the end;

22 (2) in subparagraph (B), by inserting “and”
23 after the semicolon; and

24 (3) inserting the following at the end:

25 “(C) a bail bondsman;”.

1 (c) OTHER AMENDMENTS TO SECTIONS 1956 AND
2 1957.—

3 (1) PENALTIES.—Section 1956(b) of title 18,
4 United States Code, is amended by inserting after
5 paragraph (4) the following:

6 “(5) STAY OF ACTION.—If a civil action is filed
7 under this subsection, either party may move to stay
8 the action in accordance with section 981(g) of this
9 title.”.

10 (2) DEFINITIONS.—Section 1956(c) of title 18,
11 United States Code, is amended—

12 (A) in paragraph (7)(F), by inserting “, as
13 defined in section 24 of this title” before the
14 semicolon;

15 (B) in paragraph (8), by striking the pe-
16 riod and inserting “; or”; and

17 (C) by inserting after paragraph (8) the
18 following:

19 “(9) the term ‘proceeds’ any property or inter-
20 est in property obtained or retained as a con-
21 sequence of an act or omission; ‘proceeds’ means
22 gross proceeds, not net profits.”.

23 (d) OBSTRUCTION OF JUSTICE.—Section
24 1510(b)(3)(B) of title 18, United States Code, is amended

1 by striking “or” the first time it appears and inserting
 2 “, a subpoena issued pursuant to 28 U.S.C. 1782, or”.

3 (e) CLARIFYING TECHNICAL CORRECTION TO 31
 4 U.S.C. 5324(a).—Section 5324(a) of title 31, United
 5 States Code, is amended by inserting “the recordkeeping
 6 requirements of” after “section 5313(a) or”, the first time
 7 it appears.

8 **SEC. 337. TECHNICAL CORRECTION REGARDING FOR-**
 9 **FEITURE AUTHORITY FOR SECRETARY,**
 10 **HOMELAND SECURITY.**

11 Section 981 of title 18, United States Code, is
 12 amended—

13 (1) by adding the following after “the Secretary
 14 of the Treasury” wherever it appears: “, Secretary
 15 of Homeland Security”; and

16 (2) in subsection (j) by—

17 (A) striking “and” in subparagraph (1);

18 (B) by striking the period after “delegate”
 19 and inserting “; and” in subparagraph (2); and

20 (C) by inserting the following new para-
 21 graph after paragraph (2):

22 “(3) the term ‘Secretary of Homeland Security’
 23 means the Secretary of Homeland Security or his
 24 delegate.”.

1 **SEC. 338. STORED VALUE CARDS.**

2 Section 5312(a)(3) of title 31, United States Code,
3 is amended by—

4 (1) striking “and” at the end of subparagraph
5 (B);

6 (2) striking the period and inserting “; and”
7 before the period at the end of subparagraph (C);
8 and

9 (3) inserting the following thereafter:

10 “(D) As the Secretary of the Treasury
11 shall provide by regulation for purposes of sec-
12 tions 5316 and 5331, stored value cards or
13 other similar devices including funds or mone-
14 tary value represented in digital electronics for-
15 mat (whether or not specially encrypted) and
16 stored or capable of storage on electronic media
17 in such a way as to be retrievable and transfer-
18 able electronically.”.

1 **Subtitle C—Recovering the Pro-**
2 **ceeds of Crime and Victim Res-**
3 **titution**

4 **CHAPTER 1—CRIMINAL FORFEITURE**
5 **PROCEDURE**

6 **SEC. 341. RESTRAINT OF PROPERTY SUBJECT TO CRIMINAL**
7 **FORFEITURE.**

8 (a) IN GENERAL.—Section 413(e)(1) of the Con-
9 trolled Substances Act (21 U.S.C. 853(e)(1)) is amended
10 by—

11 (1) inserting the following before the dash: “,
12 including property that may be forfeited upon the
13 defendant’s conviction to satisfy a money judgment”;
14 and

15 (2) inserting before “to preserve” the following:
16 “to prevent the unlawful use of the property while
17 a criminal action is pending, or”.

18 (b) CONFORMING.—Section 413(c) of the Controlled
19 Substances Act (21 U.S.C. 853(c)), is amended by strik-
20 ing “subsection (a)” and inserting “subsection (a) or (p)”.

21 (c) PROTECTIVE ORDER.—Section 413(e)(3) of the
22 Controlled Substances Act (21 U.S.C. 853(e)) is amended
23 by inserting “(A)” before “The court” and by adding the
24 following after the period:

1 “(B) The court shall issue any protective order
2 necessary to prevent the premature disclosure of any
3 ongoing law enforcement operation or investigation
4 or the identity of any witness at the hearing. In ad-
5 dition, in any case involving an ongoing investiga-
6 tion, the court shall permit the presentation of evi-
7 dence ex parte and under seal.”.

8 (d) RESTRAINING ORDER.—Section 413(e) of the
9 Controlled Substances Act is amended by adding the fol-
10 lowing new paragraph after paragraph (4):

11 “(5)(A) A restraining order entered pursuant to
12 paragraph (1)(A) shall remain in effect through the
13 conclusion of the criminal case, unless modified by
14 the court.

15 “(B) At the request of the defendant, the court
16 may conduct a pretrial hearing to determine whether
17 the restraining order should be vacated or modified
18 with respect to some or all of the restrained prop-
19 erty, if the defendant—

20 “(i) establishes by a preponderance of the
21 evidence that there are no assets, other than
22 the restrained property, available to the defend-
23 ant to retain counsel in the criminal case; and

24 “(ii) makes a prima facie showing of a
25 bona fide reason to believe that there is no

1 probable cause for the forfeiture of the re-
2 strained property, or for the entry of a money
3 judgment that the restrained property would be
4 used to satisfy.

5 The Government shall have an opportunity to cross-
6 examine the defendant and any witnesses the de-
7 fendant may present on these issues.

8 “(C) If the court determines that the defendant
9 has satisfied the requirements of (B)(i) and (ii), it
10 may hold a hearing to determine whether there is
11 probable cause for the forfeiture of the property. In
12 making such determination, the court shall give due
13 deference to any finding made by a grand jury that
14 there is probable cause to believe that the property
15 is subject to forfeiture.

16 “(D) If the court determines that no probable
17 cause exists for the forfeiture of the property, it
18 shall modify the restraining order to the extent nec-
19 essary to release the property from restraint.

20 “(E) In any hearing under this paragraph
21 where probable cause is at issue, the court shall
22 limit its inquiry to the existence of probable cause
23 for the forfeiture of the restrained assets, or for the
24 entry of a money judgment that the restrained as-
25 sets would be used to satisfy. The court shall not en-

1 ertain challenges to the grand jury’s finding of
2 probable cause regarding the criminal offense giving
3 rise to the forfeiture.

4 “(F) A person other than the defendant who
5 has a legal interest in the restrained property may
6 move to modify or vacate the restraining order on
7 the ground that the order causes a substantial hard-
8 ship to the moving party and less intrusive means
9 exist to preserve the subject property for forfeiture.
10 In accordance with subsection (k), such person may
11 not object to a restraining order on grounds that
12 may only be asserted in the ancillary proceeding pur-
13 suant to subsection (n).”.

14 **SEC. 342. AUTHORIZING FORFEITURE PURSUANT TO A**
15 **GUILTY PLEA.**

16 Section 413 of the Controlled Substances Act (21
17 U.S.C. 853) is amended by adding at the end the fol-
18 lowing:

19 “(r) GUILTY PLEAS.—

20 “(1) A defendant who pleads guilty to a crimi-
21 nal offense may, as part of a plea agreement, agree
22 to the forfeiture of any property derived from or
23 used to commit that offense and any other offense
24 that is part of the same scheme or plan or pattern
25 of related conduct.

1 “(2) Upon acceptance of the defendant’s guilty
2 plea, the court shall enter a preliminary order of for-
3 feiture, pursuant to rule 32.2 of the Federal Rules
4 of Criminal Procedure, with respect to any property
5 that the defendant has agreed to forfeit pursuant to
6 this subsection.”.

7 **SEC. 343. CRIMINAL SEIZURE WARRANTS.**

8 Section 413(f) of the Controlled Substances Act (21
9 U.S.C. 853(f)) is amended to read as follows:

10 “(a)(1) Property subject to forfeiture under this sec-
11 tion may be seized pursuant to section 981(b) of title 18,
12 United States Code.

13 “(2) If property subject to criminal forfeiture under
14 this section is already in the custody of the United States
15 or any agency thereof, it shall not be necessary to seize
16 or restrain the property for the purpose of criminal for-
17 feiture.

18 “(3) If the seizure warrant is obtained after the prop-
19 erty to be seized has been listed in an indictment or crimi-
20 nal information or related bill of particulars, the require-
21 ment that the warrant be executed within 10 days under
22 rule 41, Federal Rules of Criminal Procedure, shall not
23 apply.”.

1 **SEC. 344. DISCOVERY PROCEDURE FOR LOCATING FOR-**
2 **FEITED ASSETS.**

3 Section 413(m) of the Controlled Substances Act (21
4 U.S.C. 853(m)) is amended by inserting before the period
5 at the end the following: “to the extent that the provisions
6 of the rule are consistent with the purposes for which dis-
7 covery is conducted under this subsection. Because this
8 subsection applies only to matters occurring after the de-
9 fendant has been convicted and the property of the defend-
10 ant has been declared forfeited, the provisions of rule 15
11 requiring the presence of the defendant at the deposition
12 of any other witness, or a waiver by the defendant of a
13 right to be present, shall not apply”.

14 **SEC. 345. COLLECTION OF CRIMINAL FORFEITURE JUDG-**
15 **MENT.**

16 Section 413 of the Controlled Substances Act (21
17 U.S.C. 853) is amended by adding at the end the following
18 new subsection:

19 “(s) **COLLECTION OF CRIMINAL FORFEITURE JUDG-**
20 **MENT.**—An order of forfeiture in a criminal case may take

21 the form of a money judgment and may be enforced—

22 “(1) in the manner provided for the collection
23 and payment of fines in subchapter B of chapter
24 229 of title 18, United States Code;

25 “(2) in the same manner as a judgment in a
26 civil action;

1 “(3) pursuant to Rule 32.2(e) of the Federal
2 Rules of Criminal Procedure; or

3 “(4) pursuant to the Federal Debt Collection
4 Act (28 U.S.C. 3001 et seq.).”.

5 **SEC. 346. ABATEMENT OF FORFEITURE WHEN DEFENDANT**
6 **DIES.**

7 (a) IN GENERAL.—Section 413 of the Controlled
8 Substances Act (21 U.S.C. 853) is amended by adding at
9 the end the following new subsection:

10 “(t) SPECIAL CIVIL FORFEITURE PROCEEDINGS
11 WHEN THE DEFENDANT DIES.—

12 “(1)(A) In any case in which criminal forfeiture
13 has been alleged, if a defendant dies after a plea of
14 guilty or nolo contendere has been accepted or a ver-
15 dict of guilty has been returned, but before the de-
16 fendant’s time for direct appeal from the conviction
17 or from a criminal order of forfeiture has expired, or
18 before any such appeal by the defendant, or any
19 posttrial motion or appeal by the Government bear-
20 ing on the forfeiture or the underlying criminal con-
21 viction, has finally been resolved, the criminal for-
22 feiture proceeding shall be converted to a special
23 civil forfeiture proceeding notwithstanding the expi-
24 ration of any civil forfeiture statute of limitations or

1 any time limitation set forth in section 983(a) of
2 title 18, and shall be concluded as provided herein.

3 “(B) For purposes of this subsection, a plea of
4 guilty or nolo contendere shall be considered to have
5 been ‘accepted’ if a court has determined, pursuant
6 to Rule 11(b) of the Federal Rules of Criminal Pro-
7 cedure, that the plea is voluntary and supported by
8 a factual basis, notwithstanding that final accept-
9 ance may have been deferred pending review of a
10 presentence report or otherwise; a verdict is ‘re-
11 turned’ when it is orally stated in open court; and
12 ‘direct appeal’ refers to an appeal filed, within the
13 period provided by the applicable rule of appellate
14 procedure, from the entry of the judgment or order
15 of forfeiture, up to and including review by the Su-
16 preme Court.

17 “(2)(A) If a defendant dies after a plea of
18 guilty or nolo contendere has been accepted or a ver-
19 dict of guilty has been returned, but before entry of
20 a criminal order of forfeiture, the court, after a
21 hearing at which the defendant’s personal represent-
22 ative shall have the same rights to present evidence
23 and argument as the defendant would have had if he
24 had survived, shall enter a special civil order of for-
25 feiture if the court finds, by a preponderance of the

1 evidence, that property, including substitute prop-
2 erty pursuant to subsection (p) of this section, is
3 forfeitable as a result of the defendant's conviction.

4 “(B) The special civil order of forfeiture shall
5 forfeit to the United States all property, including
6 substitute property, that would have been subject to
7 criminal forfeiture if the defendant had survived,
8 and may constitute, or include, a civil money judg-
9 ment against the defendant's estate and any person
10 holding property that would have been forfeitable in
11 the criminal case if the defendant had survived.

12 “(C) Any third-party interests in property sub-
13 ject to a special civil order of forfeiture shall be de-
14 termined by the court pursuant to subsection (n) of
15 this section as if the defendant had survived. While
16 the defendant's personal representative may contest
17 forfeitability of particular property and the amount
18 of any money judgment in a special civil order of
19 forfeiture, third-party claimants under this sub-
20 section, as under subsection (n) as applied to crimi-
21 nal orders of forfeiture, may contest only issues of
22 ownership.

23 “(3)(A) If a defendant dies after entry of a
24 criminal order of forfeiture, but before the defend-
25 ant's time for direct appeal from the underlying

1 criminal conviction or when the criminal order of
2 forfeiture has expired, or before any such appeal by
3 the defendant has finally been resolved, the criminal
4 order of forfeiture shall become a special civil order
5 of forfeiture by operation of law, and proceedings
6 bearing on the forfeiture shall continue, and be con-
7 cluded, pursuant to this section.

8 “(B) If a defendant dies during the pendency of
9 a posttrial motion or appeal by the Government con-
10 cerning a court’s failure to announce or enter a re-
11 quested order of forfeiture or to include such an
12 order in the judgment, other error by the court with
13 respect to the forfeiture, or a court’s postverdict dis-
14 missal of a criminal conviction that was a basis for
15 criminal forfeiture, the court in which the matter is
16 pending, on the Government’s motion, shall continue
17 and conclude the proceeding pursuant to this sec-
18 tion, and, if the Government prevails, shall enter, or
19 direct the entry by the district court of, a special
20 civil order of forfeiture if the Government makes the
21 showing required by paragraph (2)(A), or the court
22 determines that such a showing was made before the
23 defendant’s death during the proceedings that are
24 the subject of the pending posttrial motion or ap-
25 peal.

1 “(4)(A) In all proceedings concerning a special
2 civil order of forfeiture, the court shall consider the
3 relevant portions of the record of the criminal case.
4 That record, including any agreements, admissions,
5 stipulations, findings of fact, conclusions of law, or
6 verdicts bearing upon the defendant’s guilt or the
7 forfeitability of any property of the defendant, and
8 any failure by the defendant to demand a jury ver-
9 dict on forfeiture, shall be binding on the defend-
10 ant’s personal representative in the district court,
11 and on any appeal, to the extent that it would have
12 bound the defendant in the criminal case. The
13 record shall be binding upon any third-party claim-
14 ants to the extent that it would have bound them if
15 the defendant had survived.

16 “(B) The defendant’s personal representative or
17 the Government may file or pursue an otherwise per-
18 missible direct appeal, or an otherwise permissible
19 motion under this section or the Federal Rules of
20 Criminal Procedure (other than a motion under Rule
21 33(b)(1) filed after death or after judgment), to
22 challenge, enforce, correct, amend, modify, or rein-
23 state a special civil order of forfeiture, or to chal-
24 lenge or reinstate a verdict or plea of guilty or nolo
25 contendere on which such an order is, or should be,

1 based. In any such appeal or motion, the death of
2 the defendant shall not itself be a basis for relief.

3 “(5)(A) Proceedings concerning a special civil
4 order of forfeiture, including any appeal or motion
5 to challenge, enforce, correct, amend, modify, or re-
6 instate such an order or to challenge or reinstate a
7 verdict or plea of guilty or nolo contendere under-
8 lying such an order, shall be governed by the provi-
9 sions of this section and the law and procedures that
10 would have applied if the defendant had survived
11 and the forfeiture proceedings had been conducted
12 and concluded in the criminal case, except that the
13 special civil order of forfeiture need not be included
14 in any criminal sentence or judgment, and the per-
15 sonal representative of the defendant shall be sub-
16 stituted for the defendant. Section 983 of title 18
17 and section 2465(b) of title 28 shall not apply.

18 “(B) A personal representative, if not otherwise
19 appointed, shall be appointed by the district court
20 before which the criminal case was filed or by the
21 court of appeals if the matter is pending on appeal
22 at the time of the defendant’s death. Counsel may
23 be appointed for the personal representative of the
24 defendant if counsel would have been available to the
25 defendant under 18 U.S.C. 3006A. The court may

1 toll any applicable deadline during the period nec-
2 essary to appoint the personal representative and,
3 where appropriate, counsel.

4 “(C) Appeals by any party from or concerning
5 a special civil order of forfeiture shall be governed
6 by the rules applicable to civil appeals. A special civil
7 order of forfeiture shall be final as to the defendant
8 and the defendant’s estate upon initial entry, and
9 shall be final as to any third-party interests upon
10 entry of any order, or amended order, finally deter-
11 mining such interests pursuant to subsection (n).

12 “(6) Any forfeiture protective orders in effect at
13 the time of a defendant’s death shall continue in ef-
14 fect unless modified by the court after a hearing or
15 pursuant to a motion by the Government. Upon the
16 Government’s motion, the court shall take any ac-
17 tion necessary to preserve the availability of property
18 for forfeiture pursuant to this subsection.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) NONABATEMENT.—Section 983 of title 18,
21 United States Code, is amended by adding the fol-
22 lowing new subsection after subsection (j):

23 “(k) NONABATEMENT OF FORFEITURE.—

24 “(1) The death of an individual does not affect
25 the Government’s ability to seek, or to continue to

1 pursue, civil in rem forfeiture of property as author-
2 ized by law, except as provided herein. Notwith-
3 standing the expiration of any civil forfeiture statute
4 of limitations or any time limitation set forth in sub-
5 section (a), the Government may commence in rem
6 civil forfeiture proceedings, within the greater of the
7 time period otherwise authorized by law or 2 years
8 after the death of an individual against whom a
9 criminal indictment alleging forfeiture is pending at
10 the time of death, against all interests in any prop-
11 erty alleged to be forfeitable in the indictment.

12 “(2) The effect of the death of a defendant
13 upon criminal forfeiture shall be governed by section
14 413(t) of the Controlled Substances Act (21 U.S.C.
15 853(t)).”.

16 (2) SPECIAL FORFEITURE.—Section 983(i)(2)
17 of title 18, United States Code, is amended by add-
18 ing at the end the following new subparagraph:

19 “(F) special civil forfeiture proceedings
20 pursuant to section 413(t) of the Controlled
21 Substances Act (21 U.S.C. 853(t)).”.

22 **SEC. 347. FORFEITABLE PROPERTY TRANSFERRED TO**
23 **THIRD PARTIES.**

24 Section 413(c) of the Controlled Substances Act (21
25 U.S.C. 853(c)), as amended by this Act, is amended—

1 (1) by designating the present matter as para-
2 graph (1);

3 (2) in paragraph (1), by striking “subsection
4 (a)” and inserting “subsection (a) or (p)”; and

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

6 “(2)(A) If, as provided in paragraph (1), property
7 transferred to a transferee is ordered forfeited, the trans-
8 feree shall deposit the forfeited property in the registry
9 of the Court, or with the United States Marshals Service
10 or other Government custodian, pending the conclusion of
11 any ancillary proceeding pursuant to subsection (n).

12 “(B) If the transferee fails to establish pursuant to
13 subsection (n)(6)(B) that the transferee is a bona fide
14 purchaser for value of the forfeited property, but the
15 transferee is unable, due to the transferee’s act or omis-
16 sion, to surrender the forfeited property to the United
17 States, the transferee shall owe the United States a sum
18 of money equal to the greater of—

19 “(i) the value of the property at the time of the
20 transfer, plus interest from the time of the transfer;

21 “(ii) the value of the property at the time it
22 was converted by the third party, plus interest from
23 the time of the conversion; or

1 “(iii) the value of the property at the time the
2 third party is found liable to the Government under
3 this subsection.

4 “(C) Once the ancillary proceedings regarding the
5 transferee’s claim to be a bona fide purchaser are con-
6 cluded, the district court that issued the order of forfeiture
7 shall issue a judgment in favor of the United States and
8 against the transferee for the amount of money to which
9 the United States is entitled. All money collected pursuant
10 to such a judgment shall constitute forfeited property
11 under this section.”.

12 **SEC. 348. FORFEITURE OF THIRD-PARTY INTERESTS IN**
13 **CRIMINAL CASES.**

14 (a) IN GENERAL.—Section 413 of the Controlled
15 Substances Act (21 U.S.C. 853) is amended by adding at
16 the end the following:

17 “(u) FORFEITURE OF THIRD-PARTY INTERESTS.—
18 In lieu of filing a parallel civil forfeiture action, and not-
19 withstanding the expiration of any statute of limitations
20 regarding such action, the Government may seek the for-
21 feiture of a third party’s interest in property subject to
22 forfeiture under this section at the conclusion of the ancil-
23 lary proceeding described in subsection (n). Such pro-
24 ceeding shall be an in rem proceeding in which the third
25 party shall first have the burden of establishing a legal

1 interest in the property pursuant to subsection (n), after
 2 which the Government shall have the burden of estab-
 3 lishing the forfeitability of the third party’s interest in the
 4 manner provided for civil forfeitures in chapter 46, title
 5 18, United States Code, and the third party shall have
 6 the burden of establishing an innocent owner defense pur-
 7 suant to such chapter.”.

8 (b) CONFORMING AMENDMENT.—Section 413(n)(6)
 9 of the Controlled Substances Act (21 U.S.C. 853(n)(6))
 10 is amended by inserting “, unless the Government notifies
 11 the court that it will seek to forfeit the petitioner’s interest
 12 pursuant to subsection (u)” after “in accordance with its
 13 determination”.

14 **SEC. 349. SEVERANCE OF JOINTLY HELD PROPERTY.**

15 (a) IN GENERAL.—Section 413 of the Controlled
 16 Substances Act (21 U.S.C. 853) is amended by adding at
 17 the end the following new subsection:

18 “(v) SEVERANCE OF JOINTLY HELD PROPERTY.—

19 “(1) If the court determines, pursuant to sub-
 20 section (n) or (u), that a third party had a partial
 21 nonforfeitable interest in property otherwise subject
 22 to forfeiture, or a joint tenancy or tenancy by the
 23 entirety in such property, the court shall enter an
 24 appropriate order—

25 “(A) severing the property;

1 “(B) transferring the property to the gov-
2 ernment with a provision that the government
3 compensate the third party to the extent of his
4 or her nonforfeitable ownership interest once a
5 final order of forfeiture has been entered and
6 the property has been reduced to liquid assets;
7 or

8 “(C) if neither (A) nor (B) is reasonably
9 practical under all of the circumstances, permit-
10 ting the third party to retain the property sub-
11 ject to a lien in favor of the Government to the
12 extent of the forfeitable interest in the property,
13 and entering any order necessary to ensure that
14 the value of the property is maintained, includ-
15 ing—

16 “(i) permitting the inspection,
17 photographing, and inventory of the prop-
18 erty;

19 “(ii) fixing a bond in accordance with
20 Rule E(5) of the Supplemental Rules for
21 Admiralty or Maritime Claims and Asset
22 Forfeiture Actions; and

23 “(iii) requiring the property owner to
24 obtain or maintain insurance on the sub-
25 ject property.

1 “(2) To effectuate the purposes of this sub-
2 section, a joint tenancy or tenancy by the entireties
3 shall be converted to a tenancy in common by order
4 of the court, irrespective of State law, so that a lien
5 created pursuant to (1)(C) will entitle the Govern-
6 ment to the forfeitable portion of the property’s
7 value at the time title to the property is trans-
8 ferred.”.

9 (b) CONFORMING AMENDMENT.—Section 983(d)(5)
10 of title 18, United States Code, is amended—

11 (1) by amending subparagraph (C) to read as
12 follows:

13 “(C) if neither (A) nor (B) is reasonably
14 practical under all of the circumstances, permit-
15 ting the third party to retain the property sub-
16 ject to a lien in favor of the Government to the
17 extent of the nonforfeitable interest in the prop-
18 erty, and entering any order necessary to en-
19 sure that the value of the property is main-
20 tained, including—

21 “(i) permitting the inspection,
22 photographing, and inventory of the prop-
23 erty;

24 “(ii) fixing a bond in accordance with
25 Rule E(5) of the Supplemental Rules for

1 Admiralty or Maritime Claims and Asset
2 Forfeiture Actions; and

3 “(iii) requiring the property owner to
4 obtain or maintain insurance on the sub-
5 ject property.”.

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

7 “To effectuate the purposes of this subsection, a joint ten-
8 ancy or tenancy by the entireties shall be converted to a
9 tenancy in common by order of the court, irrespective of
10 State law, so that a lien created pursuant to (1)(C) will
11 entitle the Government to the forfeitable portion of the
12 property’s value at the time title to the property is trans-
13 ferred.”.

14 **SEC. 350. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL**
15 **FORFEITURE THROUGH BANKRUPTCY.**

16 Section 413(c) of the Controlled Substances Act (21
17 U.S.C. 853(c)), as amended by this Act, is further amend-
18 ed by adding at the end the following new paragraph:

19 “(3) Forfeiture under this section shall have
20 priority over any bankruptcy proceeding instituted
21 after the commission of the offense giving rise to the
22 forfeiture.”.

1 **SEC. 351. UNIFORM PROCEDURES FOR CRIMINAL FOR-**
2 **FEITURE.**

3 (a) IN GENERAL.—Section 3554 of title 18, United
4 States Code, is amended to read as follows:

5 “(a) The court, in imposing sentence on a defendant
6 who has been found guilty of an offense for which the for-
7 feiture of property is authorized, shall order, in addition
8 to any sentence imposed pursuant to section 3551, the for-
9 feiture of the property to the United States in accordance
10 with Rule 32.2 of the Federal Rules of Criminal Procedure
11 and section 413 of the Controlled Substances Act (21
12 U.S.C. 853).

13 “(b) If any property subject to forfeiture is unavail-
14 able, the court shall enter a personal money judgment
15 against the defendant in an amount equal to the value
16 of the unavailable property.

17 “(c) Section 413(d) of the Controlled Substances Act
18 (21 U.S.C. 853(d)) does not apply to forfeitures under this
19 section unless the defendant is convicted of a violation of
20 the Controlled Substances Act.”.

21 (b) RICO.—Section 1963 of title 18, United States
22 Code, is amended by repealing subsections (b) through
23 (m) and inserting the following after subsection (a):

24 “(n) The forfeiture of property under this section
25 shall be governed by Rule 32.2 of the Federal Rules of
26 Criminal Procedure and the provisions of section 413 of

1 the Controlled Substances Act (21 U.S.C. 853), except for
2 subsection 413(d) which shall not apply to forfeitures
3 under this section.”.

4 (c) ESPIONAGE.—Section 794(d)(3) of title 18,
5 United States Code, is amended to read as follows:

6 “(3) The forfeiture of property under this sec-
7 tion shall be governed by Rule 32.2 of the Federal
8 Rules of Criminal Procedure and the provisions of
9 section 413 of the Controlled Substances Act (21
10 U.S.C. 853), except for subsection 413(d) which
11 shall not apply to forfeitures under this section.”.

12 **SEC. 352. APPEALS.**

13 Section 3742 of title 18, United States Code, is
14 amended by adding the following new subsection:

15 “(k) CRIMINAL FORFEITURE.—The Government may
16 file a notice of appeal in the district court for review of
17 any aspect of the forfeiture portion of a sentence, of a
18 court’s failure to include forfeiture in a sentence for any
19 offense for which forfeiture is authorized upon conviction,
20 or of any postjudgment forfeiture order, including orders
21 granting or denying motions pursuant to rule 32.2(e) of
22 the Federal Rules of Criminal Procedure. The notice may
23 be filed pursuant to Fed. R. App. P. 4(b) within 30 days
24 after the sentencing judgment, or subsequent forfeiture
25 order, is entered, or within 30 days after the district court

1 denies a motion for reconsideration of the forfeiture sen-
2 tencing issue or forfeiture order.”.

3 **SEC. 353. VICTIMS, RESTITUTION, AND FORFEITURE.**

4 Section 413 of the Controlled Substances Act (21
5 U.S.C. 853), as amended by this Act, is further amended
6 by adding the following at the end:

7 “(w) VICTIMS AND RESTITUTION.—The defendant
8 may not use property forfeited under this section to satisfy
9 an order of restitution. If an order of forfeiture is entered
10 pursuant to this section and the defendant has no assets
11 other than the forfeited property to pay restitution to
12 identifiable victims, the Attorney General is authorized to
13 restore or remit forfeited property to victims in accordance
14 with subsection (i)(1) and the applicable provisions of title
15 28, Code of Federal Regulations 9, once the ancillary pro-
16 ceeding under subsection (n) has been completed and the
17 costs of the forfeiture action have been deducted.”.

18 **SEC. 354. AUTHORITY OF SECRETARY OF HOMELAND SECU-
19 RITY.**

20 (a) Subsection 981(d) of title 18 is amended by in-
21 serting after “the Secretary of the Treasury,”: “the Sec-
22 retary of Homeland Security,”.

23 (b) Subsection 981(e) of title 18 is amended by in-
24 serting after “the Secretary of the Treasury,” each time
25 it appears: “the Secretary of Homeland Security,”.

1 **CHAPTER 2—INTERNATIONAL**
2 **PROVISIONS**

3 **SEC. 361. PROCEDURES FOR ENFORCEMENT OF FOREIGN**
4 **FORFEITURE JUDGMENTS AND PROTECTIVE**
5 **ORDERS.**

6 (a) IN GENERAL.—Section 2467 of title 28, United
7 States Code, is amended to read as follows:

8 **“SEC. 2467. ENFORCEMENT OF FOREIGN JUDGMENTS AND**
9 **PROTECTIVE ORDERS.**

10 “(a) DEFINITIONS.—In this section—

11 “(1) the term ‘foreign nation’ means a country
12 or territory that has become a party to the United
13 Nations Convention Against Illicit Traffic in Nar-
14 cotic Drugs and Psychotropic Substances (referred
15 to in this section as the ‘United Nations Conven-
16 tion’) or a foreign jurisdiction with which the United
17 States has a treaty or other formal international
18 agreement in effect providing for mutual forfeiture
19 assistance or which will render forfeiture assistance
20 to the United States based on assurances of reci-
21 procity;

22 “(2) the term ‘forfeiture or confiscation judg-
23 ment’ means a final order of a foreign nation com-
24 pelling a person or entity—

1 “(A) to pay a sum of money representing
2 the proceeds of an offense described in article
3 3, paragraph 1, of the United Nations Conven-
4 tion, any violation of foreign law that would
5 constitute a violation or an offense for which
6 property could be forfeited under Federal law if
7 the offense were committed in the United
8 States, or any foreign offense described in sec-
9 tion 1956(c)(7)(B) of title 18, or property the
10 value of which corresponds to such proceeds; or

11 “(B) to forfeit property involved in or
12 traceable to the commission of such offense.

13 “(b) REVIEW BY ATTORNEY GENERAL.—

14 “(1) IN GENERAL.—A foreign nation seeking to
15 have a forfeiture or confiscation judgment registered
16 and enforced by a district court of the United States
17 under this section shall first submit a request to the
18 Attorney General or the designee of the Attorney
19 General, which request shall include—

20 “(A) a summary of the facts of the case
21 and a description of the proceedings that re-
22 sulted in the forfeiture or confiscation judg-
23 ment;

24 “(B) a certified copy of the forfeiture or
25 confiscation judgment;

1 “(C) an affidavit or sworn declaration es-
2 tablishing that the foreign nation took steps, in
3 accordance with the principles of due process,
4 to give notice of the proceedings to all persons
5 with an interest in the property in sufficient
6 time to enable such persons to defend against
7 the charges and that the judgment rendered is
8 in force and is not subject to appeal; and

9 “(D) such additional information and evi-
10 dence as may be required by the Attorney Gen-
11 eral or the designee of the Attorney General.

12 “(2) CERTIFICATION OF REQUEST.—The Attor-
13 ney General or the designee of the Attorney General
14 shall determine whether, in the interest of justice, to
15 certify the request, and such decision shall be final
16 and not subject to either judicial review or review
17 under subchapter II of chapter 5, or chapter 7, of
18 title 5 (commonly known as the ‘Administrative Pro-
19 cedure Act’).

20 “(c) JURISDICTION AND VENUE.—

21 “(1) IN GENERAL.—If the Attorney General or
22 the designee of the Attorney General certifies a re-
23 quest under subsection (b), the United States may
24 file an application in the district court of the United
25 States seeking to enforce the foreign forfeiture or

1 confiscation judgment as if the judgment had been
2 entered by a court in the United States.

3 “(2) PROCEEDINGS.—In a proceeding filed
4 under paragraph (1)—

5 “(A) the United States shall be the appli-
6 cant and any person or entity affected by the
7 forfeiture or confiscation judgment shall be the
8 respondent;

9 “(B) venue shall lie in the District Court
10 for the District of Columbia or in any other dis-
11 trict in which any person or entity against
12 whom the foreign forfeiture or confiscation
13 judgment was entered or may be enforced, or in
14 which the property that may be the basis for
15 satisfaction of a judgment under this section
16 may be found;

17 “(C) the United States shall serve process
18 in accordance with the Federal Rules of Civil
19 Procedure and the Supplemental Rules upon
20 such property as may form the basis for satis-
21 faction of the foreign judgment or upon such
22 persons or entities against whom such foreign
23 order may be executed. The United States shall
24 provide written notice to such persons as may
25 be known to the United States to have an inter-

1 est in the property against which the foreign
2 judgment is to be executed and shall publish
3 notice of such enforcement action in a publica-
4 tion generally circulated in the district where
5 the action is filed, in a newspaper or legal no-
6 tice generally circulated in the country that re-
7 quested the United States to forfeit the prop-
8 erty or by posting a notice on an official Inter-
9 net Government forfeiture site for at least 30
10 consecutive days;

11 “(D) any person claiming an interest in
12 the property may file a response to the applica-
13 tion of the United States, except that such re-
14 sponse must be filed not later than 30 days
15 after the date of service of the Government’s
16 application or, as applicable, not later than 30
17 days after the date of final publication of notice
18 of the filing of the application. Such response
19 shall—

20 “(i) identify the specific property
21 being claimed;

22 “(ii) state the respondent’s interest in
23 such property;

24 “(iii) set forth with specificity the
25 basis upon which the foreign judgment

1 should not be enforced in accordance with
2 paragraph (d); and

3 “(iv) be made under oath, subject to
4 penalty of perjury;

5 “(E) the Court, sua sponte, or upon mo-
6 tion of the United States shall strike any re-
7 sponse or any portion of a response lodged pur-
8 suant to subparagraph (D) that does not raise
9 a claim upon which the enforcement of the for-
10 eign judgment could be denied under paragraph
11 (d); and

12 “(F) foreign forfeiture or confiscation
13 judgments certified for enforcement pursuant to
14 subsection (b)(2) shall be presumptively valid
15 and the burden to establish the invalidity of any
16 such foreign judgment shall be upon the re-
17 spondent by clear and convincing evidence.

18 “(d) ENTRY AND ENFORCEMENT OF JUDGMENT.—

19 “(1) IN GENERAL.—The district court shall
20 enter such orders as may be necessary to enforce the
21 foreign forfeiture or confiscation judgment unless
22 the court finds that—

23 “(A) the judgment was rendered under a
24 system that provides tribunals or procedures in-

1 compatible with the requirements of due process
2 of law;

3 “(B) the foreign court lacked personal ju-
4 risdiction over the defendant;

5 “(C) the foreign court lacked jurisdiction
6 over the subject matter;

7 “(D) the foreign nation did not take steps,
8 in accordance with the principles of due proc-
9 ess, to give notice of the proceedings to a per-
10 son with an interest in the property of the pro-
11 ceedings in sufficient time to enable him or her
12 to defend; or

13 “(E) the judgment was obtained by fraud.

14 “(2) PROCESS.—

15 “(A) Foreign forfeiture or confiscation or-
16 ders enforced pursuant to subsection (d)(1)
17 shall have full force and effect as if they were
18 entered in a United States forfeiture pro-
19 ceeding. Upon entry of an order of enforcement
20 pursuant to subsection (d)(1), any interest in
21 property forfeited pursuant to this section shall
22 vest in the United States as of the time of the
23 commission of the offense that gave rise to the
24 foreign order of forfeiture or confiscation.

1 “(B) In the event that a response is not
2 properly filed within the period set forth in sub-
3 section (c)(2)(D), the Court, upon motion of the
4 United States, may enter a default order to en-
5 force the foreign judgment.

6 “(C) The disposition of any assets forfeited
7 to the United States through the enforcement
8 of a foreign forfeiture or confiscation judgment
9 under this section shall be made in the same
10 manner as is authorized for the disposition of
11 assets forfeited to the United States pursuant
12 to sections 981(e) and 981(i) of title 18.

13 “(D) The custodian of property subject to
14 an order issued or obtained pursuant to sub-
15 section (d)(1) or (3) of this section, will be such
16 officers, agents, or other persons as authorized
17 or designated for that purpose under the rel-
18 evant provisions of section 981(d) of title 18.

19 “(3) PRESERVATION OF PROPERTY.—

20 “(A) IN GENERAL.—To preserve the avail-
21 ability of property subject to forfeiture or con-
22 fiscation under foreign law, the Government
23 may apply for, and the court may issue, a pro-
24 tective order utilizing the procedures of sections
25 981(b)(4) or 983(j) of title 18, at any time be-

1 fore or after an application is filed pursuant to
2 subsection (c)(1) of this section regardless
3 whether the foreign forfeiture proceedings insti-
4 tuted or contemplated are civil or criminal in
5 nature.

6 “(B) EVIDENCE.—The court, in issuing a
7 protective order under subparagraph (A)—

8 “(i) may rely on information set forth
9 in an affidavit describing the nature of the
10 proceeding or investigation underway in
11 the foreign nation, and setting forth a rea-
12 sonable basis to believe that the property
13 to be restrained, seized, or otherwise pre-
14 served will be named in a judgment of for-
15 feiture at the conclusion of such pro-
16 ceeding; or

17 “(ii) may register and enforce an
18 order restraining, seizing or otherwise pre-
19 serving property subject to forfeiture that
20 has been issued by a competent legal au-
21 thority in the foreign nation.

22 “(C) LIMIT ON GROUNDS FOR OBJEC-
23 TION.—No person may object to a protective
24 order under subparagraph (A) on any ground
25 that is the subject of parallel litigation involving

1 the same property that is pending in a foreign
2 court.

3 “(e) FINALITY OF FOREIGN FINDINGS.—In entering
4 orders to enforce the judgment, the court shall be bound
5 by the findings of fact to the extent that they are stated
6 in the foreign forfeiture or confiscation judgment.

7 “(f) CURRENCY CONVERSION.—The rate of exchange
8 in effect at the time the decision to enforce the judgment
9 is entered shall be used in calculating the amount stated
10 in any forfeiture or confiscation judgment requiring the
11 payment of a sum of money submitted for registration.

12 “(g) No person shall have any right of action at law
13 or equity against the United States, its officers, employ-
14 ees, or any other person acting on behalf of, or at the
15 direction of the United States, that arises from any action
16 taken pursuant to this section, or the return or release
17 of property restrained, seized, or forfeited pursuant to this
18 section, including, but not limited to, actions for damages,
19 costs, interest, or attorneys fees.”.

20 (b) CONFORMING AMENDMENT.—The item relating
21 to section 2467 in the Chapter Analysis for chapter 163
22 of title 28, United States Code, is amended to read as
23 follows:

“2467. Enforcement of foreign judgments and protective orders.”.

1 **SEC. 362. EXTRATERRITORIAL JURISDICTION.**

2 Section 1956(f)(1) of title 18, United States Code,
3 is amended by inserting “or has an effect in the United
4 States” after “conduct occurs in part in the United
5 States”.

6 **SEC. 363. SUSPENSION OF THE STATUTE OF LIMITATIONS**
7 **TO OBTAIN FOREIGN EVIDENCE.**

8 Section 3292 of title 18, United States Code, is
9 amended by adding the following after subsection (d):

10 “(e) CIVIL FORFEITURES.—In a case in which the
11 United States contemplates filing a civil forfeiture action,
12 the United States may apply to a district court where the
13 action may be filed to suspend the running of the statute
14 of limitations under (19 U.S.C. 1621) pursuant to this
15 section.”.

16 **CHAPTER 3—CIVIL FORFEITURE**

17 **SEC. 371. COMPUTERS AND OTHER DEVICES USED FOR**
18 **COUNTERFEITING.**

19 Section 492 of title 18, United States Code, is
20 amended—

21 (1) by striking the third and fourth undesig-
22 nated paragraphs;

23 (2) by designating the remaining paragraphs as
24 subsections (a) and (b); and

25 (3) by adding the following new subsection after
26 subsection (b):

1 “(c) The provisions of chapter 46 of title 18 relating
2 to civil forfeitures shall extend to any seizure or civil for-
3 feiture under this section.”.

4 **SEC. 372. FUNGIBLE PROPERTY IN BANK ACCOUNTS.**

5 (a) IN GENERAL.—Section 984 of title 18, United
6 States Code, is amended by striking subsection (b) and
7 inserting the following:

8 “(b) The provisions of this section may be invoked
9 only if the action for forfeiture was commenced by the sei-
10 zure or restraint of the property, or by the filing of a com-
11 plaint, within 2 years of the completion of the offense that
12 is the basis for the forfeiture.”.

13 (b) DEFINITION OF FUNGIBLE PROPERTY.—Section
14 984(a) of title 18 is amended—

15 (1) by inserting “, jewels or stones” after “pre-
16 cious metals”; and

17 (2) by striking “as defined in section 20 of this
18 title” and inserting “as defined in section 5312 of
19 title 31”.

20 **SEC. 373. AVAILABILITY OF TAX RECORDS.**

21 (a) IN GENERAL.—Section 6103 of the Internal Rev-
22 enue Code (26 U.S.C. 6103) is amended—

23 (1) in subparagraph (a)(3), by inserting “para-
24 graph 9 of subsection (i)” after “under subsection
25 (e)(1)(D)(iii)”;

1 (2) in subparagraph (i)(1)(A)(i) by inserting
2 “or civil forfeiture statute” after “enforcement of a
3 specifically designated Federal criminal statute”;

4 (3) in subparagraph (i)(1)(B)(iii) by inserting
5 “or civil forfeiture investigation or proceeding” after
6 “Federal criminal investigation or proceeding”;

7 (4) in subparagraph (i)(4)(A) by replacing “or
8 related civil forfeiture” with “or civil forfeiture stat-
9 ute”; and

10 (5) by adding new paragraph (i)(9), after para-
11 graph (i)(8) as follows:

12 “(9) For the purposes of this subsection and
13 subsection (a), an employee of the Department of
14 Justice includes a Government contractor who is
15 personally and directly engaged in the activities de-
16 scribed in this subsection under the direction of the
17 Department of Justice.”.

18 (b) CONFORMING AMENDMENTS.—(1) Section 7213
19 of the Internal Revenue Code (26 U.S.C. 7213) is amend-
20 ed in subparagraph (a)(1) by inserting the following after
21 “employee of the United States” the first time it appears:
22 “, any person described in subsection 6103(i)(9),”.

23 (2) Section 7213A of the Internal Revenue Code (26
24 U.S.C. 7213A) is amended in subparagraph (a)(1)(B) by
25 inserting “(i)(9),” after “described in subsection”.

1 **SEC. 374. CIVIL ORDER TO REPATRIATE ASSETS.**

2 Section 983(j) of title 18 United States Code is
3 amended by adding after paragraph (4) the following—

4 “(5) ORDER TO REPATRIATE AND DEPOSIT.—

5 “(A) IN GENERAL.—Pursuant to its au-
6 thority to enter a pretrial restraining order
7 under this section, the court may order any per-
8 son to repatriate any property that may be
9 seized and forfeited, and to deposit that prop-
10 erty pending trial in the registry of the court,
11 or with the United States Marshals Service or
12 other Government custodian, in an interest-
13 bearing account, if appropriate.

14 “(B) FAILURE TO COMPLY.—Failure to
15 comply with order under this subsection shall
16 be punishable as a civil or criminal contempt of
17 court, and may also result in an enhancement
18 of the sentence of a criminal defendant subject
19 to such an order under the obstruction of jus-
20 tice provision of the Federal Sentencing Guide-
21 lines.”.

22 **SEC. 375. CLARIFICATION OF 18 U.S.C. 3322.**

23 (a) Section 3322(a) of title 18, United States Code,
24 is amended by inserting the following before the period:
25 “, including, but not limited to, disclosing such informa-
26 tion in a complaint, or in an application for a seizure war-

1 rant or restraining order, or for use at any trial or hear-
 2 ing. Disclosure to an attorney for the Government under
 3 this section shall include disclosure to any investigative
 4 agency attorney, and any Government or investigative
 5 agency employee or contractor engaged in assisting the at-
 6 torney to whom the information is disclosed in the conduct
 7 of civil or criminal forfeiture proceedings”.

8 (b) Subsection 3322(d)(1)(A) is amended—

9 (1) by deleting “or”; and

10 (2) by inserting after “1957”: “, or 1960”.

11 **SEC. 376. INAPPLICABILITY OF LIABILITY FOR ATTORNEYS**

12 **FEEES IN INTERNATIONAL MONEY LAUN-**
 13 **DERING CASES.**

14 Section 2465 of title 28, United States Code, is
 15 amended by adding at the end the following:

16 “(c) The United States is not liable for attorneys fees
 17 or other litigation costs pursuant to subsection (b)(1) if—

18 “(1) the forfeiture action involved the move-
 19 ment of funds across an international border or into
 20 or out of an account at a foreign financial institu-
 21 tion and the Government established the forfeit-
 22 ability of the property pursuant to the applicable
 23 statute by a preponderance of the evidence; or

24 “(2) the Government restrained or seized prop-
 25 erty, or filed a forfeiture action, pursuant to section

1 981(b)(4) of title 18, or section 2467 of this title,
2 in accordance with a request from a foreign Govern-
3 ment or international authority.”.

4 **SEC. 377. VENUE FOR PRISONER CHALLENGES TO SEIZURE**
5 **OF CRIME PROCEEDS.**

6 (a) IN GENERAL.—Section 983(e) of title 18, United
7 States Code, is amended—

8 (1) in paragraph (3), by adding at the end the
9 following: “If the person filing the motion was a de-
10 fendant in a criminal prosecution related to the sei-
11 zure of the property, the motion must be filed in the
12 district where such prosecution took place, or in the
13 district where the property was seized.”; and

14 (2) by adding the following new paragraph at
15 the end:

16 “(6) Any person entitled to written notice in a
17 judicial forfeiture proceeding under a civil forfeiture
18 statute who does not receive such notice may file a
19 motion to set aside the judgment of forfeiture with
20 respect to that person’s interest in the property in
21 accordance with the procedures for setting aside a
22 nonjudicial forfeiture, as set forth in paragraphs (1)
23 through (5).”.

24 (b) EFFECTIVE DATE.—The provisions of section
25 983(e), United States Code, as amended by Public Law

1 106–185, shall apply to any motion to set aside a declara-
2 tion or judgment of forfeiture where such motion is filed
3 on or after August 23, 2000.

4 **SEC. 378. AFFORDING PROPERTY OWNERS A HEARING ON**
5 **THE SEIZURE OF REAL PROPERTY.**

6 Section 985(e) of title 18, United States Code, is
7 amended by striking “shall conduct a prompt postseizure
8 hearing during which the property owner shall have an
9 opportunity to contest the basis for the seizure” and in-
10 sserting “shall afford the property owner an opportunity
11 for a prompt postseizure hearing to determine whether
12 there was probable cause for the seizure”.

13 **SEC. 379. JURISDICTION OF MAGISTRATES.**

14 Section 636(a) of title 28, United States Code, is
15 amended—

16 (1) in paragraph (4), by striking “and” after
17 the semicolon;

18 (2) in paragraph (5), by striking the period and
19 inserting “; and”; and

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

21 “(6) all powers and duties conferred or imposed
22 upon the courts by sections 981–86 of title 18,
23 United States Code, in connection with forfeiture
24 proceedings, but not including the conduct of the
25 trial.”.

1 **SEC. 380. MINOR AMENDMENTS TO THE CIVIL ASSET FOR-**
2 **FEITURE REFORM ACT OF 2000.**

3 (a) CRIMINAL INFORMATION.—Sections
4 983(a)(3)(B)(ii) and 983(a)(3)(C) of title 18, United
5 States Code, are amended by striking “criminal indict-
6 ment” each time it appears and inserting “criminal indict-
7 ment or information”.

8 (b) SECTION 981.—Section 981 of title 18, United
9 States Code, is amended by adding after subsection (k)
10 the following:

11 “(l) The procedural provisions of this section shall
12 apply to any civil forfeiture statute, as that term is defined
13 in section 983(i), except where inconsistent with a provi-
14 sion relating to civil forfeiture procedure that is part of
15 such statute.”.

16 (c) INCARCERATED PERSONS.—Section 983(a)(1)(F)
17 of title 18, United States Code, is amended by inserting
18 the following before the period at the end of the last sen-
19 tence: “; nor shall the Government be required to return
20 property to a person who is incarcerated”.

21 (d) TURNOVER ORDERS.—Section 983(a)(1)(A)(iv)
22 of title 18, United States Code, is amended by adding at
23 the end the following: “In jurisdictions where the State
24 or local law enforcement agency must obtain an order
25 from a State court authorizing the turnover, the period
26 from the date the law enforcement agency applies for the

1 turnover order to the date when such order is issued by
2 the court shall not be included in the 90-day period.”.

3 (e) CLARIFICATION OF DEADLINE FOR CONTESTING
4 NONJUDICIAL FORFEITURE.—Section 983(a)(2)(B) of
5 title 18, United States Code, is amended by striking “is
6 not received” and inserting “is returned to the sender un-
7 delivered”.

8 (f) ENDANGERED SPECIES AND OTHER CONTRA-
9 BAND.—Section 983(d)(4) of title 18, United States Code,
10 is amended by—

11 (1) inserting “(A)” before “Notwithstanding”;

12 and

13 (2) inserting at the end the following:

14 “(B) The term ‘property that it is illegal
15 to possess’ as used in (A) includes, but is not
16 limited to—

17 “(i) animals or animal products that
18 are illegal for the claimant to possess
19 under any law enacted to conserve or pro-
20 tect endangered species or other wildlife or
21 natural resources;

22 “(ii) historic or cultural artifacts,
23 works of art, archaeological or paleontolog-
24 ical resources, human remains, fossils and
25 other things that are illegal for the claim-

1 ant to possess under any law enacted to
2 preserve, protect, recover, or restore his-
3 toric or cultural resources; and

4 “(iii) any firearm, ammunition, explo-
5 sive, or chemical agent used to commit a
6 crime of violence.”.

7 (g) TOLLING TIME FOR FILING COMPLAINT.—Sec-
8 tion 983(a)(3) of title 18, United States Code, is amended
9 by adding the following after subparagraph (D):

10 “(E) If a person claiming an interest in
11 the seized property files a claim pursuant to
12 paragraph (2), but there is a bona fide dispute
13 as to whether the claim was timely filed or was
14 in the proper form, the time for resolving such
15 dispute shall not be counted within the time for
16 filing a complaint under this paragraph.”.

17 (h) STATUTE OF LIMITATIONS.—Section 1621 of
18 title 19, United States Code, is amended by striking
19 “whichever was later” and inserting “whichever time pe-
20 riod would result in the later deadline”.

21 (i) TEMPORARY RESTRAINTS IN INTERNATIONAL
22 CASES.—Section 981(b)(4) of title 18, United States
23 Code, is amended by striking “30 days” and inserting “90
24 days”.

1 (j) DISPOSITION OF FORFEITED PROPERTY.—Sec-
2 tion 981(e) of title 18, United States Code, is amended—

3 (1) by revising the introductory language pre-
4 ceding paragraph (1) to read as follows:

5 “(e) Notwithstanding any other provision of the law,
6 except section 3 of the Anti-Drug Abuse Act of 1986
7 (Public Law 99–570, 3, 100 Stat. 3207–1), the Archeo-
8 logical Resources Protection Act of 1979 (16 U.S.C.
9 470aa et seq. and 18 U.S.C. 1370), and the Native Amer-
10 ican Graves Protection and Repatriation Act (25 U.S.C.
11 3001 et seq.), the Attorney General, the Secretary of
12 Homeland Security, the Secretary of the Treasury, the
13 Secretary of the Interior, or the Postal Service, as the case
14 may be, is authorized to retain property forfeited pursuant
15 to this section, to sell, by public sale or any other commer-
16 cially feasible means, such forfeited property which is not
17 required to be destroyed by law and which is not harmful
18 to the public, or to transfer such forfeited property on
19 such terms and conditions as the appropriate agency may
20 determine—”; and

21 (2) by adding at the end the following: “Not-
22 withstanding any other provision of law, the United
23 States is authorized to retain property forfeited in
24 accordance with this section that may be used as

1 evidence in a criminal proceeding throughout the
2 pendency of such proceeding.”.

3 **SEC. 381. PROPERTY DETAINED AT THE BORDER.**

4 Section 983(a)(1) of title 18, United States Code, is
5 amended—

6 (1) in subparagraph (A), by adding after clause
7 (v) the following:

8 “(vi) In cases where property is de-
9 tained at an international border or port of
10 entry for the purpose of examination, test-
11 ing, inspection, obtaining documentation,
12 or other investigation relating to the im-
13 portation of the property into, or the ex-
14 portation of the property out of, the
15 United States, such period of detention
16 shall not be included in the 60-day period
17 described in clause (i). In such cases, the
18 60-day period shall begin to run when the
19 period of detention is concluded.”; and

20 (2) in subparagraph (D)—

21 (A) by striking “or” at the end of clause
22 (iv);

23 (B) by redesignating clause (v) as clause
24 (vi); and

1 (C) by inserting the following after clause

2 (iv):

3 “(v) initiation of a forfeiture pro-
4 ceeding before the seizing agency has re-
5 ceived the results of a scientific test or lab-
6 oratory analysis of the seized property that
7 is material to the determination whether
8 the property is subject to forfeiture; or”.

9 **SEC. 382. OBSTRUCTION OF JUSTICE.**

10 Section 2232(b) of title 18, United States Code, is
11 amended to read as follows:

12 “(b) IMPAIRMENT OF JURISDICTION OVER PROP-
13 ERTY.—Whoever—

14 “(1) knowing that a United States court has
15 exercised, or is about to exercise, jurisdiction over
16 property for purposes of forfeiture under Federal
17 law; or

18 “(2) knowing that property has been alleged to
19 be forfeitable in any civil or criminal proceeding
20 pending in any United States court,

21 destroys, damages, wastes, disposes of, transfers, or takes
22 any other action with respect to such property for the pur-
23 pose of impairing, frustrating, or defeating the court’s ju-
24 risdiction over the property, without authority from that
25 court, or attempts or conspires to do so, shall be fined

1 under this title or imprisoned not more than 5 years, or
2 both.”.

3 **SEC. 383. SOURCE OF PAYMENT FOR ATTORNEY’S FEES.**

4 Section 2465 of title 28, United States Code, as
5 amended by this Act, is further amended by adding at the
6 end the following:

7 “(d)(1) Any amounts for which the United States is
8 found to be liable pursuant to subsection (b) shall be paid
9 from the Judgment Fund (28 U.S.C. 1304).

10 “(2) The amount of any attorney fees and other liti-
11 gation costs for which the United States is found to be
12 liable pursuant to subsection (b) shall be calculated in ac-
13 cordance with the provision for calculating such amounts
14 under the Equal Access to Justice Act (28 U.S.C. 2412).”.

15 **SEC. 384. EXCESSIVE FINES CHALLENGES.**

16 Section 983(g) of title 18, United States Code, is
17 amended—

18 (1) in paragraph (1), by striking “The claimant
19 under subsection (a)(4)” and inserting “An owner
20 who files a claim under subsection (a)(4)”; and

21 (2) in paragraph (3), by striking “claimant”
22 and inserting “owner”.

23 **SEC. 385. PAYMENT IN LIEU OF FORFEITURE.**

24 Section 981 of title 18, United States Code, is
25 amended by adding at the end the following:

1 “(1) PAYMENT IN LIEU OF FORFEITURE.—If a finan-
2 cial institution or other person pays a sum of money to
3 the United States—

4 “(1) in lieu of the commencement of forfeiture
5 proceedings; or

6 “(2) in settlement of such forfeiture pro-
7 ceedings if commenced,
8 such sum of money shall be treated as forfeited funds and
9 disposed of according to subsection (e).”.

10 **SEC. 386. STATUTORY STANDING.**

11 Section 983(a)(4) of title 18, United States Code, is
12 amended by striking “any person claiming an interest”
13 and inserting “any person with an ownership interest as
14 described in subsection (d)”.

15 **SEC. 387. UPDATING THE CROSS REFERENCE TO FOR-**
16 **FEITURE PROCEDURES.**

17 Section 2513 of title 18, United States Code, is
18 amended by striking everything after the first sentence
19 and inserting the following: “The procedures set forth in
20 Chapter 46 of this title shall apply to civil forfeitures
21 under this section.”.

22 **SEC. 388. PROTECTING THE RIGHTS OF VICTIMS.**

23 Section 983(d) of title 18, United States Code, is
24 amended by inserting after paragraph (6) the following:

1 “(7)(A) In determining whether a claimant is
2 an owner under paragraph (6), the court may not
3 recognize or impose a constructive trust or other eq-
4 uitable remedy if doing so would—

5 “(i) disadvantage other persons who are
6 similarly situated, including other victims of the
7 same offense who did not file claims in the for-
8 feiture proceeding or who cannot trace their
9 property to the property subject to forfeiture; or

10 “(ii) would otherwise interfere with the
11 ability of the Attorney General, the Secretary of
12 Homeland Security, the Secretary of the Treas-
13 ury, or the Postmaster General of the United
14 States Postal Service to distribute the property
15 subject to forfeiture on an equitable basis to the
16 victims of an offense pursuant to sections
17 981(d) or 981(e)(6), or any other provision of
18 law.

19 “(B) For the purposes of this paragraph, the
20 court may consider a person to be the beneficiary of
21 a constructive trust only if—

22 “(i) the person transferred property to a
23 third party, and that property is traceable to
24 the property that is subject to forfeiture;

1 “(ii) the person was induced to transfer
2 the property to the third party by fraud or false
3 pretenses;

4 “(iii) the person who transferred the prop-
5 erty has ‘clean hands’ as that term is applied
6 by a court of equity;

7 “(iv) the person had a confidential or fidu-
8 ciary relationship with the person to whom
9 property was transferred; and

10 “(v) the person who transferred the prop-
11 erty lacks an adequate remedy at law, including
12 the right to seek remission or restoration of the
13 property pursuant to regulations issued by the
14 Attorney General.”.

15 **SEC. 389. OTHER MINOR AND TECHNICAL AMENDMENTS.**

16 (a) DESTRUCTION OF PROPERTY OF LITTLE OR NO
17 VALUE.—

18 (1) Section 413(h) of the Controlled Substances
19 Act (21 U.S.C. 853(h)) is amended by striking
20 “shall direct the disposition of the property” and in-
21 serting “shall direct the disposition or destruction of
22 the property”.

23 (2) Section 981(e) of title 18, United States
24 Code, is amended by striking “is authorized to re-
25 tain property forfeited pursuant to this section” and

1 inserting “is authorized to retain or destroy property
2 forfeited pursuant to this section”.

3 (b) ADMINISTRATIVE FORFEITURE OF FUNDS.—Sec-
4 tion 1607(a) of title 19, United States Code, is amended
5 by:

6 (1) striking “or” at the end of paragraph (3);

7 (2) inserting “or” after the semicolon at the
8 end of paragraph (4); and

9 (3) inserting after paragraph (4) the following:

10 “(5) such seized merchandise comprises funds
11 held in an account at a financial institution (as de-
12 fined in section 5312(a)(2) of title 31); or

13 “(6) such seized merchandise comprises funds
14 stored on a stored value card or other portable stor-
15 age device or funds held in an account at a financial
16 institution (as defined in section 5312(a)(2) of title
17 31) where such funds may be accessed by a stored
18 value card or other portable storage device;”.

19 (c) EXPLOSIVES.—Section 844(e)(1) of title 18,
20 United States Code, is amended by striking “, and all pro-
21 visions of the Internal Revenue Code of 1986 relating to
22 the seizure, forfeiture, and disposition of firearms, as de-
23 fined in section 5845(a) of that Code, shall, so far as ap-
24 plicable, extend to seizures and forfeitures under the pro-
25 visions of this chapter”.

1 (d) CONFORMING SECTION 924(d) TO CAFRA.—Sec-
2 tion 924(d) of title 18, United States Code, is amended—

3 (1) in subsection (d)(1) by striking “, and all
4 provisions of the Internal Revenue Code of 1986 re-
5 lating to the seizure, forfeiture, and disposition of
6 firearms, as defined in section 5845(a) of that Code,
7 shall, so far as applicable, extend to seizures and
8 forfeitures under the provisions of this chapter”;

9 (2) in subsection (d)(1) by striking “Any action
10 or proceeding for the forfeiture of firearms or am-
11 munition shall be commenced within one hundred
12 and twenty days of such seizure.”; and

13 (3) by striking subsection (d)(2) and redesignig-
14 nating subsection (d)(3) as subsection (d)(2).

15 (e) INTERNAL REVENUE SERVICE.—Section 5872 of
16 the Internal Revenue Code of 1986, is amended in sub-
17 section (a) by striking “, and (except as provided in sub-
18 section (b)) all the provisions of the internal revenue laws
19 relating to searches, seizures, and forfeitures of
20 unstamped articles are extended to and made to apply to
21 the articles taxed under this chapter, and the persons to
22 whom this chapter applies.”

23 (f) CONFORMING AMENDMENTS TO RULE G.—

1 (1) Section 983(a)(4)(A) of title 18, United
2 States Code, is amended by striking “except that
3 such claim” and all that follows, up to the period.

4 (2) Section 985(c)(1)(C) of title 18, United
5 States Code, is amended to read as follows:

6 “(C) sending notice to the property owner,
7 along with a copy of the complaint, in the man-
8 ner described in rule G(4)(b) of the Supple-
9 mental Rules for Admiralty or Maritime and
10 Asset Forfeiture Claims.”.

11 (3) Chapter 46 of title 18, United States Code,
12 is amended by striking “Supplemental Rules for
13 Certain Admiralty and Maritime Claims” and insert-
14 ing “Supplemental Rules for Admiralty or Maritime
15 and Asset Forfeiture Claims” each time it appears.

16 **SEC. 390. FRIVOLOUS CLAIMS BY PRISONERS.**

17 (a) IN GENERAL.—Section 1915(g) of title 28,
18 United States Code is amended by adding the following
19 at the end: “Motions and other actions seeking the return
20 of administratively, civilly, or criminally forfeited property,
21 or otherwise collaterally attacking a forfeiture declaration,
22 order, or judgment, shall be considered civil actions for
23 purposes of this subsection.”.

24 (b) SECTION 983(h).—Section 983(h)(3) of title 18,
25 United States Code, is amended to read as follows:

1 “(3) In addition to the limitations of section
2 1915 of title 28, United States Code, in no event
3 shall a prisoner—

4 “(A) file a claim under a civil forfeiture
5 statute;

6 “(B) appeal a judgment in a civil action or
7 proceeding based on a civil forfeiture statute;

8 “(C) move for return of administratively,
9 civilly, or criminally forfeited property;

10 “(D) otherwise collaterally attack a for-
11 feiture declaration, order, or judgment; or

12 “(E) appeal from the denial of any such
13 motion or collateral attack,

14 if the prisoner has, on 3 or more prior occasions,
15 while incarcerated or detained in any facility,
16 brought an action or appeal in a court of the United
17 States that was dismissed on the grounds that it is
18 frivolous or malicious, unless the prisoner shows ex-
19 traordinary and exceptional circumstances.”.

1 **TITLE IV—DRUG TRAFFICKING**
2 **ENFORCEMENT**
3 **Subtitle A—Regulation of Analogue**
4 **Substances**

5 **SEC. 401. SHORT TITLE.**

6 This title may be cited as the “Controlled Substances
7 Analogue Reform Act”.

8 **SEC. 402. IDENTIFICATION OF ANALOGUES.**

9 (a) DEFINITION OF CONTROLLED SUBSTANCE ANA-
10 LOGUE.—Section 102(32) of the Controlled Substances
11 Act (21 U.S.C. 802) is amended by striking subparagraph
12 (A) and inserting the following:

13 “(A)(i) Except as provided in subparagraph
14 (C), the term ‘controlled substance analogue’ means
15 a substance that meets 1 or more of the following
16 criteria:

17 “(I) The chemical structure is substan-
18 tially similar to the chemical structure of a con-
19 trolled substance in schedule I or II and either
20 one of the following:

21 “(aa) The substance has a stimulant,
22 depressant, or hallucinogenic effect on the
23 central nervous system that is substantially
24 similar to, or greater than the stimulant,
25 depressant, or hallucinogenic effect on the

1 central nervous system of a controlled sub-
2 stance in schedule I or II.

3 “(bb) With respect to a particular
4 transaction or proposed transaction, a per-
5 son represents or intends that the sub-
6 stance has a stimulant, depressant, or hal-
7 lucinogenic effect on the central nervous
8 system that is substantially similar to, or
9 greater than the stimulant, depressant, or
10 hallucinogenic effect on the central nervous
11 system of a controlled substance in sched-
12 ule I or II.

13 “(II) The substance is listed in section
14 203(b).

15 “(III) The substance has been designated
16 by the Attorney General, by rule, in accordance
17 with section 553 of title 5, as meeting at least
18 1 of the following criteria:

19 “(aa) The chemical structure of the
20 substance is substantially similar to the
21 chemical structure of a controlled sub-
22 stance in schedule I or II.

23 “(bb) The substance meets the defini-
24 tion of a phenethylamine or a tryptamine

1 under (paragraph (3) or (4) of section
2 203(b)).

3 “(ii) No inference is intended or may be drawn
4 by the failure of the Attorney General to designate
5 a substance as an analogue under this subsection.
6 The Attorney General is authorized to remove any
7 substance from the list of analogues pursuant to his
8 rulemaking authority.”.

9 (b) CONGRESSIONAL DESIGNATION OF SUBSTANCES
10 AS ANALOGUES.—Section 203 of the Controlled Sub-
11 stances Act (21 U.S.C. 813) is amended—

12 (1) by inserting “(a)” before the text in section
13 813; and

14 (2) by inserting at the end the following:

15 “(b) The following substances shall be deemed con-
16 trolled substance analogues as that term is used in 21
17 U.S.C. 802(32)(A), and shall, to the extent intended for
18 human consumption, be treated for the purposes of any
19 Federal law as a controlled substance in schedule I:

20 “(1) Gamma butyrolactone (GBL).

21 “(2) 1,4-butanediol.

22 “(3) Phenethylamines, meaning any
23 phenethylamine that meets 1 or more of the fol-
24 lowing conditions:

1 “(A) Any compound structurally derived
2 from phenethylamine.

3 “(B) Any compound structurally derived
4 from any N-alkylphenethylamine, any alpha-
5 alkylphenethylamine, or any N-alkyl-alpha-
6 alkylphenethylamine, by substitution on the
7 ring to any extent with alkyl, cycloalkyl,
8 cycloalkenyl, alkoxy, alkylthio, alkylhalide,
9 alkylenedioxy, acyloxy, or halide substituents,
10 whether or not further substituted on the ring
11 by 1 or more other univalent substituents.

12 “(4) Tryptamines, meaning any tryptamine that
13 meets 1 or more of the following conditions:

14 “(A) Has a secondary or tertiary amine
15 formed by the substitution on the nitrogen
16 atom of the 2-aminoethyl chain by various alkyl
17 groups, whether in chain, or ring form (for ex-
18 ample, N-alkyltryptamine, N,N-dialkyltrypt-
19 amine, N,N-tetramethylenetryptamine).

20 “(B) Has an alkyl substitution on the
21 alpha position of the 2-aminoethyl chain (alpha-
22 methyltryptamine or alpha-ethyltryptamine).

23 “(C) Has substituents on the indole ring
24 system, including, but not restricted to, various
25 alkyl chains, halogens, hydroxyl, alkoxy, acetyl,

1 or alkylthio groups, at 1 or more positions ex-
2 cept the 1 (indole nitrogen) position.”.

3 (c) SEVERABILITY.—If a provision of this section is
4 held invalid, all valid provisions that are severable shall
5 remain in effect. If a provision is held invalid in 1 or more
6 of its applications, the provision shall remain in effect in
7 all its valid applications that are severable.

8 **Subtitle B—Clarification of Venue**
9 **for Certain Drug Trafficking Of-**
10 **fenses**

11 **SEC. 411. CLARIFICATION OF VENUE FOR CERTAIN DRUG**
12 **TRAFFICKING OFFENSES.**

13 Section 1009 of the Controlled Substances Import
14 and Export Act (21 U.S.C. 959) is amended to read as
15 follows:

16 “POSSESSION, MANUFACTURE, OR DISTRIBUTION OF
17 CONTROLLED SUBSTANCE

18 “SEC. 1009. (a) It shall be unlawful for any person
19 to manufacture or distribute a controlled substance in
20 schedule I or II or flunitrazepam or listed chemical—

21 “(1) intending that such substance or chemical
22 will be unlawfully imported into the United States or
23 into waters within a distance of 12 miles of the
24 coast of the United States; or

25 “(2) knowing that such substance or chemical
26 will be unlawfully imported into the United States or

1 into waters within a distance of 12 miles of the
2 coast of the United States.

3 “(b) POSSESSION, MANUFACTURE, OR DISTRIBUTION
4 BY PERSON ON BOARD AIRCRAFT.—It shall be unlawful
5 for any United States citizen on board any aircraft, or
6 any person on board an aircraft owned by a United States
7 citizen or registered in the United States, to—

8 “(1) manufacture or distribute a controlled sub-
9 stance or listed chemical; or

10 “(2) possess a controlled substance or listed
11 chemical with intent to distribute.

12 “(c) ATTEMPT OR CONSPIRACY TO COMMIT OF-
13 FENSE.—Any person who attempts or conspires to commit
14 any offense defined in this section shall be subject to the
15 same penalties as those prescribed for the offense, the
16 commission of which was the object of the attempt or con-
17 spiracy.

18 “(d) ACTS COMMITTED OUTSIDE TERRITORIAL JU-
19 RISDICTION OF UNITED STATES.—This section is in-
20 tended to reach acts of manufacture or distribution com-
21 mitted outside the territorial jurisdiction of the United
22 States, including acts in furtherance of a conspiracy or
23 attempt. This section shall apply even if some acts related
24 to the conspiracy or attempt were committed within the
25 United States.

1 “(e) VENUE.—Any person who violates this section
 2 shall be tried in the United States district court at the
 3 point of entry where such person enters the United States,
 4 or in the United States District Court for the District of
 5 Columbia. A prosecution for an attempt or conspiracy of-
 6 fense under this section shall be tried in the United States
 7 district court at the point of entry where such person en-
 8 ters the United States, or in the United States District
 9 Court for the District of Columbia.”.

10 **TITLE V—CRIMINAL**
 11 **RESTITUTION IMPROVEMENT**

12 **SEC. 501. MANDATORY RESTITUTION FOR FEDERAL OF-**
 13 **FENSES.**

14 Title 18, United States Code, is amended by striking
 15 section 3663 and all that follows through section 3664 and
 16 inserting the following:

17 **“§ 3663. Mandatory restitution**

18 “(a) RESTITUTION REQUIRED.—The court shall
 19 order a convicted defendant to make restitution for all pe-
 20 cuniary loss to identifiable victims, including pecuniary
 21 loss resulting from physical injury to, or the death of, an-
 22 other, proximately resulting from the offense.

23 “(b) TO WHOM MADE.—

24 “(1) GENERALLY.—The court shall order res-
 25 titution be made to each victim of the offense.

1 “(2) DEFINITION OF VICTIM.—As used in this
2 section and section 3664, the term ‘victim’ means—

3 “(A) each identifiable person or entity suf-
4 fering the pecuniary loss (and any successor to
5 that person or entity); and

6 “(B) others, as agreed to in a plea agree-
7 ment or otherwise provided by law.

8 “(c) EXTENT OF RESTITUTION.—Restitution shall
9 compensate the victim for all of the victim’s pecuniary
10 loss, including—

11 “(1) an amount equal to the greater of the
12 value of the property on the date of the damage,
13 loss, or destruction or the value of the property on
14 the date of sentencing;

15 “(2) an amount equal to the cost of necessary
16 medical and related professional services and devices
17 relating to physical, psychiatric, and psychological
18 care, including nonmedical care and treatment ren-
19 dered in accordance with a method of healing recog-
20 nized by the law of the place of treatment;

21 “(3) an amount equal to the cost of necessary
22 physical and occupational therapy and rehabilitation;

23 “(4) income lost by such victim as a result of
24 such offense;

1 “(5) lost income and necessary child care,
2 transportation, and other expenses incurred during
3 participation in the investigation or prosecution of
4 the offense or attendance at proceedings related to
5 the offense, including attorneys’ fees necessarily and
6 reasonably incurred for representation of the victim
7 except for payment of salaries of government law-
8 yers; and

9 “(6) in the case of an offense resulting in the
10 death of the victim, an amount equal to the cost of
11 necessary funeral and related services.

12 “(d) SPECIAL RULE FOR MISDEMEANORS.—In the
13 case of a misdemeanor, an order of restitution may be in
14 lieu of any other penalty.

15 “(e) ALTERNATIVE ARRANGEMENTS IN LIGHT OF
16 PRACTICAL PROBLEMS.—The court shall provide as com-
17 plete a restitution to as many victims as possible, though
18 not the full restitution to all victims otherwise required
19 by this section, to the extent the court finds on the record
20 that—

21 “(1) the number of identifiable victims is so
22 large as to make restitution impracticable; or

23 “(2) determining complex issues of fact related
24 to the cause or amount of a victim’s losses would
25 complicate or prolong the sentencing process to such

1 a degree that the need to provide restitution to that
2 victim is outweighed by the burden on the sen-
3 tencing process.

4 **“§ 3664. Procedure for issuance and enforcement of**
5 **order of restitution**

6 “(a) REPORT BY PROBATION OFFICER.—

7 “(1) DUTY TO MAKE.—The probation officer
8 shall obtain and include in the presentence report, or
9 in a separate report, as the court may direct, infor-
10 mation sufficient for the court to fashion a restitu-
11 tion order.

12 “(2) CONTENTS.—The report shall include, to
13 the extent practicable, a complete accounting of the
14 losses to each victim, any restitution owed pursuant
15 to a plea agreement, and information relating to the
16 economic circumstances of each defendant. If the
17 number or identity of victims cannot be reasonably
18 ascertained, or other circumstances exist that make
19 this requirement impracticable, the probation officer
20 shall so inform the court and make the best efforts
21 possible to estimate the loss and identify the victims.

22 “(b) DISCLOSURE TO PARTIES.—The court shall dis-
23 close to the defendant, the attorney for the Government,
24 and, upon request, potential recipients of restitution, all

1 portions of the presentence or other report pertaining to
2 the matters described in subsection (a).

3 “(c) INFORMATION FROM ATTORNEY FOR THE GOV-
4 ERNMENT.—The attorney for the Government shall pro-
5 vide to the probation officer any information the Attorney
6 for the Government has relevant to the matters required
7 to be reported under subsection (a).

8 “(d) NOTICE TO VICTIMS.—The probation officer
9 shall, before submitting the presentence report under sub-
10 section (a), to the extent practicable—

11 “(1) provide notice to all identified victims of—

12 “(A) the offense or offenses of which the
13 defendant was convicted;

14 “(B) the amounts subject to restitution
15 submitted to the probation officer;

16 “(C) the opportunity of the victim to sub-
17 mit information to the probation officer con-
18 cerning the amount of the victim’s losses;

19 “(D) the scheduled date, time, and place of
20 the sentencing hearing;

21 “(E) the availability of a lien in favor of
22 the victim; and

23 “(F) the opportunity of the victim to file
24 with the probation officer a separate affidavit

1 relating to the amount of the victim's losses
2 subject to restitution; and

3 “(2) provide the victim with an affidavit form
4 to submit pursuant to paragraph (1)(F).

5 “(e) DEFENDANT’S AFFIDAVIT AS TO FINANCES.—
6 Each defendant shall prepare and file with the probation
7 officer an affidavit fully describing the financial resources
8 of the defendant, including a complete listing of all assets
9 owned or controlled by the defendant as of the date on
10 which the defendant was arrested, the financial needs and
11 earning ability of the defendant and the defendant’s de-
12 pendants, and such other information that the court re-
13 quires relating to such other factors as the court deems
14 appropriate.

15 “(f) ADDITIONAL DOCUMENTATION OR TESTI-
16 MONY.—After reviewing the report of the probation offi-
17 cer, the court may require additional documentation or
18 hear testimony. The privacy of any records filed, or testi-
19 mony heard, pursuant to this section shall be maintained
20 to the greatest extent possible, and such records may be
21 filed or testimony heard in camera.

22 “(g) DATE FOR FINAL DETERMINATION.—If a vic-
23 tim’s losses are not ascertainable by the date that is 10
24 days before sentencing, the attorney for the Government
25 or the probation officer shall so inform the court, and the

1 court shall set a date for the final determination of the
2 victim's losses, not to exceed 90 days after sentencing. If
3 the victim subsequently discovers further losses, the victim
4 shall have 60 days after discovery of those losses in which
5 to petition the court for an amended restitution order.
6 Such order may be granted only upon a showing of good
7 cause for the failure to include such losses in the initial
8 claim for restitution.

9 “(h) REFERRAL TO MAGISTRATE OR SPECIAL MAS-
10 TER.—The court may refer any issue arising in connection
11 with a proposed order of restitution to a magistrate judge
12 or special master for proposed findings of fact and rec-
13 ommendations as to disposition, subject to a de novo de-
14 termination of the issue by the court.

15 “(i) BURDENS OF PROOF.—Any dispute as to the
16 proper amount or type of restitution shall be resolved by
17 the court by the preponderance of the evidence. The bur-
18 den of demonstrating the amount of the loss sustained by
19 a victim of restitution as a result of the offense shall be
20 on the attorney for the Government. The burden of dem-
21 onstrating the financial resources of the defendant and the
22 financial needs of the defendant's dependents, shall be on
23 the defendant. The burden of demonstrating such other
24 matters as the court deems appropriate shall be upon the
25 party designated by the court as justice requires.

1 “(j) ORDER OF PAYMENT.—

2 “(1) Upon determination of the amount of res-
3 titution owed to each victim, the court shall order
4 that the full amount of restitution is due and pay-
5 able immediately.

6 “(2) The court shall specify in the restitution
7 order the manner in which the restitution is to be
8 paid. The court may provide for payment in install-
9 ments according to a schedule. The length of time
10 over which scheduled payments are established shall
11 be the shortest time in which full payment reason-
12 ably can be made and based on—

13 “(A) the financial resources and other as-
14 sets of the defendant, including whether any of
15 these assets are jointly controlled;

16 “(B) projected earnings and other income
17 of the defendant; and

18 “(C) any financial obligations of the de-
19 fendant; including obligations to dependents.

20 “(3) The court may direct the defendant to
21 take any action, including the repatriation of assets
22 or the surrender of the interest of the defendant in
23 any asset, in order to pay restitution in accordance
24 with this section.

1 “(4) The Attorney General may collect and
2 apply unreported or otherwise newly available assets
3 to the payment of restitution, without regard to any
4 installment payment provisions.

5 “(k) ORDER AS FINAL JUDGMENT.—A sentence that
6 imposes an order of restitution is a final judgment not-
7 withstanding the fact that—

8 “(1) such a sentence can subsequently be—

9 “(A) corrected under Rule 35 of the Fed-
10 eral Rules of Criminal Procedure and section
11 3742 of chapter 235 of this title;

12 “(B) appealed and modified under section
13 3742;

14 “(C) amended under subsection (g); or

15 “(D) adjusted under section 3664(q),
16 3572, or 3613A; or

17 “(2) the defendant may be resentenced under
18 section 3565 or 3614.

19 “(l) JOINT AND SEVERAL RESPONSIBILITY.—If the
20 offense involves more than one defendant, the court may
21 order each defendant jointly and severally liable for any
22 or all of the restitution.

23 “(m) SUPERVISED RELEASE.—A court shall not ter-
24 minate a term of supervised release under section 3583(e)
25 before the order to pay restitution has been completely

1 satisfied. A court shall extend a term of supervised release
2 beyond that otherwise imposed under other provisions of
3 law, until the defendant has paid the restitution in full
4 or the court determines the economic circumstances of the
5 defendant do not allow the payment of any further restitu-
6 tion. Such determination is only for the purposes of this
7 subsection and does not affect the obligation to pay res-
8 titution or the ability of any entity to enforce restitution
9 under any other provision of law. If the supervised release
10 is extended under this subsection, the court shall order
11 that the sole condition of supervised release shall be pay-
12 ment of restitution.

13 “(n) EFFECT OF INSURANCE AND OTHER COM-
14 PENSATION.—

15 “(1) INSURANCE.—In no case shall the fact
16 that a victim receives or is entitled to receive com-
17 pensation with respect to a loss from insurance or
18 any other source be considered in determining the
19 amount of restitution. If a victim receives compensa-
20 tion from insurance or any other source with respect
21 to a loss, the court shall order that restitution be
22 paid to the person who provided or is obligated to
23 provide the compensation, but the restitution order
24 shall provide that all victims be paid before such a
25 provider of compensation.

1 “(2) OTHER COMPENSATION.—Any amount
2 paid to a victim under an order of restitution shall
3 be reduced by any amount later recovered as com-
4 pensatory damages for the same loss by the victim
5 in—

6 “(A) any Federal civil proceeding; and

7 “(B) any State civil proceeding, to the ex-
8 tent provided by the law of the State.

9 “(o) DETAILS OF PAYMENTS.—

10 “(1) MINIMUM PAYMENT REQUIRED.—A res-
11 titution order may direct the defendant to make
12 nominal periodic payments if the court finds on the
13 record that the economic circumstances of the de-
14 fendant do not allow the payment of any amount of
15 a restitution order, and do not allow for the payment
16 of the full amount of a restitution order in the fore-
17 seeable future under any reasonable schedule of pay-
18 ments.

19 “(2) IN-KIND PAYMENTS.—An in-kind payment
20 may be in the form of return of property, replace-
21 ment of property, or if the victim agrees, services
22 rendered to the victim or a person or organization
23 other than the victim.

24 “(p) DIFFERENT PAYMENT SCHEDULES FOR MUL-
25 TIPLE VICTIMS.—If the court finds that more than 1 vic-

1 tim has sustained a loss requiring restitution by a defend-
2 ant, the court may provide for a different payment sched-
3 ule for each victim, based on their individual losses and
4 economic circumstances. In any case in which the United
5 States is a victim, the court shall ensure that all other
6 victims receive full restitution before the United States re-
7 ceives any restitution.

8 “(q) MATERIAL CHANGE IN DEFENDANT’S ABILITY
9 TO PAY.—The defendant shall notify the court and the
10 Attorney General of any material change in the defend-
11 ant’s economic circumstances that might affect the de-
12 fendant’s ability to pay restitution. The court may also
13 accept notification of a material change in the defendant’s
14 economic circumstances from the United States or from
15 the victim. The Attorney General shall certify to the court
16 that the victims have been notified of the change in cir-
17 cumstances. Upon receipt of the notification, the court
18 may, on its own motion, or the motion of any party, in-
19 cluding the victim, adjust the payment schedule, or require
20 immediate payment in full, as the interests of justice re-
21 quire.

22 “(r) NAME AND ADDRESS CHANGES.—It is the re-
23 sponsibility of the victim to provide any change in name
24 or mailing address to the court while restitution is still
25 owed. Not later than 30 days after any change in name

1 or mailing or residence address, a person owing restitution
2 shall promptly report the change to the court. The con-
3 fidentiality of any information relating to a victim shall
4 be maintained.

5 “(s) ENFORCEMENT.—

6 “(1) GENERALLY.—An order of restitution may
7 be enforced by the United States in the manner pro-
8 vided for in subchapter C of chapter 227 and sub-
9 chapter B of chapter 229 of this title, or by all other
10 available and necessary means.

11 “(2) ABSTRACT OF JUDGMENT.—At the request
12 of a victim named in a restitution order, the clerk
13 of the court shall issue an abstract of judgment cer-
14 tifying that a judgment has been entered in favor of
15 such victim in the amount specified in the restitution
16 order. Upon registering, recording, docketing, or in-
17 dexing such abstract in accordance with the rules
18 and requirements relating to judgments of the court
19 of the State where the district court is located, the
20 abstract of judgment shall be a lien on the property
21 of the defendant located in such State in the same
22 manner and to the same extent and under the same
23 conditions as a judgment of a court of general juris-
24 diction in that State.

1 “(3) SPECIAL RULE FOR IN-KIND ORDERS.—An
2 order of in-kind restitution in the form of services
3 shall be enforced by the probation officer.

4 “(t) EFFECT OF ADDITIONAL RESOURCES.—If a per-
5 son obligated to provide restitution, or pay a fine, receives
6 additional resources from any source, including inherit-
7 ance, settlement, or other judgment, such person shall be
8 required to apply the value of such resources to any res-
9 titution or fine still owed.

10 “(u) RIGHTS OF VICTIMS.—

11 “(1) NOT REQUIRED TO PARTICIPATE.—No vic-
12 tim shall be required to participate in any phase of
13 a restitution order.

14 “(2) ASSIGNMENT TO FUND.—A victim may at
15 any time assign an interest in restitution payments
16 to the Crime Victims Fund in the Treasury without
17 in any way impairing the obligation of the defendant
18 to make such payments.

19 “(v) NO CAUSE OF ACTION CREATED AGAINST THE
20 UNITED STATES OR ITS OFFICERS OR EMPLOYEES.—
21 Nothing in this section or section or 3663 shall be con-
22 strued to create a cause of action not otherwise authorized
23 in favor of any person against the United States or any
24 officer or employee of the United States.

1 “(w) COLLATERAL ESTOPPEL.—A conviction of a de-
 2 fendant for an offense involving the act giving rise to an
 3 order of restitution shall estop the defendant from denying
 4 the essential allegations of that offense in any subsequent
 5 Federal civil proceeding or State civil proceeding, to the
 6 extent consistent with State law, brought by the victim.”.

7 **SEC. 502. TABLE OF SECTIONS AMENDMENT.**

8 The table of sections at the beginning of chapter 232
 9 of title 18, United States Code, is amended by striking
 10 the item relating to sections 3663 and all that follows the
 11 item relating to section 3664 and inserting the following:

“3663. Mandatory restitution.

“3664. Procedure for issuance and enforcement of order of restitution.”.

12 **SEC. 503. EFFECT OF RESTITUTION ORDER ON SENTENCE**
 13 **OF PROBATION.**

14 Section 3564 of title 18, United States Code, is
 15 amended by adding at the end the following:

16 “(f) RELATION TO RESTITUTION ORDER.—The court
 17 shall not terminate a term of probation under section
 18 3564(c) if the defendant has an unsatisfied order of res-
 19 titution. The court shall extend probation for such a de-
 20 fendant beyond any term otherwise provided by law until
 21 the order is satisfied or the court determines the economic
 22 circumstances of the defendant do not allow the payment
 23 of any further restitution. Such determination is only for
 24 the purposes of this subsection and does not affect the

1 obligation to pay restitution or the ability of any entity
2 to enforce restitution under any other provision of law.
3 The sole condition of such extended probation shall be the
4 satisfaction of that order.”.

5 **SEC. 504. CONFORMING AMENDMENTS AND REPEALS.**

6 (a) ELIMINATION OF SPECIALIZED MANDATORY
7 RESTITUTION PROVISIONS.—

8 (1) IN TITLE 18.—Title 18, United States Code,
9 is amended by striking—

10 (A) section 1593;

11 (B) section 2248;

12 (C) section 2259;

13 (D) section 2264; and

14 (E) section 2327.

15 (2) CONFORMING AMENDMENTS TO TABLES IN
16 TITLE 18.—The table of sections for each of the
17 chapters of title 18, United States Code, from which
18 a section is stricken by subsection (a) is amended by
19 striking the item relating to that section.

20 (3) IN THE CONTROLLED SUBSTANCES ACT.—

21 The Controlled Substances Act (21 U.S.C. 801 et
22 seq.) is amended—

23 (A) in section 413(q), by striking
24 “shall—” and all that follows through “3663A
25 of title 18, United States Code.” and inserting

1 “order the defendant to reimburse the United
2 States, the State or local government con-
3 cerned, or both the United States and the State
4 or local government concerned for the costs in-
5 curred by the United States or the State or
6 local government concerned, as the case may be,
7 for the cleanup associated with the manufacture
8 of amphetamine or methamphetamine by the
9 defendant, or on premises or in property that
10 the defendant owns, resides, or does business
11 in.”; and

12 (B) in section 416, by striking subsection
13 (c).

14 (b) ELIMINATION OF PROCEDURAL MATTERS MOVED
15 TO RESTITUTION SECTIONS.—Section 3612(b)(1) of title
16 18, United States Code, is amended—

17 (1) by striking subparagraphs (F) and (G);

18 (2) by inserting “and” at the end of subpara-
19 graph (D); and

20 (3) by striking the semicolon at the end of sub-
21 paragraph (E) and inserting a period.

22 (c) CROSS REFERENCE CORRECTIONS.—

23 (1) Section 3563(a)(6)(A) of title 18, United
24 States Code, is amended by striking “2248, 2259,

1 2327, 3663, 3663A, and 3664” and inserting “3663
2 and 3664”.

3 (2) Section 3613(c) of title 18, United States
4 Code, is amended by striking “2248” and all that
5 follows through “3664” and inserting “3663 and
6 3664”.

7 **SEC. 505. SPECIAL FORFEITURE OF COLLATERAL PROFITS**
8 **FROM CRIME.**

9 Subsection (a) of section 3681 of title 18, United
10 States Code, is amended by striking “ the interest of jus-
11 tice or an order of restitution” and all that follows through
12 the end of the subsection and inserting “the compelling
13 interest of preventing wrongdoers from profiting from
14 their crimes or of providing restitution to the victims of
15 those crimes so requires, order the offender (or any trans-
16 feree of that defendant) to forfeit any profits made pos-
17 sible by the offense.”.

18 **SEC. 506. AMENDMENTS TO THE MANDATORY VICTIMS RES-**
19 **TITUTION ACT.**

20 (a) IN GENERAL.—Chapter 232 of title 18, United
21 States Code, is amended by inserting after section 3664
22 the following:

23 **“§ 3664A. Preservation of assets for restitution**

24 **“(a) PROTECTIVE ORDERS TO PRESERVE ASSETS.—**

1 “(1) IN GENERAL.—Upon the Government’s ex
2 parte application and a finding of probable cause
3 that a defendant, if convicted, will be ordered to pay
4 an approximate amount of restitution for an offense
5 punishable by imprisonment for more than 1 year,
6 the court—

7 “(A) shall—

8 “(i) enter a restraining order or in-
9 junction;

10 “(ii) require the execution of a satis-
11 factory performance bond; or

12 “(iii) take any other action necessary
13 to preserve the availability of any property
14 traceable to the commission of the offense
15 charged; and

16 “(B) if it determines that it is in the inter-
17 ests of justice to do so, shall issue any order
18 necessary to preserve any nonexempt asset (as
19 defined in section 3613) of the defendant that
20 may be used to satisfy such restitution order.

21 “(2) EFFECT OF PROBABLE CAUSE FINDING.—
22 Any probable cause finding by the court under para-
23 graph (1) shall not limit the amount of restitution
24 the court may impose at the time of sentencing.

1 “(3) PROCEDURES.—Applications and orders
2 issued under paragraph (1) shall be governed by the
3 procedures under section 413(e) of the Controlled
4 Substances Act (21 U.S.C. 853(e)) and in this sec-
5 tion.

6 “(4) MONETARY INSTRUMENTS.—If the prop-
7 erty in question is a monetary instrument (as de-
8 fined in section 1956(c)(5)) or funds in electronic
9 form, the protective order issued under paragraph
10 (1) may take the form of a warrant authorizing the
11 Government to seize the property and to deposit it
12 into an interest-bearing account in the Registry of
13 the Court in the district in which the warrant was
14 issued, or into another such account maintained by
15 a substitute property custodian, as the court may di-
16 rect.

17 “(5) POST-INDICTMENT.—A post-indictment
18 protective order entered under paragraph (1) shall
19 remain in effect through the conclusion of the crimi-
20 nal case, including sentencing and any post-sen-
21 tencing proceedings, until seizure or other disposi-
22 tion of the subject property, unless modified by the
23 court upon a motion by the Government or under
24 subsection (b) or (c).

25 “(b) DEFENDANT’S RIGHT TO A HEARING.—

1 “(1) IN GENERAL.—In the case of a
2 preindictment protective order entered under sub-
3 section (a)(1), the defendant’s right to a post-re-
4 straint hearing shall be governed by paragraphs
5 (1)(B) and (2) of section 413(e) of the Controlled
6 Substances Act (21 U.S.C. 853(e)).

7 “(2) POST-INDICTMENT.—In the case of a post-
8 indictment protective order entered under subsection
9 (a)(1), the defendant shall have a right to a post-re-
10 straint hearing regarding the continuation or modi-
11 fication of the order if the defendant—

12 “(A) establishes by a preponderance of the
13 evidence that there are no assets, other than
14 the restrained property, available to the defend-
15 ant to retain counsel in the criminal case or to
16 provide for a reasonable living allowance for the
17 necessary expenses of the defendant and the de-
18 fendant’s lawful dependents; and

19 “(B) makes a prima facie showing that
20 there is bona fide reason to believe that the
21 court’s ex parte finding of probable cause under
22 subsection (a)(1) was in error.

23 “(3) HEARING.—

24 “(A) IN GENERAL.—If the court deter-
25 mines that the defendant has satisfied the re-

1 requirements of paragraph (2), it may hold a
2 hearing to determine whether there is probable
3 cause to believe that the defendant, if convicted,
4 will be ordered to satisfy an order of restitution
5 for an offense punishable by imprisonment for
6 more than 1 year, and that the seized or re-
7 strained property may be needed to satisfy such
8 restitution order.

9 “(B) PROBABLE CAUSE.—If the court
10 finds probable cause under subparagraph (A),
11 the protective order shall remain in effect.

12 “(C) NO PROBABLE CAUSE.—If the court
13 finds under subparagraph (A) that no probable
14 cause exists as to some or all of the property,
15 or determines that more property has been
16 seized and restrained than may be needed to
17 satisfy a restitution order, it shall modify the
18 protective order to the extent necessary to re-
19 lease the property that should not have been re-
20 strained.

21 “(4) REBUTTAL.—If the court conducts an evi-
22 dentiary hearing under paragraph (3), the court
23 shall afford the Government an opportunity to
24 present rebuttal evidence and to cross-examine any
25 witness that the defendant may present.

1 “(5) PRETRIAL HEARING.—In any pretrial
2 hearing on a protective order issued under sub-
3 section (a)(1), the court may not entertain chal-
4 lenges to the grand jury’s finding of probable cause
5 regarding the criminal offense giving rise to a poten-
6 tial restitution order. The court shall ensure that
7 such hearings are not used to obtain disclosure of
8 evidence or the identities of witnesses earlier than
9 required by the Federal Rules of Criminal Procedure
10 or other applicable law.

11 “(c) THIRD PARTY’S RIGHT TO POST-RESTRAINT
12 HEARING.—

13 “(1) IN GENERAL.—A person other than the
14 defendant who has a legal interest in property af-
15 fected by a protective order issued under subsection
16 (a)(1) may move to modify the order on the grounds
17 that—

18 “(A) the order causes an immediate and ir-
19 reparable hardship to the moving party; and

20 “(B) less intrusive means exist to preserve
21 the property for the purpose of restitution.

22 “(2) MODIFICATION.—If, after considering any
23 rebuttal evidence offered by the Government, the
24 court determines that the moving party has made
25 the showings required under paragraph (1), the

1 court shall modify the order to mitigate the hard-
2 ship, to the extent that it is possible to do so while
3 preserving the asset for restitution.

4 “(3) INTERVENTION.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B) or paragraph (1), a person
7 other than a defendant has no right to inter-
8 vene in the criminal case to object to the entry
9 of any order issued under this section or other-
10 wise to object to an order directing a defendant
11 to pay restitution.

12 “(B) EXCEPTION.—If, at the conclusion of
13 the criminal case, the court orders the defend-
14 ant to use particular assets to satisfy an order
15 of restitution (including assets that have been
16 seized or restrained pursuant to this section)
17 the court shall give persons other than the de-
18 fendant the opportunity to object to the order
19 on the ground that the property belonged in
20 whole or in part to the third party and not to
21 the defendant, as provided in section 413(n) of
22 the Controlled Substances Act (21 U.S.C.
23 853(n)).

24 “(d) GEOGRAPHIC SCOPE OF ORDER.—

1 “(1) IN GENERAL.—A district court of the
2 United States shall have jurisdiction to enter an
3 order under this section without regard to the loca-
4 tion of the property subject to the order.

5 “(2) OUTSIDE THE UNITED STATES.—If the
6 property subject to an order issued under this sec-
7 tion is located outside of the United States, the
8 order may be transmitted to the central authority of
9 any foreign state for service in accordance with any
10 treaty or other international agreement.

11 “(e) NO EFFECT ON OTHER GOVERNMENT AC-
12 TION.—Nothing in this section shall be construed to pre-
13 clude the Government from seeking the seizure, restraint,
14 or forfeiture of assets under the asset forfeiture laws of
15 the United States.

16 “(f) LIMITATION ON RIGHTS CONFERRED.—Nothing
17 in this section shall be construed to create any enforceable
18 right to have the Government seek the seizure or restraint
19 of property for restitution.

20 “(g) RECEIVERS.—

21 “(1) IN GENERAL.—A court issuing an order
22 under this section may appoint a receiver under sec-
23 tion 1956(b)(4) to collect, marshal, and take cus-
24 tody, control, and possession of all assets of the de-

1 (A) by striking “a banking violation” and
 2 all that follows through “healthcare offense”
 3 and inserting “a violation or offense identified
 4 in paragraph (1)”; and

5 (B) by inserting “or offense” after “trace-
 6 able to such violation”.

7 **SEC. 508. AMENDMENTS TO THE FEDERAL DEBT COLLEC-**
 8 **TION PROCEDURES ACT.**

9 (a) PROCESS.—Section 3004(b)(2) of title 28, United
 10 States Code, is amended by inserting after “in which the
 11 debtor resides.” the following: “In a criminal case, the dis-
 12 trict court for the district in which the defendant was sen-
 13 tenced may deny the request.”.

14 (b) PREJUDGMENT REMEDIES.—Section 3101 of
 15 title 28, United States Code, is amended—

16 (1) in subsection (a)(1) by inserting after “the
 17 filing of a civil action on a claim for a debt” the fol-
 18 lowing: “or in any criminal action where the court
 19 may enter an order of restitution”; and

20 (2) in subsection (d)—

21 (A) by inserting after “The Government
 22 wants to make sure [name of debtor] will pay
 23 if the court determines that this money is
 24 owed.” the following:

1 “‘In a criminal action, use the following opening
2 paragraph: You are hereby notified that this [property]
3 is being taken by the United States Government [the Gov-
4 ernment], which says that [name of debtor], if convicted,
5 may owe as restitution \$ [amount]. The Government says
6 it must take this property at this time because [recite the
7 pertinent ground or grounds from section 3101(b)]. The
8 Government wants to make sure [name of debtor] will pay
9 if the court determines that restitution is owed.’”;

10 (B) by inserting after “a statement that
11 different property may be so exempted with re-
12 spect to the State in which the debtor resides.]”
13 the following:

14 “‘[In a criminal action, the statement summarizing
15 the types of property that may be exempt shall list only
16 those types of property that may be exempt under section
17 3613 of title 18.]’”; and

18 (C) by inserting after “You must also send
19 a copy of your request to the Government at
20 [address], so the Government will know you
21 want the proceeding to be transferred.” the fol-
22 lowing:

23 “‘If this Notice is issued in conjunction with a crimi-
24 nal case, the district court where the criminal action is

1 pending may deny your request for a transfer of this pro-
2 ceeding.”.

3 (c) ENFORCEMENT.—Section 3202(b) of title 28,
4 United States Code, is amended—

5 (1) by inserting after “a statement that dif-
6 ferent property may be so exempted with respect to
7 the State in which the debtor resides.]” the fol-
8 lowing:

9 “[In a criminal action, the statement summarizing
10 the types of property that may be exempt shall list only
11 those types of property that may be exempt under section
12 3613 of title 18.]”; and

13 (2) by inserting after “you want the proceeding
14 to be transferred.” the following:

15 “If this notice is issued in conjunction with a crimi-
16 nal case, the district court where the criminal action is
17 pending may deny your request for a transfer of this pro-
18 ceeding.”.

19 **SEC. 509. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated to the Attor-
21 ney General for enhancing the enforcement and litigation
22 of criminal debts owed to victims of Federal criminal of-
23 fenses \$20 million for each of the fiscal years 2008
24 through 2012.

1 **TITLE VI—COUNTERTERRORISM**
2 **AND NATIONAL SECURITY**

3 **SEC. 601. PROVIDING MATERIAL SUPPORT TO FACILITATE,**
4 **REWARD, OR ENCOURAGE ACTS OF TER-**
5 **RORISM.**

6 (a) IN GENERAL.—Chapter 113B of title 18, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 **“§ 2339E. Providing material support to facilitate, re-**
10 **ward, or encourage acts of terrorism**

11 “(a) PROHIBITION.—Whoever, in a circumstance pro-
12 vided in subsection (b) provides, or attempts or conspires
13 or agrees to provide, material support or resources to the
14 perpetrator of an act of international terrorism, to a fam-
15 ily member of such perpetrator, or to any other person,
16 with the intent to facilitate, reward, or encourage that act
17 or other acts of international terrorism, shall be fined
18 under this title or imprisoned not more than 15 years, or
19 both, and, if death results, shall be imprisoned for any
20 term of years or for life.

21 “(b) JURISDICTIONAL BASES.—A circumstance re-
22 ferred to in subsection (a) is—

23 “(1) the offense occurs in or affects interstate
24 or foreign commerce;

1 “(2) the offense involves the use of the mails or
2 a facility of interstate or foreign commerce;

3 “(3) an offender intends to facilitate, reward, or
4 encourage an act of international terrorism that af-
5 fects interstate or foreign commerce or would have
6 affected interstate or foreign commerce had it been
7 consummated;

8 “(4) an offender intends to facilitate, reward, or
9 encourage an act of international terrorism that vio-
10 lates the criminal laws of the United States;

11 “(5) an offender intends to facilitate, reward, or
12 encourage an act of international terrorism that is
13 designed to influence the policy or affect the conduct
14 of the United States Government;

15 “(6) an offender intends to facilitate, reward, or
16 encourage an act of international terrorism that oc-
17 curs in part within the United States and is de-
18 signed to influence the policy or affect the conduct
19 of a foreign government;

20 “(7) an offender intends to facilitate, reward, or
21 encourage an act of international terrorism that
22 causes or is designed to cause death or serious bod-
23 ily injury to a national of the United States while
24 that national is outside the United States, or sub-
25 stantial damage to the property of a legal entity or-

1 organized under the laws of the United States (includ-
2 ing any of its States, districts, commonwealths, ter-
3 ritories, or possessions) while that property is out-
4 side of the United States;

5 “(8) the offense occurs in whole or in part with-
6 in the United States, and an offender intends to fa-
7 cilitate, reward, or encourage an act of international
8 terrorism that is designed to influence the policy or
9 affect the conduct of a foreign government; or

10 “(9) the offense occurs in whole or in part out-
11 side of the United States, and an offender is a na-
12 tional of the United States, a stateless person whose
13 habitual residence is in the United States, or a legal
14 entity organized under the laws of the United States
15 (including any of its States, districts, common-
16 wealths, territories, or possessions).

17 “(c) DEFINITIONS.—For purposes of this section:

18 “(1) the term ‘material support or resources’
19 has the same meaning as in section 2339A(b) of this
20 title;

21 “(2) the term ‘the perpetrator of an act’ in-
22 cludes—

23 “(A) any person who commits the act;

1 “(B) any person who aids, abets, counsels,
2 commands, induces, or procures its commission;
3 and

4 “(C) any person who attempts, plans, or
5 conspires to commit the act;

6 “(3) the term ‘international terrorism’ has the
7 same meaning as in section 2331 of this title;

8 “(4) the term ‘facility of interstate or foreign
9 commerce’ has the same meaning as in section
10 1958(b)(2) of this title;

11 “(5) the term ‘serious bodily injury’ has the
12 same meaning as in section 1365 of this title; and

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

17 (b) CHAPTER ANALYSIS.—The chapter analysis for
18 chapter 113B of title 18, United States Code, is amended
19 by adding at the end the following:

 “2339D. Receiving military-type training from a foreign terrorist organization.
 “2339E. Providing material support to facilitate, reward, or encourage acts of
 terrorism.”.

20 (c) DEFINITIONS.—Section 2332b(g)(5)(B)(i) of title
21 18, United States Code is amended by striking all fol-
22 lowing “2339C” and inserting the following: “(relating to
23 financing of terrorism), 2339E (relating to providing ma-

1 terial support to facilitate, reward, or encourage acts of
 2 terrorism), or 2340A (relating to torture) of this title;”.

3 **SEC. 602. PROHIBITING ATTEMPTS AND CONSPIRACIES TO**
 4 **OBTAIN MILITARY-TYPE TRAINING FROM A**
 5 **FOREIGN TERRORIST ORGANIZATION.**

6 Section 2339D(a) of title 18, United States Code, is
 7 amended by inserting “, or attempts or conspires to do
 8 so,” after “foreign terrorist organization”.

9 **SEC. 603. KIDNAPPING AND RAPE OVERSEAS.**

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

12 (1) redesignating the subsections (c) and (d) as
 13 subsections (d) and (e), respectively;

14 (2) inserting the following new subsection (c):

15 “(c) KIDNAPPING.—Whoever outside the United
 16 States unlawfully seizes, confines, inveigles, decoys, kid-
 17 naps, abducts, or carries away, or attempts or conspires
 18 to seize, confine, inveigle, decoy, kidnap, abduct, or carry
 19 away, a national of the United States, shall be fined under
 20 this title, punished by imprisonment for any term of years
 21 or for life, or both, and if the death of any person results,
 22 shall be fined under this title, punished by death or impris-
 23 onment for any term of years or for life, or both.”; and

24 (3) in subsection (d) (as redesignated), by—

1 (A) inserting “(as defined in section 1365
2 of this title, including any conduct that, if the
3 conduct occurred in the special maritime and
4 territorial jurisdiction of the United States,
5 would violate section 2241 or 2242 of this
6 title)” after “injury” in paragraphs (1) and (2);
7 and

8 (B) striking “ten” and inserting “25”.

9 **SEC. 604. HOSTAGE TAKING.**

10 Section 1203 of title 18, United States Code, is
11 amended to read as follows:

12 **“§ 1203. Hostage taking**

13 “(a) Whoever, whether inside or outside the United
14 States, seizes or detains and threatens to kill, to injure,
15 or to continue to detain without lawful authority—

16 “(1) any officer or employee of the United
17 States or of any agency in any branch of the United
18 States Government (including any member of the
19 uniformed services) while such officer or employee is
20 engaged in or on account of the performance of offi-
21 cial duties, or any person assisting such an officer
22 or employee in the performance of such duties or on
23 account of that assistance, or whoever attempts or
24 conspires to do so; or

1 “(2) except as provided in subsection (b) of this
2 section, another person in order to compel a third
3 person or a governmental organization to do or ab-
4 stain from doing any act as an explicit or implicit
5 condition for the release of the person detained, or
6 whoever attempts or conspires to do so,
7 shall be punished by imprisonment for any term of years
8 or for life and, if the death of any person results, shall
9 be punished by death or life imprisonment.

10 “(b)(1) It is not an offense under subsection (a)(2)
11 if the conduct required for the offense occurred outside
12 the United States unless—

13 “(A) the offender or the person seized or de-
14 tained is a national of the United States;

15 “(B) the offender is found in the United States;
16 or

17 “(C) the governmental organization sought to
18 be compelled is the Government of the United
19 States.

20 “(2) It is not an offense under subsection (a)(2) if
21 the conduct required for the offense occurred inside the
22 United States, each alleged offender and each person
23 seized or detained are nationals of the United States, and
24 each alleged offender is found in the United States, unless

1 the governmental organization sought to be compelled is
2 the Government of the United States.

3 “(c) As used in this section, the term ‘national of the
4 United States’ has the meaning given such term in section
5 101(a)(22) of the Immigration and Nationality Act (8
6 U.S.C. 1101(a)(22)).”.

7 **SEC. 605. INTERFERENCE WITH FLIGHT CREW OR THREAT**
8 **TO SAFETY OF AIRCRAFT.**

9 Section 46504 of title 49, United States Code, is
10 amended by—

11 (1) amending the heading for such section to
12 read as follows: “Interference with flight crew or
13 threat to safety of aircraft.”; and

14 (2) designating the existing language as sub-
15 section (a), and adding at the end the following:

16 “(b) An individual on an aircraft in the special air-
17 craft jurisdiction of the United States who knowingly or
18 recklessly takes any action that poses a serious threat to
19 the safety of the aircraft or other individuals on the air-
20 craft, shall be fined under title 18, imprisoned for not
21 more than 10 years, or both.”.

22 **SEC. 606. INCREASED PENALTIES FOR PROVIDING MATE-**
23 **RIAL SUPPORT TO TERRORISTS.**

24 Section 2339D of title 18, United States Code, is
25 amended by striking “or imprisoned for ten years, or

1 both.” and inserting “and imprisoned for not less than
2 3 years and not more than 15 years.”.

3 **SEC. 607. DENIAL OF FEDERAL BENEFITS TO CONVICTED**
4 **TERRORISTS.**

5 (a) IN GENERAL.—Chapter 113B of title 18, United
6 States Code, as amended by this title, is amended by add-
7 ing at the end the following:

8 **“SEC. 2339F. DENIAL OF FEDERAL BENEFITS TO TERROR-**
9 **ISTS.**

10 “(a) IN GENERAL.—Any individual who is convicted
11 of a Federal crime of terrorism (as defined in section
12 2332b(g)) shall, as provided by the court on motion of
13 the Government, be ineligible for any or all Federal bene-
14 fits for any term of years or for life.

15 “(b) FEDERAL BENEFIT DEFINED.—In this section,
16 ‘Federal benefit’ has the meaning given that term in sec-
17 tion 421(d) of the Controlled Substances Act (21 U.S.C.
18 862(d)).”.

19 (b) CONFORMING AMENDMENT.—The table of sec-
20 tions for chapter 113B of title 18, United States Code,
21 is amended by adding at the end the following:

“Sec. 2339F. Denial of Federal benefits to terrorists.”.

22 **SEC. 608. IMPROVE INVESTIGATION OF TERRORIST**
23 **CRIMES.**

24 (a) MULTIDISTRICT SEARCH WARRANTS IN TER-
25 RORISM INVESTIGATIONS.—Rule 41(b)(3) of the Federal

1 Rules of Criminal Procedure is amended to read as fol-
2 lows:

3 “(3) a magistrate judge—in an investigation
4 of—

5 “(A) international terrorism or domestic
6 terrorism (as those terms are defined in section
7 2331 of title 18, United States Code), or a Fed-
8 eral crime of terrorism (as defined in section
9 2332b(g)(5) of title 18, United States Code); or

10 “(B) an offense under section 1001 or
11 1505 of title 18, United States Code, relating
12 to information or purported information con-
13 cerning a Federal crime of terrorism (as de-
14 fined in section 2332b(g)(5) of title 18, United
15 States Code), having authority in any district in
16 which activities related to the Federal crime of
17 terrorism or offense may have occurred, may
18 issue a warrant for a person or property within
19 or outside that district.”.

20 (b) INCREASED PENALTIES FOR OBSTRUCTION OF
21 JUSTICE IN TERRORISM CASES.—Sections 1001(a) and
22 1505 of title 18, United States Code, are amended by
23 striking “8 years” and inserting “10 years”.

1 **SEC. 609. SOLICITATION TO COMMIT A CRIME OF VIOLENCE**
2 **OR TERRORISM.**

3 Section 373 of title 18, United States Code, is
4 amended—

5 (1) in subsection (a), by—

6 (A) inserting “or a Federal crime of ter-
7 rorism as defined in section 2332b(g)(5),” after
8 “in violation of the laws of the United States,”;
9 and

10 (B) inserting “or persons” after “another
11 person”;

12 (2) in subsection (c), by—

13 (A) inserting “or persons” after “the per-
14 son”;

15 (B) striking “he” and inserting “they” in
16 the phrase “because he lacked”;

17 (C) striking “he was” and inserting “they
18 were” in the phrase “because he was incom-
19 petent”;

20 (D) striking “he is” and inserting “they
21 are” in the phrase “because he is immune”;
22 and

23 (E) striking “is” from “is not subject to
24 prosecution”; and

1 (3) in the title by inserting the words “**OR**
2 **TERRORISM**” after “**SOLICITATION TO COMMIT**
3 **A CRIME OF VIOLENCE**”.

4 **SEC. 610. TERRORIST OFFENSE RESULTING IN DEATH.**

5 (a) NEW OFFENSE.—Chapter 113B of title 18,
6 United States Code, is amended by adding at the end the
7 following:

8 **“§ 2339E. Terrorist offenses resulting in death**

9 “(a) Whoever, in the course of committing a terrorist
10 offense, engages in conduct that results in the death of
11 a person, shall be punished by death or imprisoned for
12 any term of years or for life.

13 “(b) As used in this section, the term ‘terrorist of-
14 fense’ means—

15 “(1) a felony offense that is—

16 “(A) a Federal crime of terrorism as de-
17 fined in section 2332b(g), other than an offense
18 under section 1363; or

19 “(B) an offense under this chapter, section
20 175, 175b, 229, or 831, or section 236 of the
21 Atomic Energy Act of 1954; or

22 “(2) a Federal offense that is an attempt or
23 conspiracy to commit an offense described in para-
24 graph (1).”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 113B of title 18, United
 3 States Code, is amended by adding at the end the fol-
 4 lowing new item:

“2339E. Terrorist offenses resulting in death.”.

5 **SEC. 611. DEATH PENALTY FOR CERTAIN TERROR RE-**
 6 **LATED CRIMES.**

7 (a) PARTICIPATION IN NUCLEAR AND WEAPONS OF
 8 MASS DESTRUCTION THREATS TO THE UNITED
 9 STATES.—Section 832(c) of title 18, United States Code,
 10 is amended by inserting “punished by death if death re-
 11 sults to any person from the offense, or” after “shall be”.

12 (b) MISSILE SYSTEMS TO DESTROY AIRCRAFT.—
 13 Section 2332g(c)(3) of title 18, United States Code, is
 14 amended by inserting “punished by death or” after “shall
 15 be”.

16 (c) ATOMIC WEAPONS.—The last sentence of section
 17 222 b. of the Atomic Energy Act of 1954 (42 U.S.C.
 18 2272) is amended by inserting “death or” before “impris-
 19 onment for life” the last place it appears.

20 (d) RADIOLOGICAL DISPERSAL DEVICES.—Section
 21 2332h(c)(3) of title 18, United States Code, is amended
 22 by inserting “death or” before “imprisonment for life”.

23 (e) VARIOLA VIRUS.—Section 175c(c)(3) of title 18,
 24 United States Code, is amended by inserting “death or”
 25 before “imprisonment for life”.

1 **SEC. 612. INCREASE IN CERTAIN PENALTIES.**

2 (a) SECTION 2332(b)(1).—Section 2332(b)(1) of title
3 18, United States Code, is amended by striking “20
4 years” and inserting “30 years”.

5 (b) SECTION 2332(c).—Section 2332(c) of title 18,
6 United States Code, is amended by striking “ten years”
7 and inserting “20 years”.

8 (c) SECTION 2339C(d).—Section 2339C(d) of title
9 18, United States Code, is amended—

10 (1) in paragraph (1), by striking “20 years”
11 and inserting “30 years”; and

12 (2) in paragraph (2), by striking “10 years”
13 and inserting “20 years”.

14 **SEC. 613. MODERNIZATION OF STATE OF MIND REQUIRE-**
15 **MENT FOR SECTION 2339C OFFENSES.**

16 Section 2339C of title 18, United States Code, is
17 amended by striking “unlawfully and wilfully” and insert-
18 ing “knowingly”.

19 **SEC. 614. PROVIDING MATERIAL SUPPORT TO TERRORIST**
20 **GROUPS.**

21 (a) PROVIDING MATERIAL SUPPORT TO TERROR-
22 ISTS.—Section 2339A(a) of title 18, United States Code,
23 is amended by striking “, imprisoned not more than 15
24 years,” and all that follows through “life.” and inserting
25 “and imprisoned for not less than 10 years or for life,

1 and, if the death of any person results, shall be imprisoned
2 for not less than 30 years or for life.”.

3 (b) RECEIVING MILITARY-TYPE TRAINING FROM A
4 FOREIGN TERRORIST ORGANIZATION.—Section 2339D of
5 title 18, United States Code, is amended by striking “or
6 imprisoned for ten years, or both.” and inserting “and im-
7 prisoned for not less than 3 years and not more than 15
8 years.”.

9 **SEC. 615. WIRETAP PREDICATE.**

10 Section 2516(q) of title 18, United States Code, is
11 amended by striking “section 2332” and all that follows
12 through “2339C” and inserting “chapter 113B”.

13 **TITLE VII—GANG DETERRENCE**
14 **AND COMMUNITY PROTECTION**

15 **SEC. 701. SHORT TITLE.**

16 This title may be cited as the “Gang Deterrence and
17 Community Protection Act of 2007”.

1 **Subtitle A—Criminal Law Reforms**
 2 **and Enhanced Penalties to**
 3 **Deter and Punish Illegal Street**
 4 **Gang Activity and Related**
 5 **Criminal Law Reforms**

6 **SEC. 711. REVISION AND EXTENSION OF PENALTIES RE-**
 7 **LATED TO CRIMINAL STREET GANG ACTIV-**
 8 **ITY.**

9 (a) IN GENERAL.—Chapter 26 of title 18, United
 10 States Code, is amended to read as follows:

11 **“CHAPTER 26—CRIMINAL STREET GANGS**

“Sec.

“521. Criminal street gang prosecutions.

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

13 “(a) STREET GANG CRIME.—Whoever commits, or
 14 conspires, threatens or attempts to commit, a gang crime
 15 for the purpose of furthering the activities of a criminal
 16 street gang, or gaining entrance to or maintaining or in-
 17 creasing position in such a gang, shall, in addition to being
 18 subject to a fine under this title—

19 “(1) if the gang crime results in the death of
 20 any person, be sentenced to death or life in prison;

21 “(2) if the gang crime is kidnapping, aggra-
 22 vated sexual abuse, or maiming, be imprisoned for
 23 life or any term of years not less than 30;

1 “(3) if the gang crime is assault resulting in se-
2 rious bodily injury (as defined in section 1365), be
3 imprisoned for life or any term of years not less
4 than 20; and

5 “(4) in any other case, be imprisoned for life or
6 for any term of years not less than 10.

7 “(b) FORFEITURE.—

8 “(1) IN GENERAL.—The court, in imposing sen-
9 tence on any person convicted of a violation of this
10 section, shall order, in addition to any other sen-
11 tence imposed and irrespective of any provision of
12 State law, that such person shall forfeit to the
13 United States such person’s interest in—

14 “(A) any property used, or intended to be
15 used, in any manner or part, to commit, or to
16 facilitate the commission of, the violation; and

17 “(B) any property constituting, or derived
18 from, any proceeds the person obtained, directly
19 or indirectly, as a result of the violation.

20 “(2) APPLICATION OF CONTROLLED SUB-
21 STANCES ACT.—Subsections (b), (c), (e), (f), (g),
22 (h), (i), (j), (k), (l), (m), (n), (o), and (p) of section
23 413 of the Controlled Substances Act (21 U.S.C.
24 853) shall apply to a forfeiture under this section as
25 though it were a forfeiture under that section.

1 “(c) DEFINITIONS.—The following definitions apply
2 in this section:

3 “(1) CRIMINAL STREET GANG.—The term
4 ‘criminal street gang’ means a formal or informal
5 group or association of 3 or more individuals, who
6 commit 2 or more gang crimes (one of which is a
7 crime of violence other than an offense punishable
8 under subparagraphs (A), (B), or (C) of section
9 401(b)(1) of the Controlled Substances Act), in 2 or
10 more separate criminal episodes, in relation to the
11 group or association, if any of the activities of the
12 criminal street gang affects interstate or foreign
13 commerce.

14 “(2) GANG CRIME.—The term ‘gang crime’
15 means conduct constituting any Federal or State
16 crime, punishable by imprisonment for more than
17 one year, in any of the following categories:

18 “(A) A crime of violence.

19 “(B) A crime involving obstruction of jus-
20 tice, tampering with or retaliating against a
21 witness, victim, or informant, or burglary.

22 “(C) A crime involving the manufacturing,
23 importing, distributing, possessing with intent
24 to distribute, or otherwise dealing in a con-
25 trolled substance or listed chemical (as those

1 terms are defined in section 102 of the Con-
2 trolled Substances Act (21 U.S.C. 802)).

3 “(D) Any conduct punishable under sec-
4 tion 844 (relating to explosive materials), sub-
5 section (a)(1), (d), (g)(1) (where the underlying
6 conviction is a violent felony (as defined in sec-
7 tion 924(e)(2)(B) of this title) or is a serious
8 drug offense (as defined in section
9 924(e)(2)(A))), (g)(2), (g)(3), (g)(4), (g)(5),
10 (g)(8), (g)(9), (i), (j), (k), (n), (o), (p), (q), (u),
11 or (x) of section 922 (relating to unlawful acts),
12 or subsection (b), (c), (g), (h), (k), (l), (m), or
13 (n) of section 924 (relating to penalties), sec-
14 tion 930 (relating to possession of firearms and
15 dangerous weapons in Federal facilities), sec-
16 tion 931 (relating to purchase, ownership, or
17 possession of body armor by violent felons), sec-
18 tions 1028 and 1029 (relating to fraud and re-
19 lated activity in connection with identification
20 documents or access devices), section 1952 (re-
21 lating to interstate and foreign travel or trans-
22 portation in aid of racketeering enterprises),
23 section 1956 (relating to the laundering of
24 monetary instruments), section 1957 (relating
25 to engaging in monetary transactions in prop-

1 erty derived from specified unlawful activity), or
2 sections 2312 through 2315 (relating to inter-
3 state transportation of stolen motor vehicles or
4 stolen property).

5 “(E) Any conduct punishable under section
6 274 (relating to bringing in and harboring cer-
7 tain aliens), section 277 (relating to aiding or
8 assisting certain aliens to enter the United
9 States), or section 278 (relating to importation
10 of alien for immoral purpose) of the Immigra-
11 tion and Nationality Act.

12 “(3) AGGRAVATED SEXUAL ABUSE.—The term
13 ‘aggravated sexual abuse’ means an offense that, if
14 committed in the special maritime and territorial ju-
15 risdiction would be an offense under section 2241(a).

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

20 (b) AMENDMENT RELATING TO PRIORITY OF FOR-
21 FEITURE OVER ORDERS FOR RESTITUTION.—Section
22 3663(c)(4) of title 18, United States Code, is amended
23 by striking “chapter 46 or chapter 96 of this title” and
24 inserting “section 521, under chapter 46 or 96,”.

1 (c) MONEY LAUNDERING.—Section 1956(e)(7)(D) of
2 title 18, United States Code, is amended by inserting “,
3 section 521 (relating to criminal street gang prosecu-
4 tions)” before “, section 541”.

5 **SEC. 712. INCREASED PENALTIES FOR INTERSTATE AND**
6 **FOREIGN TRAVEL OR TRANSPORTATION IN**
7 **AID OF RACKETEERING.**

8 (a) SUBSTANTIVE CHANGES TO OFFENSE.—Section
9 1952(a) of title 18, United States Code, is amended—
10 (1) so that the heading for the section reads as
11 follows:

12 **“§ 1952. Interstate or foreign commerce-related aid to**
13 **racketeering”;**

14 (2) by inserting “(1)” after “(a)”;

15 (3) by striking “travels” and all that follows
16 through “intent to” and inserting “, in or affecting
17 interstate or foreign commerce”;

18 (4) by striking “(1) distribute” and inserting
19 “(A) distributes”;

20 (5) by striking “(2) commit” and inserting
21 “(B) commits”;

22 (6) by striking “(3) otherwise promote, manage,
23 establish, carry on, or facilitate” and inserting “(C)
24 otherwise promotes, manages, establishes, carries on,
25 or facilitates”; and

1 (7) by striking “and thereafter” and all that
2 follows through the end of the subsection and insert-
3 ing the following:

4 “or attempts or conspires to do so, shall be punished as
5 provided in paragraph (2).

6 “(2) The punishment for an offense under this sub-
7 section is—

8 “(A) in the case of a violation of subparagraph
9 (A) or (C) of paragraph (1), a fine under this title
10 and imprisonment for not less than 5 nor more than
11 20 years; and

12 “(B) in the case of a violation of subparagraph
13 (B) of paragraph (1), a fine under this title and im-
14 prisonment for not less than 10 nor more than 30
15 years, but if death results the offender shall be sen-
16 tenced to death, or to imprisonment for any term of
17 years or for life.”.

18 (b) CLERICAL AMENDMENT.—The item relating to
19 section 1952 in the table of sections at the beginning of
20 chapter 95 of title 18, United States Code, is amended
21 to read as follows:

“1952. Interstate or foreign commerce-related aid to racketeering.”.

22 **SEC. 713. AMENDMENTS RELATING TO VIOLENT CRIME.**

23 (a) CARJACKING.—Section 2119 of title 18, United
24 States Code, is amended—

1 (1) by striking “, with the intent to cause death
2 or serious bodily harm” in the matter preceding
3 paragraph (1);

4 (2) by inserting “or conspires” after “at-
5 tempts” in the matter preceding paragraph (1);

6 (3) by striking “15” and inserting “20” in
7 paragraph (1); and

8 (4) by striking “or imprisoned not more than
9 25 years, or both” and inserting “and imprisoned
10 not less than 10 years nor more than 30 years” in
11 paragraph (2).

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

16 “(h) Whoever, in or affecting interstate or foreign
17 commerce, knowingly transfers a firearm, knowing or in-
18 tending that the firearm will be used to commit, or pos-
19 sessed in furtherance of, a crime of violence or drug traf-
20 ficking crime, shall be fined under this title and impris-
21 oned not less than 5 years nor more than 20 years.”.

22 (c) AMENDMENT OF SPECIAL SENTENCING PROVI-
23 SION RELATING TO LIMITATIONS ON CRIMINAL ASSOCIA-
24 TION.—Section 3582(d) of title 18, United States Code,
25 is amended—

1 (1) by inserting “section 521 (criminal street
2 gang prosecutions), in” after “felony set forth in”;

3 (2) by striking “specified person, other than his
4 attorney, upon” and inserting “specified person
5 upon”; and

6 (3) by inserting “a criminal street gang or” be-
7 fore “an illegal enterprise”.

8 (d) CONSPIRACY PENALTY.—Section 371 of title 18,
9 United States Code, is amended by striking “five” and
10 inserting “20”.

11 **SEC. 714. INCREASED PENALTIES FOR USE OF INTERSTATE**
12 **COMMERCE FACILITIES IN THE COMMISSION**
13 **OF MURDER-FOR-HIRE AND OTHER FELONY**
14 **CRIMES OF VIOLENCE.**

15 (a) IN GENERAL.—Section 1958 of title 18, United
16 States Code, is amended—

17 (1) by striking the section heading and insert-
18 ing the following:

19 **“§ 1958. Use of interstate commerce facilities in the**
20 **commission of murder-for-hire and other**
21 **felony crimes of violence”;**

22 (2) in subsection (a), by inserting “or other
23 crime of violence, punishable by imprisonment for
24 more than one year,” after “intent that a murder”;
25 and

1 (3) in subsection (a), by striking “shall be
2 fined” the first place it appears and all that follows
3 through the end of such subsection and inserting the
4 following:

5 “shall, in addition to being subject to a fine under this
6 title

7 “(1) if the crime of violence or conspiracy re-
8 sults in the death of any person, be sentenced to
9 death or life in prison;

10 “(2) if the crime of violence is kidnapping, ag-
11 gravated sexual abuse (as defined in section 521), or
12 maiming, or a conspiracy to commit such a crime of
13 violence, be imprisoned for life or any term of years
14 not less than 30;

15 “(3) if the crime of violence is an assault, or a
16 conspiracy to assault, that results in serious bodily
17 injury (as defined in section 1365), be imprisoned
18 for life or any term of years not less than 20; and

19 “(4) in any other case, be imprisoned for life or
20 for any term of years not less than 10.”.

21 (b) CLERICAL AMENDMENT.—The item relating to
22 section 1958 in the table of sections at the beginning of
23 chapter 95 of title 18, United States Code, is amended
24 to read as follows:

“1958. Use of interstate commerce facilities in the commission of murder-for-
hire and other felony crimes of violence.”.

1 **SEC. 715. INCREASED PENALTIES FOR VIOLENT CRIMES IN**
2 **AID OF RACKETEERING ACTIVITY.**

3 (a) OFFENSE.—Section 1959(a) of title 18, United
4 States Code, is amended to read as follows:

5 “(a) Whoever commits, or conspires, threatens, or at-
6 tempts to commit, a crime of violence for the purpose of
7 furthering the activities of an enterprise engaged in rack-
8 eteering activity, or for the purpose of gaining entrance
9 to or maintaining or increasing position in, such an enter-
10 prise, shall, unless the death penalty is otherwise imposed,
11 in addition and consecutive to the punishment provided
12 for any other violation of this chapter and in addition to
13 being subject to a fine under this title—

14 “(1) if the crime of violence results in the death
15 of any person, be sentenced to death or life in pris-
16 on;

17 “(2) if the crime of violence is kidnapping, ag-
18 gravated sexual abuse (as defined in section 521), or
19 maiming, be imprisoned for life or any term of years
20 not less than 30;

21 “(3) if the crime of violence is assault resulting
22 in serious bodily injury (as defined in section 1365),
23 be imprisoned for life or for any term of years not
24 less than 20; and

25 “(4) in any other case, be imprisoned for life or
26 for any term of years not less than 10.”.

1 (b) VENUE.—Section 1959 of title 18, United States
2 Code, is amended by adding at the end the following:

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

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

7 “(2) any judicial district in which racketeering
8 activity of the enterprise occurred.”.

9 **SEC. 716. MURDER AND OTHER VIOLENT CRIMES COM-**
10 **MITTED DURING AND IN RELATION TO A**
11 **DRUG TRAFFICKING CRIME.**

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

15 “MURDER AND OTHER VIOLENT CRIMES COMMITTED
16 DURING AND IN RELATION TO A DRUG TRAFFICKING
17 CRIME

18 “SEC. 424. (a) IN GENERAL.—Whoever commits, or
19 conspires, or attempts to commit, a crime of violence dur-
20 ing and in relation to a drug trafficking crime, shall, un-
21 less the death penalty is otherwise imposed, in addition
22 and consecutive to the punishment provided for the drug
23 trafficking crime and in addition to being subject to a fine
24 under this title—

1 “(1) if the crime of violence results in the death
2 of any person, be sentenced to death or life in pris-
3 on;

4 “(2) if the crime of violence is kidnapping, ag-
5 gravated sexual abuse (as defined in section 521), or
6 maiming, be imprisoned for life or any term of years
7 not less than 30;

8 “(3) if the crime of violence is assault resulting
9 in serious bodily injury (as defined in section 1365),
10 be imprisoned for life or any term of years not less
11 than 20; and

12 “(4) in any other case, be imprisoned for life or
13 for any term of years not less than 10.

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

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

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

20 “(c) DEFINITIONS.—As used in this section—

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

1 “(2) the term ‘drug trafficking crime’ has the
2 meaning given that term in section 924(c)(2) of title
3 18, United States Code.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 for the Comprehensive Drug Abuse Prevention and Con-
6 trol Act of 1970 is amended by inserting after the item
7 relating to section 423, the following:

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

8 **SEC. 717. MULTIPLE INTERSTATE MURDER.**

9 (a) OFFENSE.—Chapter 51 of title 18, United States
10 Code, is amended by adding at the end the following new
11 section:

12 **“§ 1123. Use of interstate commerce facilities in the**
13 **commission of multiple murder**

14 “(a) IN GENERAL.—Whoever travels in or causes an-
15 other (including the intended victim) to travel in interstate
16 or foreign commerce, or uses or causes another (including
17 the intended victim) to use the mail or any facility of inter-
18 state or foreign commerce, or who conspires or attempts
19 to do so, with intent that 2 or more intentional homicides
20 be committed in violation of the laws of any State or the
21 United States shall, in addition to being subject to a fine
22 under this title—

23 “(1) if the offense results in the death of any
24 person, be sentenced to death or life in prison;

1 “(2) if the offense results is assault resulting in
2 serious bodily injury (as defined in section 1365), be
3 imprisoned for life or any term of years not less
4 than 20; and

5 “(3) in any other case, be imprisoned for life or
6 for any term of years not less than 10.

7 “(b) DEFINITION.—The term ‘State’ means each of
8 the several States of the United States, the District of
9 Columbia, and any commonwealth, territory, or possession
10 of the United States.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 at the beginning of chapter 51 of title 18, United States
13 Code, is amended by adding at the end the following:

“1123. Use of interstate commerce facilities in the commission of multiple murder.”.

14 **SEC. 718. ADDITIONAL RACKETEERING ACTIVITY.**

15 Section 1961(1) of title 18, United States Code, is
16 amended—

17 (1) in subparagraph (A), by inserting “, or
18 would have been so chargeable if the act or threat
19 had not been committed in Indian country (as de-
20 fined in section 1151) or in any other area of exclu-
21 sive Federal jurisdiction,” after “chargeable under
22 State law”; and

23 (2) in subparagraph (B), by inserting “section
24 1123 (relating to interstate murder),” after “section

1 1084 (relating to the transmission of gambling in-
2 formation),”.

3 **SEC. 719. EXPANSION OF REBUTTABLE PRESUMPTION**
4 **AGAINST RELEASE OF PERSONS CHARGED**
5 **WITH FIREARMS OFFENSES.**

6 Section 3142 of title 18, United States Code, is
7 amended—

8 (1) in subsection (e), in the matter following
9 paragraph (3), by inserting “an offense under sub-
10 section (g)(1) (where the underlying conviction is a
11 drug trafficking crime (as defined in section
12 924(c)), (g)(2), (g)(4), (g)(5), (g)(8), or (g)(9) of
13 section 922, or a crime of violence,” after “that the
14 person committed”; and

15 (2) in subsection (g), by amending paragraph
16 (1) to read as follows:

17 “(1) the nature and circumstances of the of-
18 fense charged, including whether the offense is a
19 crime of violence, or involves a controlled substance,
20 firearm, explosive, or destructive devise;”.

21 **SEC. 720. VENUE IN CAPITAL CASES.**

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

1 **“§ 3235. Venue in capital cases**

2 “(a) The trial for any offense punishable by death
3 shall be held in the district where the offense was com-
4 mitted or in any district in which the offense began, con-
5 tinued, or was completed.

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

11 **SEC. 721. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

12 (a) IN GENERAL.—Chapter 213 of title 18, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

15 **“§ 3298. Violent crime offenses**

16 “No person shall be prosecuted, tried, or punished
17 for any noncapital felony, crime of violence, including any
18 racketeering activity or gang crime which involves any
19 crime of violence, unless the indictment is found or the
20 information is instituted not later than 15 years after the
21 date on which the alleged violation occurred or the con-
22 tinuing offense was completed.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 213 of title 18, United States
25 Code, is amended by adding at the end the following:

“3298. Violent crime offenses.”.

1 **SEC. 722. MODIFICATION OF DEFINITION OF CRIME OF VIO-**
2 **LENCE.**

3 Section 16(b) of title 18, United States Code, is
4 amended to read as follows:

5 “(b) any other offense that is an offense pun-
6 ishable by imprisonment for more than one year and
7 that, by its nature, involves a substantial risk that
8 physical force may be used against the person or
9 property of another, or is an offense punishable
10 under subparagraphs (A), (B), or (C) of section
11 401(b)(1) of the Controlled Substances Act.”.

12 **SEC. 723. CLARIFICATION TO HEARSAY EXCEPTION FOR**
13 **FORFEITURE BY WRONGDOING.**

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

16 “(6) FORFEITURE BY WRONGDOING.—A state-
17 ment offered against a party who has engaged or ac-
18 quiesced in wrongdoing, or who could reasonably
19 foresee such wrongdoing would take place, if the
20 wrongdoing was intended to, and did, procure the
21 unavailability of the declarant as a witness.”.

22 **SEC. 724. INCREASED PENALTIES FOR CRIMINAL USE OF**
23 **FIREARMS IN CRIMES OF VIOLENCE AND**
24 **DRUG TRAFFICKING.**

25 (a) IN GENERAL.—Section 924(c) of title 18, United
26 States Code, is amended—

1 (1) in paragraph (1)(A)—

2 (A) by striking “shall” and inserting “or
3 conspires to commit any of the above acts,
4 shall, for each instance in which the firearm is
5 used, carried, or possessed”;

6 (B) in clause (i), by striking “5 years” and
7 inserting “7 years”; and

8 (C) by striking clauses (ii) and (iii) and in-
9 serting the following:

10 “(ii) if the firearm is discharged, be sen-
11 tenced to a term of imprisonment of not less
12 than 15 years; and

13 “(iii) if the firearm is used to wound, in-
14 jure, or maim another person, be sentenced to
15 a term of imprisonment of not less than 20
16 years.”; and

17 (2) by striking paragraph (4).

18 (b) CONFORMING AMENDMENT.—Section 924 of title
19 18, United States Code, is amended by striking subsection
20 (o).

21 **SEC. 725. TRANSFER OF JUVENILES.**

22 The 4th undesignated paragraph of section 5032 of
23 title 18, United States Code, is amended—

24 (1) by striking “A juvenile” where it appears at
25 the beginning of the paragraph and inserting “Ex-

1 cept as otherwise provided in this chapter, a juve-
2 nile”;

3 (2) by striking “as an adult, except that, with”
4 and inserting “as an adult. With”; and

5 (3) by striking “However, a juvenile” and all
6 that follows through “criminal prosecution.” at the
7 end of the paragraph and inserting “The Attorney
8 General may prosecute as an adult a juvenile who is
9 alleged to have committed an act after that juve-
10 nile’s 16th birthday which if committed by an adult
11 would be a crime of violence that is a felony, an of-
12 fense described in subsection (d), (i), (j), (k), (o),
13 (p), (q), (u), or (x) of section 922 (relating to unlaw-
14 ful acts), or subsection (b), (c), (g), (h), (k), (l), (m),
15 or (n) of section 924 (relating to penalties), section
16 930 (relating to possession of firearms and dan-
17 gerous weapons in Federal facilities), or section 931
18 (relating to purchase, ownership, or possession of
19 body armor by violent felons). The decision whether
20 or not to prosecute a juvenile as an adult under the
21 immediately preceding sentence is not subject to ju-
22 dicial review in any court. In a prosecution under
23 that sentence, the juvenile may be prosecuted and
24 convicted as an adult for any other offense which is
25 properly joined under the Federal Rules of Criminal

1 Procedure, and may also be convicted as an adult of
 2 any lesser included offense.”.

3 **Subtitle B—Increased Federal Re-**
 4 **sources to Deter and Prevent**
 5 **At-Risk Youth From Joining Il-**
 6 **legal Street Gangs**

7 **SEC. 731. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-**
 8 **TENSITY” INTERSTATE GANG ACTIVITY**
 9 **AREAS.**

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

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

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

20 (3) STATE.—The term “State” means a State
 21 of the United States, the District of Columbia, and
 22 any commonwealth, territory, or possession of the
 23 United States.

24 (b) HIGH INTENSITY INTERSTATE GANG ACTIVITY
 25 AREAS.—

1 (1) DESIGNATION.—The Attorney General,
2 after consultation with the Governors of appropriate
3 States, may designate as high intensity interstate
4 gang activity areas, specific areas that are located
5 within 1 or more States.

6 (2) ASSISTANCE.—In order to provide Federal
7 assistance to high intensity interstate gang activity
8 areas, the Attorney General shall—

9 (A) establish criminal street gang enforce-
10 ment teams, consisting of Federal, State, and
11 local law enforcement authorities, for the co-
12 ordinated investigation, disruption, apprehen-
13 sion, and prosecution of criminal street gangs
14 and offenders in each high intensity interstate
15 gang activity area;

16 (B) direct the reassignment or detailing
17 from any Federal department or agency (sub-
18 ject to the approval of the head of that depart-
19 ment or agency, in the case of a department or
20 agency other than the Department of Justice)
21 of personnel to each criminal street gang en-
22 forcement team;

23 (C) provide all necessary funding for the
24 operation of the criminal street gang enforce-

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

3 (D) provide all necessary funding for na-
4 tional and regional meetings of criminal street
5 gang enforcement teams, and all other related
6 organizations, as needed, to ensure effective op-
7 eration of such teams through the sharing of
8 intelligence, best practices and for any other re-
9 lated purpose.

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

14 (A) the Federal Bureau of Investigation;

15 (B) the Drug Enforcement Administration;

16 (C) the Bureau of Alcohol, Tobacco, Fire-
17 arms, and Explosives;

18 (D) the United States Marshals Service;

19 (E) the Directorate of Border and Trans-
20 portation Security of the Department of Home-
21 land Security;

22 (F) the Department of Housing and Urban
23 Development;

24 (G) State and local law enforcement; and

25 (H) Federal, State, and local prosecutors.

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

5 (A) the current and predicted levels of
6 gang crime activity in the area;

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

12 (C) the extent to which State and local law
13 enforcement agencies have committed resources
14 to—

15 (i) respond to the gang crime prob-
16 lem; and

17 (ii) participate in a gang enforcement
18 team;

19 (D) the extent to which a significant in-
20 crease in the allocation of Federal resources
21 would enhance local response to the gang crime
22 activities in the area; and

23 (E) any other criteria that the Attorney
24 General considers to be appropriate.

1 (c) ADDITIONAL ASSISTANT U.S. ATTORNEYS.—The
2 Attorney General is authorized to hire 94 additional As-
3 sistant United States attorneys to carry out the provisions
4 of this section. Each attorney hired under this subsection
5 shall be assigned to a high intensity interstate gang activ-
6 ity area.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated—

9 (1) \$50,000,000 for each of the fiscal years
10 2006 through 2010 to carry out subsection (b); and

11 (2) \$7,500,000 for each of the fiscal years 2006
12 through 2010 to carry out subsection (c).

13 **SEC. 732. GRANTS TO STATE AND LOCAL PROSECUTORS TO**
14 **COMBAT VIOLENT CRIME AND TO PROTECT**
15 **WITNESSES AND VICTIMS OF CRIMES.**

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

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

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

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

24 “(5) to hire additional prosecutors to—

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

2 and

3 “(B) reduce backlogs;

4 “(6) to fund technology, equipment, and train-

5 ing for prosecutors and law enforcement in order to

6 increase accurate identification of gang members

7 and violent offenders, and to maintain databases

8 with such information to facilitate coordination

9 among law enforcement and prosecutors; and

10 “(7) to fund technology, equipment, and train-

11 ing for prosecutors to increase the accurate identi-

12 fication and successful prosecution of young violent

13 offenders.”.

14 (b) **AUTHORIZATION OF APPROPRIATIONS.**—Section

15 31707 of the Violent Crime Control and Law Enforcement

16 Act of 1994 (42 U.S.C. 13867) is amended to read as

17 follows:

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

19 “There are authorized to be appropriated

20 \$20,000,000 for each of the fiscal years 2006 through

21 2010 to carry out this subtitle.”.

○