

On page 5, line 19, increase the amount by \$1,250,000,000.

On page 5, line 20, increase the amount by \$1,400,000,000.

On page 5, line 21, increase the amount by \$1,550,000,000.

On page 5, line 22, increase the amount by \$1,550,000,000.

On page 5, line 23, increase the amount by \$1,675,000,000.

On page 6, line 16, increase the amount by \$875,000,000.

On page 6, line 17, increase the amount by \$1,100,000,000.

On page 6, line 18, increase the amount by \$1,250,000,000.

On page 6, line 19, increase the amount by \$1,400,000,000.

On page 6, line 20, increase the amount by \$1,550,000,000.

On page 6, line 21, increase the amount by \$1,550,000,000.

On page 6, line 22, increase the amount by \$1,675,000,000.

On page 31, line 12, increase the amount by \$875,000,000.

On page 31, line 20, increase the amount by \$1,100,000,000.

On page 32, line 3, increase the amount by \$1,250,000,000.

On page 32, line 11, increase the amount by \$1,400,000,000.

On page 32, line 19, increase the amount by \$1,550,000,000.

On page 33, line 2, increase the amount by \$1,550,000,000.

On page 33 line 10, increase the amount by \$1,675,000,000.

On page 31, line 13, increase the amount by \$875,000,000.

On page 31, line 21, increase the amount by \$1,100,000,000.

On page 32, line 4, increase the amount by \$1,250,000,000.

On page 32, line 12, increase the amount by \$1,400,000,000.

On page 32, line 20, increase the amount by \$1,550,000,000.

On page 33, line 3, increase the amount by \$1,550,000,000.

On page 33, line 11, increase the amount by \$1,675,000,000.

On page 64, strike beginning with line 7 through page 64 line 12, and insert the following:

"Human Resources shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays \$266,000,000 in fiscal year 1996, \$2,990,000,000 for the period of fiscal years 1996 through 2000, and \$4,395,000,000 for the period of fiscal years 1996 through 2002."

At the appropriate place insert the following: The assumption underlying the functional totals include that "It is the sense of the Senate that cuts in student loan benefits should be minimized, and that the current exclusion of income of Foreign Sales Corporation should be eliminated."

THE COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

LEAHY AMENDMENT NO. 1198

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment to the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes; as follows:

At the end of title IX, add the following new title:

TITLE X—VICTIMS OF TERRORISM ACT SEC. 1001. TITLE.

This title may be cited as the "Victims of Terrorism Act of 1995".

SEC. 1002. AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.

The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM.

"(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE UNITED STATES.—The Director may make supplemental grants to States and may provide compensation and assistance to any resident of the United States who, while outside the territorial boundaries of the United States, is a victim of a terrorist act and is not a person eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

"(b) VICTIMS OF DOMESTIC TERRORISM.—The Director may make supplemental grants to States for eligible crime victim compensation and assistance programs to provide emergency relief, assistance, training, and technical assistance for the benefit of victims of terrorist acts occurring within the United States."

SEC. 1003. FUNDING OF COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM AND CRIME.

(a) RESERVATION.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) in subsection (d), by adding at the end the following new paragraph:

"(5) After the reserve under paragraph (4) reaches \$20,000,000 for any fiscal year, the Director may reserve any additional amount deposited in the Fund during that fiscal year as a reserve for victims of terrorist acts under section 1404B."; and

(2) by amending subsection (e) to read as follows:

"(e) AMOUNTS AWARDED AND UNSPENT.—Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums shall be returned to the Fund."

(b) BASE AMOUNT.—Section 1404(a)(5)(B) of such Act (42 U.S.C. 10603(a)(5)(B)) is amended by striking "\$200,000" and inserting "\$500,000".

SEC. 1004. PAYMENTS INTO CRIME VICTIMS FUND.

Section 3013 of title 18, United States Code, is amended to read as follows:

"§3013. Special assessment on convicted persons

"(a) The court shall assess on any person convicted of an offense against the United States—

"(1) in the case of a misdemeanor—

"(A) not less than \$50 if the defendant is an individual; and

"(B) not less than \$250 if the defendant is a person other than an individual; or

"(2) in the case of a felony—

"(A) not less than \$100 if the defendant is an individual; or

"(B) not less than \$500 if the defendant is a person other than an individual.

"(b) Amounts assessed under this section shall be collected in the same manner as fines are collected in criminal cases."

DOLE (AND OTHERS) AMENDMENT NO. 1199

Mr. HATCH (for Mr. DOLE for himself, Mr. HATCH, Mr. NICKLES, Mr. INHOFE, Mr. GRAMM, Mr. BROWN, Mr. THURMOND, Mr. SIMPSON, Mr. DEWINE

and Mr. KYL) proposed an amendment to the bill S. 735, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Terrorism Prevention Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

Sec. 101. Increased penalty for conspiracies involving explosives.

Sec. 102. Acts of terrorism transcending national boundaries.

Sec. 103. Conspiracy to harm people and property overseas.

Sec. 104. Increased penalties for certain terrorism crimes.

Sec. 105. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.

Sec. 106. Penalty for possession of stolen explosives.

Sec. 107. Enhanced penalties for use of explosives or arson crimes.

TITLE II—COMBATING INTERNATIONAL TERRORISM

Sec. 201. Findings.

Sec. 202. Prohibition on assistance to countries that aid terrorist states.

Sec. 203. Prohibition on assistance to countries that provide military equipment to terrorist states.

Sec. 204. Opposition to assistance by international financial institutions to terrorist states.

Sec. 205. Antiterrorism assistance.

Sec. 206. Jurisdiction for lawsuits against terrorist states.

Sec. 207. Report on support for international terrorists.

Sec. 208. Definition of assistance.

Sec. 209. Waiver authority concerning notice of denial of application for visas.

Sec. 210. Membership in a terrorist organization as a basis for exclusion from the United States under the Immigration and Nationality Act.

TITLE III—ALIEN REMOVAL

Sec. 301. Alien terrorist removal.

Sec. 302. Extradition of aliens.

Sec. 303. Changes to the Immigration and Nationality Act to facilitate removal of alien terrorists.

Sec. 304. Access to certain confidential immigration and naturalization files through court order.

TITLE IV—CONTROL OF FUNDRAISING FOR TERRORISM ACTIVITIES

Sec. 401. Prohibition on terrorist fundraising.

Sec. 402. Correction to material support provision.

TITLE V—ASSISTANCE TO FEDERAL LAW ENFORCEMENT AGENCIES

Subtitle A—Antiterrorism Assistance

Sec. 501. Disclosure of certain consumer reports to the Federal Bureau of Investigation for foreign counterintelligence investigations.

Sec. 502. Access to records of common carriers, public accommodation facilities, physical storage facilities, and vehicle rental facilities in foreign counterintelligence and counterterrorism cases.

Sec. 503. Increase in maximum rewards for information concerning international terrorism.

Subtitle B—Intelligence and Investigation Enhancements

- Sec. 511. Study and report on electronic surveillance.
- Sec. 512. Authorization for interceptions of communications in certain terrorism related offenses.
- Sec. 513. Requirement to preserve evidence.

Subtitle C—Additional Funding for Law Enforcement

- Sec. 521. Federal Bureau of Investigation assistance to combat terrorism.
- Sec. 522. Authorization of additional appropriations for the United States Customs Service.
- Sec. 523. Authorization of additional appropriations for the Immigration and Naturalization Service.
- Sec. 524. Drug Enforcement Administration.
- Sec. 525. Department of Justice.
- Sec. 526. Funding source.
- Sec. 527. Deterrent against terrorist activity damaging a Federal interest computer.

TITLE VI—CRIMINAL PROCEDURAL IMPROVEMENTS

Subtitle A—Habeas Corpus Reform

- Sec. 601. Filing deadlines.
- Sec. 602. Appeal.
- Sec. 603. Amendment of Federal Rules of Appellate Procedure.
- Sec. 604. Section 2254 amendments.
- Sec. 605. Section 2255 amendments.
- Sec. 606. Limits on second or successive applications.
- Sec. 607. Death penalty litigation procedures.
- Sec. 608. Technical amendment.

Subtitle B—Criminal Procedural Improvements

- Sec. 621. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
- Sec. 622. Expansion of territorial sea.
- Sec. 623. Expansion of weapons of mass destruction statute.
- Sec. 624. Addition of terrorism offenses to the RICO statute.
- Sec. 625. Addition of terrorism offenses to the money laundering statute.
- Sec. 626. Protection of current or former officials, officers, or employees of the United States.
- Sec. 627. Addition of conspiracy to terrorism offenses.
- Sec. 628. Clarification of Federal jurisdiction over bomb threats.

TITLE VII—MARKING OF PLASTIC EXPLOSIVES

- Sec. 701. Findings and purposes.
- Sec. 702. Definitions.
- Sec. 703. Requirement of detection agents for plastic explosives.
- Sec. 704. Criminal sanctions.
- Sec. 705. Exceptions.
- Sec. 706. Investigative authority.
- Sec. 707. Effective date.
- Sec. 708. Study on tagging of explosive materials.

TITLE VIII—NUCLEAR MATERIALS

- Sec. 801. Findings and purpose.
- Sec. 802. Expansion of scope and jurisdictional bases of nuclear materials prohibitions.

TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. Severability.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

SEC. 101. INCREASED PENALTY FOR CONSPIRACIES INVOLVING EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.”.

SEC. 102. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) REDESIGNATION.—(1) Chapter 113B of title 18, United States Code (relating to torture) is redesignated as chapter 113C.

(2) The chapter analysis of title 18, United States Code, is amended by striking “113B” the second place it appears and inserting “113C”.

(b) OFFENSE.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332a the following new section:

“§2332b. Acts of terrorism transcending national boundaries

“(a) PROHIBITED ACTS.—

“(1) Whoever, in a circumstance described in subsection (b), commits an act within the United States that if committed within the special maritime and territorial jurisdiction of the United States would be in violation of section 113 (a), (b), (c), or (f), 114, 1111, 1112, 1201, or 1363 shall be punished as prescribed in subsection (c).

“(2) Whoever threatens, attempts, or conspires to commit an offense under paragraph (1) shall be punished under subsection (c).

“(b) JURISDICTIONAL BASES.—

“(1) This section applies to conduct described in subsection (a) if—

“(A) the mail, or any facility utilized in interstate commerce, is used in furtherance of the commission of the offense;

“(B) the offense destructs, delays, or affects interstate or foreign commerce in any way or degree, or would have obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

“(C) the victim or intended victim is the United States Government or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

“(D) the structure, conveyance, or other real or personal property was in whole or in part owned, possessed, or used by, or leased to the United States, or any department or agency thereof;

“(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

“(F) the offense is committed in places within the United States that are in the special maritime and territorial jurisdiction of the United States.

“(2) Jurisdiction shall exist over all principals, coconspirators, and accessories after the fact, of an offense under subsection (a) if at least one of the circumstances described in paragraph (1) is applicable to at least one offender.

“(c) PENALTIES.—

“(1) Whoever violates this section shall, in addition to the punishment provided for any other crime charged in the indictment, be punished—

“(A) if death results to any person, by death, or by imprisonment for any term of years or for life;

“(B) for kidnapping, by imprisonment for any term of years or for life;

“(C) for maiming, by imprisonment for not more than 35 years;

“(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

“(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

“(F) for attempting or conspiring to commit the offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

“(G) for threatening to commit the offense, by imprisonment for not more than 10 years.

“(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section.

“(d) LIMITATION ON PROSECUTION.—No indictment for any offense described in this section shall be sought by the United States except after the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, has made a written certification that, in the judgment of the certifying official—

“(1) such offense, or any activity preparatory to its commission, transcended national boundaries; and

“(2) the offense appears to have been intended to coerce, intimidate, or retaliate against a government or a civilian population, including any segment thereof.

“(e) INVESTIGATIVE RESPONSIBILITY.—Violations of this section shall be investigated by the Federal Bureau of Investigation. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056, or with its investigative authority with respect to sections 871 and 879.

“(f) EVIDENCE.—In a prosecution under this section, the United States shall not be required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

“(g) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over—

“(1) any offense under subsection (a); and

“(2) conduct that, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

“(h) DEFINITIONS.—As used in this section—

“(1) the term ‘commerce’ has the meaning given such term in section 1951(b)(3);

“(2) the term ‘facility’ utilized in any manner in commerce’ includes means of transportation, communication, and transmission;

“(3) the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(4) the term ‘serious bodily injury’ has the meaning given such term in section 1365(g)(3); and

“(5) the term ‘territorial sea of the United States’ means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.”.

(c) TECHNICAL AMENDMENT.—The chapter analysis for Chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a, the following new item:

“2332b. Acts of terrorism transcending national boundaries.”.

(d) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended—

(1) by striking “any offense” and inserting “any noncapital offense”;

(2) by striking “36” and inserting “37”;

(3) by striking “2331” and inserting “2332”;

(4) by striking “2339” and inserting “2332a”;

(5) by inserting “2332b (acts of terrorism transcending national boundaries),” after “(use of weapons of mass destruction),”.

(e) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is

amended by inserting "or section 2332b" after "section 924(c)".

SEC. 103. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of title 18, United States Code, is amended to read as follows:

"§ 956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons is located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States, shall, if he or any such other person commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons is located, to injure or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if he or any such other person commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years."

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 45 of title 18, United States Code, is amended by striking the item relating to section 956 and inserting the following:

"956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country."

SEC. 104. INCREASED PENALTIES FOR CERTAIN TERRORISM CRIMES.

(a) IN GENERAL.—Title 18, United States Code, is amended—

(1) in section 114, by striking "maim or disfigure" and inserting "torture (as defined in section 2340), maim, or disfigure";

(2) in section 755, by striking "two years" and inserting "five years";

(3) in section 756, by striking "one year" and inserting "five years";

(4) in section 878(a), by striking "by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person";

(5) in section 1113, by striking "three years or fined" and inserting "seven years"; and

(6) in section 2332(c), by striking "five" and inserting "ten".

(b) PENALTY FOR CARRYING WEAPONS OR EXPLOSIVES ON AN AIRCRAFT.—Section 46505(b) of title 49, United States Code, is amended by striking "one" and inserting "ten".

SEC. 105. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(n) Whoever knowingly transfers an explosive material, knowing or having reasonable cause to believe that such explosive ma-

terial will be used to commit a crime of violence (as defined in section 924(c)(3)) or drug trafficking crime (as defined in section 924(c)(2)) shall be imprisoned for not less than 10 years, fined under this title, or both."

SEC. 106. PENALTY FOR POSSESSION OF STOLEN EXPLOSIVES.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, pledge, or accept as security for a loan, any stolen explosive material that is moving in, part of, constitutes, or has been shipped or transported in, interstate or foreign commerce, either before or after such material was stolen, knowing or having reasonable cause to believe that the explosive material was stolen."

SEC. 107. ENHANCED PENALTIES FOR USE OF EXPLOSIVES OR ARSON CRIMES.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (e), by striking "five" and inserting "10";

(2) by amending subsection (f) to read as follows:

"(f)(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, shall be imprisoned for not less than 5 years and not more than 20 years, fined the greater of \$100,000 or the cost of repairing or replacing any property that is damaged or destroyed, or both.

"(2) Whoever engages in conduct prohibited by this subsection shall be imprisoned not less than 7 years and not more than 40 years, fined the greater of \$200,000 or the cost of repairing or replacing any property that is damaged or destroyed, or both, if the conduct results in personal injury to any person, including any public safety officer performing duties, as a direct or proximate result of such conduct.

"(3) Whoever engages in conduct prohibited by this subsection shall be imprisoned for any term of years, for life, or sentenced to death, fined the greater of \$200,000 or the cost of repairing or replacing any property that is damaged or destroyed, or both, if the conduct results in death to any person, including any public safety officer performing duties, as a direct or proximate result of such conduct."

(4) in subsection (h)—

(A) in the first sentence by striking "5 years but not more than 15 years" and inserting "10 years"; and

(B) in the second sentence by striking "10 years but not more than 25 years" and inserting "20 years"; and

(5) in subsection (i)—

(A) by striking "not more than 20 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 5 years and not more than 20 years, fined the greater of \$100,000 or the cost of repairing or replacing any property that is damaged or destroyed";

(B) by striking "not more than 40 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 7 years and not more than 40 years, fined the greater of \$200,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(C) by striking "7 years" and inserting "10 years".

TITLE II—COMBATING INTERNATIONAL TERRORISM

SEC. 201. FINDINGS.

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counterterrorist efforts;

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

SEC. 202. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section:

"SEC. 620G. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

"No assistance under this Act shall be provided to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A."

SEC. 203. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section:

"SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

"(a) PROHIBITION.—

"(1) IN GENERAL.—No assistance under this Act shall be provided to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(2) APPLICABILITY.—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

"(b) WAIVER.—Notwithstanding any other provision of law, assistance may be furnished

to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

- “(1) a statement of the determination;
- “(2) a detailed explanation of the assistance to be provided;
- “(3) the estimated dollar amount of the assistance; and
- “(4) an explanation of how the assistance furthers United States national interests.”.

SEC. 204. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section:

“SEC. 1621. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

“(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

“(b) DEFINITION.—For purposes of this section, the term ‘international financial institution’ includes—

- “(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;
- “(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and
- “(3) any similar institution established after the date of enactment of this section.”.

SEC. 205. ANTITERRORISM ASSISTANCE.

(a) FOREIGN ASSISTANCE ACT.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is amended—

- (1) in subsection (c), by striking “development and implementation of the antiterrorism assistance program under this chapter, including”;
- (2) by amending subsection (d) to read as follows:

“(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

“(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year.”; and

- (3) by striking subsection (f).

(b) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to \$1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

- (1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and
- (2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

SEC. 206. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

- (1) in subsection (a)—
- (A) by striking the period at the end of paragraph (6) and inserting “; or” and
- (B) by adding at the end the following new paragraph:

“(7) not otherwise covered by paragraph (2) in which money damages are sought against a foreign government for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A) for a person carrying out such an act, by a foreign state or by any official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that—

“(A) the claimant must first afford the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; and

“(B) an action under this paragraph shall not be maintained unless the act upon which the claim is based—

“(i) occurred while the individual bringing the claim was a national of the United States (as that term is defined in section 101(a)(2) of the Immigration and Nationality Act); and

“(ii) occurred while the foreign state was designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 App. U.S.C. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).”;

- (2) by adding at the end the following new subsection:

“(e) For purposes of paragraph (7)—

“(1) the terms ‘torture’ and ‘extrajudicial killing’ have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991 (28 U.S.C. 350 note);

“(2) the term ‘hostage taking’ has the meaning given such term in Article 1 of the International Convention Against the Taking of Hostages; and

“(3) the term ‘aircraft sabotage’ has the meaning given such term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.”.

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

- (A) by striking the period at the end of paragraph (6) and inserting “; or”;
- (B) by adding at the end the following new paragraph:

“(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.”.

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

- (A) by striking “or (5)” and inserting “(5), or (7)”; and

(B) by striking “used for the activity” and inserting “involved in the act”.

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 207. REPORT ON SUPPORT FOR INTERNATIONAL TERRORISTS.

Not later than 60 days after the date of enactment of this Act, and annually thereafter in the report required by section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), the Secretary of State shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that includes—

(1) a detailed assessment of international terrorist groups including their—

- (A) size, leadership, and sources of financial and logistical support;
- (B) goals, doctrine, and strategy;
- (C) nature, scope, and location of human and technical infrastructure;
- (D) level of education and training;
- (E) bases of operation and recruitment;
- (F) operational capabilities; and

(G) linkages with state and non-state actors such as ethnic groups, religious communities, or criminal organizations;

(2) a detailed assessment of any country that provided support of any type for international terrorism, terrorist groups, or individual terrorists, including countries that knowingly allowed terrorist groups or individuals to transit or reside in their territory, regardless of whether terrorist acts were committed on their territory by such individuals;

(3) a detailed assessment of individual country efforts to take effective action against countries named in section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), including the status of compliance with international sanctions and the status of bilateral economic relations; and

(4) United States Government efforts to implement this title.

SEC. 208. DEFINITION OF ASSISTANCE.

For purposes of this title—

(1) the term “assistance” means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

(2) the term “assistance” does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

SEC. 209. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

- (1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;
- (2) by striking “If” and inserting “(1) Subject to paragraph (2), if”;
- (3) by inserting at the end the following paragraph:

“(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of excludable aliens, except in cases of intent to immigrate.”.

SEC. 210. MEMBERSHIP IN A TERRORIST ORGANIZATION AS A BASIS FOR EXCLUSION FROM THE UNITED STATES UNDER THE IMMIGRATION AND NATIONALITY ACT.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

- (1) in clause (i)—
- (A) by striking “or” at the end of subclause (I);
- (B) by inserting “or” at the end of subclause (II); and
- (C) by inserting after subclause (II) the following new subclause:

“(III) is a member of a terrorist organization or who actively supports or advocates terrorist activity.”; and

(2) by adding at the end the following new clause:

“(iv) **TERRORIST ORGANIZATION DEFINED.**—As used in this subparagraph, the term ‘terrorist organization’ means an organization that engages in, or has engaged in, terrorist activity as determined by the Secretary of State, after consultation with the Secretary of the Treasury.”.

TITLE III—ALIEN REMOVAL

SEC. 301. ALIEN TERRORIST REMOVAL.

(a) **TABLE OF CONTENTS.**—The Immigration and Nationality Act is amended by adding at the end of the table of contents the following:

“TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

“501. Definitions.

“502. Applicability.

“503. Removal of alien terrorists.”.

(b) **ALIEN TERRORIST REMOVAL.**—The Immigration and Nationality Act is amended by adding at the end the following new title:

“TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

“SEC. 501. DEFINITIONS.

“As used in this title—

“(1) the term ‘alien terrorist’ means any alien described in section 241(a)(4)(B);

“(2) the term ‘classified information’ has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

“(3) the term ‘national security’ has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

“(4) the term ‘special court’ means the court described in section 503(c); and

“(5) the term ‘special removal hearing’ means the hearing described in section 503(e).

“SEC. 502. APPLICABILITY.

“(a) **IN GENERAL.**—The provisions of this title may be followed in the discretion of the Attorney General whenever the Department of Justice has classified information that an alien described in section 241(a)(4)(B) is subject to deportation because of such section.

“(b) **PROCEDURES.**—Whenever an official of the Department of Justice files, under section 503(a), an application with the court established under section 503(c) for authorization to seek removal pursuant to this title, the alien’s rights regarding removal and expulsion shall be governed solely by the provisions of this title, except as specifically provided.

“SEC. 503. REMOVAL OF ALIEN TERRORISTS.

“(a) **APPLICATION FOR USE OF PROCEDURES.**—This section shall apply whenever the Attorney General certifies under seal to the special court that—

“(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

“(2) an alien terrorist is physically present in the United States; and

“(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

“(b) **CUSTODY AND RELEASE PENDING HEARING.**—(1) The Attorney General may take into custody any alien with respect to whom a certification has been made under subsection (a), and notwithstanding any other provision of law, may retain such alien in custody in accordance with this subsection.

“(2)(A) An alien with respect to whom a certification has been made under subsection (a) shall be given a release hearing before the special court designated pursuant to subsection (c).

“(B) The judge shall grant the alien release, subject to such terms and conditions prescribed by the court (including the posting of any monetary amount), pending the special removal hearing if—

“(i) the alien is lawfully present in the United States;

“(ii) the alien demonstrates that the alien, if released, is not likely to flee; and

“(iii) the alien demonstrates that release of the alien will not endanger national security or the safety of any person or the community.

“(C) The judge may consider classified information submitted in camera and ex parte in making a determination whether to release an alien pending the special hearing.

“(c) **SPECIAL COURT.**—(1) The Chief Justice of the United States shall publicly designate not more than 5 judges from up to 5 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(a)).

“(2) The Chief Justice may, in the Chief Justice’s discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

“(d) **INVOCATION OF SPECIAL COURT PROCEDURE.**—(1) When the Attorney General makes the application described in subsection (a), a single judge of the special court shall consider the application in camera and ex parte.

“(2) The judge shall invoke the procedures of subsection (e) if the judge determines that there is probable cause to believe that—

“(A) the alien who is the subject of the application has been correctly identified and is an alien as described in section 241(a)(4)(B); and

“(B) a deportation proceeding described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

“(e) **SPECIAL REMOVAL HEARING.**—(1) Except as provided in paragraph (5), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

“(2) The alien shall have a reasonable opportunity to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

“(3) The alien shall have a reasonable opportunity to introduce evidence on his own behalf, and except as provided in paragraph (5), shall have a reasonable opportunity to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

“(4)(A) An alien subject to removal under this section shall have no right—

“(i) of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 801 et seq.) or otherwise for national security purposes if disclosure would present a risk to the national security; or

“(ii) to seek the suppression of evidence that the alien alleges was unlawfully obtained, except on grounds of credibility or relevance.

“(B) The Government is authorized to use, in the removal proceedings, the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 801 et seq.) without regard to subsections 106 (c), (e), (f), (g), and (h) of such Act.

“(C) Section 3504 of title 18, United States Code, shall not apply to procedures under this section if the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

“(5) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information. With respect to such evidence, the Attorney General shall submit to the court an unclassified summary of the specific evidence prepared in accordance with paragraph (6).

“(6)(A) The information submitted under paragraph (5)(B) shall contain an unclassified summary of the classified information that does not pose a risk to national security.

“(B) The judge shall approve the summary if the judge finds that it is sufficient to inform the alien of the nature of the evidence that such person is an alien as described in section 241(a), and to permit the alien to prepare a defense.

“(C) The Attorney General shall cause to be delivered to the alien a copy of the unclassified summary approved under subparagraph (B).

“(D) If the written unclassified summary is not approved by the court, the Department of Justice shall be afforded reasonable opportunity to correct the deficiencies identified by the court and submit a revised unclassified summary.

“(E) If the revised unclassified summary is not approved by the court, the special removal hearing shall be terminated unless the court, after reviewing the classified information in camera and ex parte finds, by clear and convincing evidence, that—

“(i) the alien’s continued presence in the United States—

“(I) would cause serious and irreparable harm to the national security; or

“(II) would likely cause imminent death or serious bodily injury to any person; and

“(ii) provision of the required unclassified summary—

“(I) would cause serious and irreparable harm to the national security; or

“(II) would likely cause imminent death or serious bodily injury to any person.

“(F) If such finding is issued, the special removal hearing shall continue. The Department of Justice shall cause to be delivered to the alien a statement declaring that no unclassified summary is possible. The alien may take an interlocutory appeal of a determination to proceed under this paragraph.

“(G) In no event may the court order the disclosure of the unclassified summary or the classified information.

“(H) If no unclassified summary pursuant to subparagraph (E) is possible, the Attorney General shall—

“(i) identify the facts that the specific evidence would tend to prove; and

“(ii) provide the alien with notice that no unclassified summary is possible and that states that the alien’s continued presence in the United States poses a serious threat to national security or imminent death or bodily injury to any person.

“(I)(i) The Department of Justice may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

“(I) any determination by the judge pursuant to subparagraph (B) concerning whether an item of evidence may be introduced in camera and ex parte;

“(II) any determination by the judge concerning the contents of any summary of evidence to be introduced in camera and ex

parte prepared pursuant to subparagraph (D); or

“(III) the refusal of the court to make the finding permitted by subparagraph (D).

“(ii) In an interlocutory appeal taken under this paragraph, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal, and the matter shall be heard *ex parte*. The Court of Appeals shall consider the appeal as expeditiously as possible.

“(f) DETERMINATION OF DEPORTATION.—The judge shall, considering the evidence on the record as a whole (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because such alien is an alien as described in section 241(a)(4)(B). If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and, if the alien was released pending the special removal proceeding, order the Attorney General to take the alien into custody.

“(g) APPEALS.—(1) The alien may appeal a final determination under subsection (f) to the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal with such court not later than 30 days after the determination is made. An appeal under this section shall be heard by the Court of Appeals sitting en banc.

“(2) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal with such court not later than 20 days after the determination is made under any one of such subsections.

“(3) If the Department of Justice does not seek review, the alien shall be released from custody, unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens.

“(4) If the application for the order is denied because the judge has not found probable cause to believe that the alien who is the subject of the application has been correctly identified or is an alien as described in paragraph 4(B) of section 241(a), and the Department of Justice seeks review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens simultaneously with the application of this title.

“(5)(A) If the application for the order is denied based on a finding that no probable cause exists to find that adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk of irreparable harm to the national security of the United States, or death or serious bodily injury to any person, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and (c)(1)(B) (i) through (xiv) of title 18, United States Code, that will reasonably ensure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the Community.

“(B) The alien shall remain in custody if the court fails to make a finding under subparagraph (A), until the completion of any appeal authorized by this title. Sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to

appear, penalties for an offense committed while on release, and sanctions for violation of a release condition, shall apply to an alien to whom the previous sentence applies and—

“(i) for purposes of section 3145 of such title, an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit; and

“(ii) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

“(6) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals or the Supreme Court under seal. The court of appeals or Supreme Court may consider such appeal in camera.”.

SEC. 302. EXTRADITION OF ALIENS.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting “(a)” before “The provisions of this chapter”; and

(2) by adding at the end the following new subsections:

“(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons, other than citizens, nationals, or permanent residents of the United States, who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

“(1) evidence has been presented by the foreign government that indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

“(2) the offenses charged are not of a political nature.

“(c) As used in this section, the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”.

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after “United States and any foreign government,” the following: “or in cases arising under section 3181(b).”; and

(2) in the first sentence by inserting after “treaty or convention,” the following: “or provided for under section 3181(b).”; and

(3) in the third sentence by inserting after “treaty or convention,” the following: “or under section 3181(b).”.

SEC. 303. CHANGES TO THE IMMIGRATION AND NATIONALITY ACT TO FACILITATE REMOVAL OF ALIEN TERRORISTS.

(a) TERRORISM ACTIVITIES.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended to read as follows:

“(B) TERRORISM ACTIVITIES.—

“(i) IN GENERAL.—Any alien who—

“(I) has engaged in a terrorism activity, or

“(II) a consular officer or the Attorney General knows, or has reason to believe, is likely to engage after entry in any terrorism activity (as defined in clause (iii)),

is excludable. An alien who is an officer, official, representative, or spokesman of any terrorist organization designated as a terrorist organization by proclamation by the President after finding such organization to be detrimental to the interest of the United States, or any person who directs, counsels, commands, or induces such organization or its members to engage in terrorism activity, shall be considered, for purposes of this Act, to be engaged in terrorism activity.

“(ii) TERRORISM ACTIVITY DEFINED.—As used in this Act, the term ‘terrorism activ-

ity’ means any activity that is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State), and that involves any of the following:

“(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

“(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

“(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

“(IV) An assassination.

“(V) The use of any—

“(aa) biological agent, chemical agent, or nuclear weapon or device, or

“(bb) explosive, firearm, or other weapon (other than for mere personal monetary gain),

with intent to endanger, directly, or indirectly, the safety of one or more individuals or to cause substantial damage to property.

“(VI) A threat, attempt, or conspiracy to do any of the foregoing.

“(iii) ENGAGE IN TERRORISM ACTIVITY DEFINED.—As used in this Act, the term ‘engage in terrorism activity’ means to commit, in an individual capacity or as a member of an organization, an act of terrorism activity, or an act that the actor knows affords material support to any individual, organization, or government that the actor knows plans to commit terrorism activity, including any of the following acts:

“(I) The preparation or planning of terrorism activity.

“(II) The gathering of information on potential targets for terrorism activity.

“(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false documentation or identification, weapons, explosives, or training.

“(IV) The soliciting of funds or other things of value for terrorism activity or for any terrorist organization.

“(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorism activity.

“(iv) TERRORIST ORGANIZATION DEFINED.—As used in this Act, the term ‘terrorist organization’ means—

“(I) an organization engaged in, or that has a significant subgroup that engages in, terrorism activity, regardless of any legitimate activities conducted by the organization or its subgroups; and

“(II) an organization designated by the Secretary of State under section 2339B of title 18.”.

(b) DEPORTABLE ALIENS.—Section 241(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(4)(B)) is amended to read as follows:

“(B) TERRORISM ACTIVITIES.—Any alien who is engaged, or at any time after entry engages in, any terrorism activity (as defined in section 212(a)(3)(B)) is deportable.”.

(c) BURDEN OF PROOF.—Section 291 of the Immigration and Nationality Act (8 U.S.C. 1361) is amended by inserting after “custody of the Service.” the following new sentence: “The limited production authorized by this provision shall not extend to the records of any other agency or department of the Government or to any documents that do not pertain to the respondent’s entry.”.

(d) APPREHENSION AND DEPORTATION OF ALIENS.—Section 242(b) of the Immigration

and Nationality Act (8 U.S.C. 1252(b)(3)) is amended by inserting immediately after paragraph (4) the following: "For purposes of paragraph (3), in the case of an alien who is not lawfully admitted for permanent residence and notwithstanding the provisions of any other law, reasonable opportunity shall not include access to classified information, whether or not introduced in evidence against the alien. Section 3504 of title 18, United States Code, and 18 U.S.C. 3504 and the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall not apply in such cases."

(e) **CRIMINAL ALIEN REMOVAL.**—

(1) **JUDICIAL REVIEW.**—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:

"(10) Notwithstanding any other provision of law, any final order of deportation against an alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), shall not be subject to review by any court."

(2) **FINAL ORDER OF DEPORTATION DEFINED.**—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(47)(A) The term 'order of deportation' means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation."

"(B) The order described under subparagraph (A) shall become final upon the earlier of—

"(i) a determination by the Board of Immigration Appeals affirming such order; or

"(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals."

(3) **ARREST AND CUSTODY.**—Section 242(a)(2) of such Act is amended—

(A) in subparagraph (A)—

(i) by striking "(2)(A) The Attorney" and inserting "(2) The Attorney";

(ii) by striking "an aggravated felony upon" and all that follows through "of the same offense)" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), upon release of the alien from incarceration, shall deport the alien as expeditiously as possible"; and

(iii) by striking "but subject to subparagraph (B)"; and

(B) by striking subparagraph (B).

(4) **CLASSES OF EXCLUDABLE ALIENS.**—Section 212(c) of such Act (8 U.S.C. 1182(c)) is amended—

(A) by striking "The first sentence of this" and inserting "This"; and

(B) by striking "has been convicted of one or more aggravated felonies" and all that follows through the end and inserting "is deportable by reason of having committed any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i)."

(5) **AGGRAVATED FELONY DEFINED.**—Section 101(a)(43) of such Act is amended—

(A) in subparagraph (F)—

(i) by inserting "including forcible rape," after "offense"; and

(ii) by striking "5 years" and inserting "1 year"; and

(B) in subparagraph (G) by striking "5 years" and inserting "1 year".

(6) **DEPORTATION OF CRIMINAL ALIENS.**—Section 242A(a) of such Act (8 U.S.C. 1252(a)) is amended—

(A) in paragraph (1)—

(i) by striking "aggravated felonies (as defined in section 101(a)(43))" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i)."; and

(ii) by striking "where warranted";

(B) in paragraph (2), by striking "aggravated felony" and all that follows through "before any scheduled hearings," and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i)."

(7) **DEADLINES FOR DEPORTING ALIEN.**—Section 242(c) of such Act (8 U.S.C. 1252(c)) is amended—

(A) by striking "(c) When a final order" and inserting "(c)(1) Subject to paragraph (2), when a final order"; and

(B) by inserting at the end the following new paragraph:

"(2) When a final order of deportation under administrative process is made against any alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D) or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), the Attorney General shall have 30 days from the date of the order within which to effect the alien's departure from the United States. The Attorney General shall have sole and unreviewable discretion to waive the foregoing provision for aliens who are cooperating with law enforcement authorities or for purposes of national security."

(F) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to cases pending before, on, or after such date of enactment.

SEC. 304. ACCESS TO CERTAIN CONFIDENTIAL IMMIGRATION AND NATURALIZATION FILES THROUGH COURT ORDER.

(a) **CONFIDENTIALITY OF INFORMATION.**—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except the Attorney General"; and

(2) by inserting after "Title 13" the following: "and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed."

(b) **APPLICATIONS FOR ADJUSTMENT OF STATUS.**—Section 210(b) of the Immigration and Nationality Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting "except as allowed by a court order issued pursuant to paragraph (6) of this subsection" after "consent of the alien"; and

(2) in paragraph (6), by inserting the following sentence before "Anyone who uses": "Notwithstanding the preceding sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant an order authorizing, disclosure of information contained in the application of the alien to be used for identification of the

alien when there is reason to believe that the alien has been killed or severely incapacitated, or for criminal law enforcement purposes against the alien whose application is to be disclosed or to discover information leading to the location or identity of the alien."

TITLE IV—CONTROL OF FUNDRAISING FOR TERRORISM ACTIVITIES

SEC. 401. PROHIBITION ON TERRORIST FUNDRAISING.

(a) **IN GENERAL.**—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section:

"§2339B. Fundraising for terrorist organizations"

"(a) **FINDINGS AND PURPOSE.**—

"(1) The Congress finds that—

"(A) terrorism is a serious and deadly problem which threatens the interests of the United States overseas and within our territory;

"(B) the Nation's security interests are gravely affected by the terrorist attacks carried out overseas against United States Government facilities and officials, and against American citizens present in foreign countries;

"(C) United States foreign policy and economic interests are profoundly affected by terrorist acts overseas directed against foreign governments and their people;

"(D) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

"(E) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States or use the United States as a conduit for the receipt of funds raised in other nations; and

"(F) the provision of funds to organizations that engage in terrorism serves to facilitate their terrorist endeavors, regardless of whether the funds, in whole or in part, are intended or claimed to be used for nonviolent purposes."

"(2) The purpose of this section is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States or subject to the jurisdiction of the United States from providing funds, directly or indirectly, to foreign organizations, including subordinate or affiliated persons, that engage in terrorism activities."

"(b) **DESIGNATION.**—

"(1) The Secretary of State, after consultation with the Secretary of the Treasury, is authorized to designate under this section any foreign organization based on finding that—

"(A) the organization engages in terrorism activity as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); and

"(B) the organization's terrorism activities threaten the security of United States citizens, national security, foreign policy, or the economy of the United States."

"(2) Not later than 7 days after making a designation under paragraph (1), the Secretary of State shall prepare and transmit to Congress a report containing a list of the designated organizations and a summary of the facts underlying the designation. The designation shall take effect 60 days after the date on which the Secretary of State submits the report, unless otherwise provided by law."

“(3) A designation or redesignation under this subsection shall be in effect for 1 year following its effective date, unless revoked under paragraph (4).

“(4)(A) If the Secretary of State, after consultation with the Secretary of the Treasury, finds that the conditions that were the basis for any designation issued under this subsection have changed in such a manner as to warrant revocation of such designation, or that the national security, foreign relations, or economic interests of the United States so warrant, the Secretary of State may revoke such designation in whole or in part.

“(B) Not later than 7 calendar days after the Secretary of State finds that an organization no longer engages in, or supports, terrorism activity, the Secretary of State shall prepare and transmit to Congress a supplemental report stating the reasons for the finding.

“(5) Any designation, or revocation of a designation, issued under this subsection shall be published in the Federal Register not later than 7 calendar days after the Secretary of State makes the designation.

“(6) Not later than 7 calendar days after making a designation under this subsection, the Secretary of State shall give the organization actual notice of—

“(A) the designation;

“(B) the consequences of the designation for the organization's ability to raise funds in the United States; and

“(C) the availability of judicial review.

“(7) Any revocation or lapsing of a designation shall not affect any action or proceeding based on any conduct committed prior to the effective date of such revocation or lapsing.

“(8) Classified information may be used in making a designation under this subsection. Such information shall not be disclosed to the public or to any party, but may be disclosed to a court *ex parte* and *in camera*.

“(9) No question concerning the validity of the issuance of a designation issued under this subsection may be raised by a defendant in a criminal prosecution as a defense in or as an objection to any trial or hearing if such designation was issued and published in the Federal Register.

“(c) JUDICIAL REVIEW.—

“(1) Organizations designated by the Secretary of State as engaging in, or supporting, terrorism activities under this section may seek review of the designation in the District Court for the District of Columbia not later than 60 days after publication of such designation in the Federal Register.

“(2) In reviewing a designation under this subsection, the court shall receive relevant oral or documentary evidence, unless the court finds that the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or considerations of undue delay, waste of time, or needless presentation of cumulative evidence, or unless its introduction or consideration is prohibited by a common law privilege or by the Constitution or laws of the United States. A party shall be entitled to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

“(3) The judge shall authorize the introduction in camera and *ex parte* of any item of evidence containing classified information for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States. With respect to such evidence, the Attorney General shall submit to the court either—

“(A) a statement identifying relevant facts that the specific evidence would tend to prove; or

“(B) an unclassified summary of the specific evidence prepared in accordance with paragraph (5).

“(4)(A)(i) The Secretary of State shall have the burden of demonstrating that there are specific and articulable facts giving reason to believe that the organization engages in or supports terrorism activity (as that term is defined in section 212(a)(3)(B)).

“(ii) The organization shall have the burden of proving that its purpose is to engage in religious, charitable, literary, educational, or nonterrorism activities and that it engages in such activities.

“(iii) The Secretary shall have the burden of proving that the control group of the organization has actual knowledge that the organization or its resources are being used for terrorism activities.

“(iv) If any portion of the Secretary's evidence consists of classified information that cannot be revealed to the organization for national security reasons, the Secretary must prove these elements by clear and convincing evidence.

“(B) If the court finds, under the standards stated in subparagraph (A) that the control group of the organization has actual knowledge that the organization or its resources are being used for terrorism activities, the court shall affirm the designation of the Secretary.

“(C)(i) If the court finds by a preponderance of the evidence that the organization or its resources have been used for terrorism activities without the knowledge of the control group, but that the control group is now aware of these facts, the court may condition revocation of the designation on the control group's undertaking or completing all steps within its power to prevent the organization or its resources from being used for terrorism activities. Such steps may include—

“(I) maintaining financial records adequate to document the use of the organization's resources; and

“(II) making records available to the Secretary for inspection.

“(ii) If a designation is revoked under subsection (B)(4) and the organization fails to comply with any condition imposed, the designation may be reinstated by the Secretary of State upon a showing that the organization failed to comply with the condition.

“(5)(A) The information submitted under paragraph (3)(B) shall contain an unclassified summary of the classified information that does not pose a risk to national security.

“(B) The judge shall approve the unclassified summary if the judge finds that the summary is sufficient to inform the organization of the activities described in section 212(a)(3)(B) in which the organization is alleged to engage, and to permit the organization to defend against the designation.

“(C) The Attorney General shall cause to be delivered to the organization a copy of the unclassified summary approved under subparagraph (B).

“(6) The court shall decide the case on the basis of the evidence on the record as a whole, *in camera* or otherwise.

“(d) PROHIBITED ACTIVITIES.—It shall be unlawful for any person within the United States, or any person subject to the jurisdiction of the United States anywhere, to directly or indirectly, raise, receive, or collect on behalf of, or furnish, give, transmit, transfer, or provide funds to or for an organization or person designated by the Secretary of State under subsection (b), or to attempt to do any of the foregoing.

“(e) SPECIAL REQUIREMENTS FOR FINANCIAL INSTITUTIONS.—

“(1) Except as authorized by the Secretary of State, after consultation with the Sec-

retary of the Treasury, by means of directives, regulations, or licenses, any financial institution that becomes aware that it has possession of or control over any funds in which an organization or person designated under subsection (b) has an interest, shall—

“(A) retain possession of or maintain control over such funds; and

“(B) report to the Secretary the existence of such funds in accordance with the regulations prescribed by the Secretary.

“(2) Any financial institution that knowingly fails to report to the Secretary the existence of such funds shall be subject to a civil penalty of \$250 per day for each day that it fails to report to the Secretary—

“(A) in the case of funds being possessed or controlled at the time of the designation of the organization or person, within 10 days after the designation; and

“(B) in the case of funds whose possession of or control over arose after the designation of the organization or person, within 10 days after the financial institution obtained possession of or control over the funds.

“(f) INVESTIGATIONS.—Any investigation emanating from a possible violation of this section shall be conducted by the Attorney General, except that investigations relating to—

“(1) a financial institution's compliance with the requirements of subsection (e); and

“(2) civil penalty proceedings authorized pursuant to subsection (g)(2),

shall be conducted in coordination with the Attorney General by the office within the Department of the Treasury responsible for civil penalty proceedings authorized by this section. Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

“(g) PENALTIES.—

“(1) Any person who, with knowledge that the donee is a designated entity, violates subsection (d) shall be fined under this title, or imprisoned for up to ten years, or both.

“(2) Any financial institution that knowingly fails to comply with subsection (e), or by regulations promulgated thereunder, shall be subject to a civil penalty of \$50,000 per violation, or twice the amount of money of which the financial institution was required to retain possession or control, whichever is greater.

“(h) INJUNCTION.—

“(1) Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act which constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

“(2) A proceeding under this subsection is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

“(i) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

“(j) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

“(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—A court, upon a sufficient showing, may authorize the United States to delete specified items of classified information from documents to be introduced into evidence or made available to the defendant

through discovery under the Federal Rules of Civil Procedure, to substitute an unclassified summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. The court shall permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone. If the court enters an order granting relief following such an ex parte showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal. If the court enters an order denying relief to the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with the provisions of paragraph (3). For purposes of such an appeal, the entire text of the underlying written statement of the United States, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

“(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

“(A) EXHIBITS.—The United States, to prevent unnecessary or inadvertent disclosure of classified information in a civil trial or other proceeding brought by the United States under this section, may petition the court ex parte to admit, in lieu of classified writings, recordings or photographs, one or more of the following:

“(i) copies of those items from which classified information has been deleted;

“(ii) stipulations admitting relevant facts that specific classified information would tend to prove; or

“(iii) an unclassified summary of the specific classified information.

The court shall grant such a motion of the United States if the court finds that the redacted item, stipulation, or unclassified summary will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information.

“(B) TAKING OF TRIAL TESTIMONY.—During the examination of a witness in any civil proceeding brought by the United States under this section, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible. Following such an objection, the court shall take suitable action to determine whether the response is admissible and, in doing so, shall take precautions to guard against the compromise of any classified information. Such action may include permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry, and requiring the defendant to provide the court with a proffer of the nature of the information the defendant seeks to elicit.

“(C) APPEAL.—If the court enters an order denying relief to the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (3).

“(3) INTERLOCUTORY APPEAL.—

“(A) An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

“(i) authorizing the disclosure of classified information;

“(ii) imposing sanctions for nondisclosure of classified information; or

“(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

“(B) An appeal taken pursuant to this paragraph either before or during trial shall

be expedited by the court of appeals. Prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved. If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved. The court of appeals—

“(i) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

“(ii) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

“(iii) shall render its decision not later than 4 days after argument on appeal; and

“(iv) may dispense with the issuance of a written opinion in rendering its decision.

“(C) An interlocutory appeal and decision under this paragraph shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error, reversal by the trial court on remand of a ruling appealed from during trial.

“(4) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

“(k) DEFINITIONS.—As used in this section—

“(1) the term ‘classified information’ means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in paragraph (r) of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y));

“(2)(A) the term ‘control group’ means the officers or agents charged with directing the affairs of the organization;

“(B) if a single officer or agent is authorized to conduct the affairs of the organization, the knowledge of the officer or agent that the organization or its resources are being used for terrorism activities shall constitute knowledge of the control group;

“(C) if a single officer or agent is a member of a group empowered to conduct the affairs of the organization but cannot conduct the affairs of the organization on his or her own authority, that person's knowledge shall not constitute knowledge by the control group unless that person's knowledge is shared by a sufficient number of members of the group so that the group with knowledge has the authority to conduct the affairs of the organization;

“(3) the term ‘financial institution’ has the meaning prescribed in section 5312(a)(2) of title 31, United States Code, including any regulations promulgated thereunder;

“(4) the term ‘funds’ includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

“(5) the term ‘national security’ means the national defense and foreign relations of the United States;

“(6) the term ‘person’ includes an individual, partnership, association, group, corporation, or other organization;

“(7) the term ‘Secretary’ means the Secretary of the Treasury; and

“(8) the term ‘United States’, when used in a geographical sense, includes all commonwealths, territories, and possessions of the United States.”

(b) TECHNICAL AMENDMENT.—The analysis for chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

“2339B. Fundraising for terrorist organizations.”

(c) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS.—Section 2339B(k) of title 18, United States Code (relating to classified information in civil proceedings brought by the United States), shall also be applicable to civil proceedings brought by the United States under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

SEC. 402. CORRECTION TO MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows:

“§ 2339A. Providing material support to terrorists

“(a) DEFINITION.—In this section, ‘material support or resources’ means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

“(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2332a of this title or section 46502 of title 49, or in preparation for or carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.”

TITLE V—ASSISTANCE TO FEDERAL LAW ENFORCEMENT AGENCIES

Subtitle A—Antiterrorism Assistance

SEC. 501. DISCLOSURE OF CERTAIN CONSUMER REPORTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following new section:

“SEC. 624. DISCLOSURES TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE PURPOSES.

“(a) IDENTITY OF FINANCIAL INSTITUTIONS.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge may issue an order ex parte directing a consumer reporting agency to furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency. The court or magistrate judge shall issue the order if the Director of the Federal Bureau of Investigation, or the Director's designee, certifies in writing to the court or magistrate judge that—

“(A) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

“(B) there are specific and articulable facts giving reason to believe that the consumer—

“(i) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(ii) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(b) IDENTIFYING INFORMATION.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge shall issue an order ex parte directing a consumer reporting agency to furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the Director or the Director's designee, certifies in writing that—

"(A) such information is necessary to the conduct of an authorized foreign counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—(1) Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or an authorized designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

"(A) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(i) is an agent of a foreign power; and

"(ii) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—(1) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c).

"(2) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.—The Federal Bureau of Investigation is authorized, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing reports or information in accordance with procedures established under

this section, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except—

"(1) to the Department of Justice, as may be necessary for the approval or conduct of a foreign counterintelligence investigation; or

"(2) where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.—On an annual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking and Financial Services of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

"(1) \$100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State notwithstanding.

"(l) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by adding after the item relating to section 623 the following new item:

"624. Disclosures to the Federal Bureau of Investigation for foreign counterintelligence purposes."

SEC. 502. ACCESS TO RECORDS OF COMMON CARRIERS, PUBLIC ACCOMMODATION FACILITIES, PHYSICAL STORAGE FACILITIES, AND VEHICLE RENTAL FACILITIES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM CASES.

Title 18, United States Code, is amended by inserting after chapter 121 the following new chapter:

"CHAPTER 122—ACCESS TO CERTAIN RECORDS

"§ 2720. Access to records of common carriers, public accommodation facilities, physical storage facilities, and vehicle rental facilities in counterintelligence and counterterrorism cases

"(a)(1) A court or magistrate judge may issue an order ex parte directing any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to furnish any records in its possession to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the Director of the Federal Bureau of Investigation or the Director's designee (whose rank shall be no lower than Assistant Special Agent in Charge) certifies in writing that—

"(A) such records are sought for foreign counterintelligence purposes; and

"(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 801).

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(b) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or any officer, employee, or agent of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, shall disclose to any person, other than those officers, agents, or employees of the common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose the information to the Federal Bureau of Investigation under this section.

"(c) As used in this chapter—

"(1) the term 'common carrier' means a locomotive, rail carrier, bus carrying passengers, water common carrier, air common carrier, or private commercial interstate carrier for the delivery of packages and other objects;

"(2) the term 'public accommodation facility' means any inn, hotel, motel, or other establishment that provides lodging to transient guests;

"(3) the term 'physical storage facility' means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof; and

“(4) the term ‘vehicle rental facility’ means any person or entity that provides vehicles for rent, lease, loan, or other similar use, to the public or any segment thereof.”.

SEC. 503. INCREASE IN MAXIMUM REWARDS FOR INFORMATION CONCERNING INTERNATIONAL TERRORISM.

(a) TERRORISM ABROAD.—Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended—

(1) in subsection (c), by striking “\$2,000,000” and inserting “\$10,000,000”; and

(2) in subsection (g), by striking “\$5,000,000” and inserting “\$10,000,000.”

(b) DOMESTIC TERRORISM.—Title 18, United States Code, is amended—

(1) in section 3072, by striking “\$500,000” and inserting “\$10,000,000”; and

(2) in section 3075, by striking “\$5,000,000” and inserting “\$10,000,000”.

(c) GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by adding immediately after section 3059A the following section:

“§ 3059B. General reward authority

“(a) Notwithstanding any other provision of law, the Attorney General may pay rewards and receive from any department or agency funds for the payment of rewards under this section to any individual who assists the Department of Justice in performing its functions.

“(b) Not later than 30 days after authorizing a reward under this section that exceeds \$100,000, the Attorney General shall give notice to the respective chairmen of the Committees on Appropriations and the Committees on the Judiciary of the Senate and the House of Representatives.

“(c) A determination made by the Attorney General to authorize an award under this section and the amount of any reward authorized shall be final and conclusive, and not subject to judicial review.”.

Subtitle B—Intelligence and Investigation Enhancements

SEC. 511. STUDY AND REPORT ON ELECTRONIC SURVEILLANCE.

(a) STUDY.—The Attorney General and the Director of the Federal Bureau of Investigation shall study all applicable laws and guidelines relating to electronic surveillance and the use of pen registers and other trap and trace devices.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Congress that includes—

(1) the findings of the study conducted pursuant to subsection (a);

(2) recommendations for the use of electronic devices in conducting surveillance of terrorist or other criminal organizations, and for any modifications in the law necessary to enable the Federal Government to fulfill its law enforcement responsibilities within appropriate constitutional parameters; and

(3) a summary of efforts to use current wiretap authority, including detailed examples of situations in which expanded authority would have enabled law enforcement authorities to fulfill their responsibilities.

SEC. 512. AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS IN CERTAIN TERRORISM RELATED OFFENSES.

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

(1) in paragraph (c)—

(A) by inserting before “or section 1992 (relating to wrecking trains)” the following: “section 2332 (relating to terrorist acts abroad), section 2332a (relating to weapons of mass destruction, section 2332b (relating to acts of terrorism transcending national

boundaries), section 2339A (relating to providing material support to terrorists), section 37 (relating to violence at international airports),”; and

(B) by inserting after “section 175 (relating to biological weapons),” the following: “or a felony violation under section 1028 (relating to production of false identification documentation), sections 1541, 1542, 1543, 1544, and 1546 (relating to passport and visa offenses),”;

(2) by striking “and” at the end of paragraph (o), as so redesignated by section 512(a)(2);

(3) by redesignating paragraph (p), as so redesignated by section 512(a)(2), as paragraph (s); and

(4) by inserting after paragraph (o), as so redesignated by section 512(a)(2), the following new subparagraphs:

“(p) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);

“(q) any violation of section 46502 of title 49, United States Code; and”.

SEC. 513. REQUIREMENT TO PRESERVE EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.”.

Subtitle C—Additional Funding for Law Enforcement

SEC. 521. FEDERAL BUREAU OF INVESTIGATION ASSISTANCE TO COMBAT TERRORISM.

(a) IN GENERAL.—With funds made available pursuant to subsection (b), the Attorney General shall—

(1) develop digital telephony technology;

(2) support and enhance the technical support center and tactical operations;

(3) create a Federal Bureau of Investigation counterterrorism and counterintelligence fund for costs associated with terrorism cases; and

(4) expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation academy.

(5) construct an FBI laboratory, provide laboratory examination support, and provide for a Command Center;

(6) make funds available to the chief executive officer of each State to carry out the activities described in subsection (d); and

(7) enhance personnel to support counterterrorism activities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for activities to combat terrorism—

(1) \$300,000,000 for fiscal year 1996;

(2) \$225,000,000 for fiscal year 1997;

(3) \$328,000,000 for fiscal year 1998;

(4) \$190,000,000 for fiscal year 1999; and

(5) \$183,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Funds made available pursuant to subsection (b), in any fiscal year, shall remain available until expended.

(d) STATE GRANTS.—

(1) IN GENERAL.—Any funds made available for purposes of subsection (a)(6) may be expended—

(A) by the Director of the Federal Bureau of Investigation to—

(i) hire new agents; and

(ii) expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia; and

(B) by the Attorney General, in consultation with the Director of the Federal Bureau of Investigation to make funds available to the chief executive officer of each State to carry out the activities described in paragraph (2).

(2) GRANT PROGRAM.—

(A) USE OF FUNDS.—The executive officer of each State shall use any funds made available under paragraph (1)(B) in conjunction with units of local government, other States, or combinations thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(i) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(ii) ballistics identification programs that are compatible and integrated with the Drugfire Program of the Federal Bureau of Investigation;

(iii) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(iv) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(B) ELIGIBILITY.—To be eligible to receive funds under this paragraph, a State shall require that each person convicted of a felony of a sexual nature shall provide a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(C) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this subsection.

(D) ALLOCATION.—The Attorney General shall allocate funds made available under this subsection to each State based on the population of the State as reported in the most recent decennial census of the population.

SEC. 522. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service—

(1) \$6,000,000 for fiscal year 1996;

(2) \$6,000,000 for fiscal year 1997;

(3) \$6,000,000 for fiscal year 1998;

(4) \$5,000,000 for fiscal year 1999; and

(5) \$5,000,000 for fiscal year 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 523. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the Immigration and Naturalization Service, to help meet the increased needs of the Immigration and Naturalization Service \$5,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any

fiscal year, shall remain available until expended.

SEC. 524. DRUG ENFORCEMENT ADMINISTRATION.

(a) ACTIVITIES OF DRUG ENFORCEMENT ADMINISTRATION.—With funds made available pursuant to subsection (b), the Attorney General shall—

- (1) fund antiviolen crime initiatives;
- (2) fund major violators' initiatives; and
- (3) enhance or replace infrastructure.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Drug Enforcement Administration, to help meet the increased needs of the Drug Enforcement Administration—

- (1) \$60,000,000 for fiscal year 1996;
- (2) \$70,000,000 for fiscal year 1997;
- (3) \$80,000,000 for fiscal year 1998;
- (4) \$90,000,000 for fiscal year 1999; and
- (5) \$100,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 525. DEPARTMENT OF JUSTICE.

(a) IN GENERAL.—Subject to the availability of appropriations, the Attorney General shall (1) hire additional Assistant United States Attorneys, and (2) provide for increased security at courthouses and other facilities housing Federal workers.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated for the activities of the Department of Justice, to hire additional Assistant United States Attorneys and provide increased security to meet the needs resulting from this Act \$20,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 526. FUNDING SOURCE.

Notwithstanding any other provision of law, funding for authorizations provided in this subtitle may be paid for out of the Violent Crime Reduction Trust Fund.

SEC. 527. DETERRENT AGAINST TERRORIST ACTIVITY DAMAGING A FEDERAL INTEREST COMPUTER.

The United States Sentencing Commission shall review existing guideline levels as they apply to sections 1030(a)(4) and 1030(a)(5) of Title 18, United States Code, and report to Congress on their findings as to their deterrent effect within 60 calendar days. Furthermore, the Commission shall promulgate guideline amendments that will ensure that individuals convicted under sections 1030(a)(4) and 1030(a)(5) of Title 18, United States Code, are incarcerated for not less than 6 months.

TITLE VI—CRIMINAL PROCEDURAL IMPROVEMENTS

Subtitle A—Habeas Corpus Reform

SEC. 601. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

“(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

“(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

“(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made

retroactively applicable to cases on collateral review; or

“(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

“(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.”.

SEC. 602. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

“§ 2253. Appeal

“(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

“(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

“(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

“(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

“(B) the final order in a proceeding under section 2255.

“(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

“(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).”.

SEC. 603. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

“Rule 22. Habeas corpus and section 2255 proceedings

“(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

“(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the

judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.”.

SEC. 604. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

“(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

“(A) the applicant has exhausted the remedies available in the courts of the State; or

“(B)(i) there is an absence of available State corrective process; or

“(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

“(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

“(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.”;

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

“(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

“(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

“(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.”;

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

“(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

“(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

“(A) the claim relies on—

“(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

“(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

“(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.”; and

(5) by adding at the end the following new subsections:

“(h) Notwithstanding any other provision of law, in all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for an applicant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

“(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.”.

SEC. 605. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

“A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

“(1) the date on which the judgment of conviction becomes final;

“(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

“(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

“(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

“In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

“A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

“(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

“(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.”.

SEC. 606. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking “and the petition” and all that follows through “by such inquiry.” and inserting “, except as provided in section 2255.”.

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

“(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

“(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

“(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

“(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

“(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

“(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

“(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

“(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

“(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

“(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

“(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.”.

SEC. 607. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

“CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

“Sec.

“2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

“2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

“2263. Filing of habeas corpus application; time requirements; tolling rules.

“2264. Scope of Federal review; district court adjudications.

“2265. Application to State unitary review procedure.

“2266. Limitation periods for determining applications and motions.

“§ 2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

“(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

“(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reason-

able litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

“(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

“(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

“(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

“(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

“(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

“(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

“§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

“(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

“(b) A stay of execution granted pursuant to subsection (a) shall expire if—

“(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

“(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

“(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

“(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

“§ 2263. Filing of habeas corpus application; time requirements; tolling rules

“(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmation of the conviction and sentence on direct review or the expiration of the time for seeking such review.

“(b) The time requirements established by subsection (a) shall be tolled—

“(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmation of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

“(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

“(3) during an additional period not to exceed 30 days, if—

“(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

“(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

“§ 2264. Scope of Federal review; district court adjudications

“(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

“(1) the result of State action in violation of the Constitution or laws of the United States;

“(2) the result of the Supreme Court recognition of a new Federal right made retroactively applicable to cases on collateral review by the Supreme Court; or

“(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

“(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

“§ 2265. Application to State unitary review procedure

“(a) For purposes of this section, a ‘unitary review’ procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

“(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver

or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

“(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State ‘post-conviction review’ and ‘direct review’ in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to ‘an order under section 2261(c)’ shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

“§ 2266. Limitation periods for determining applications and motions

“(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

“(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

“(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

“(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

“(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

“(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

“(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

“(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

“(iii) No delay in disposition shall be permissible because of general congestion of the court’s calendar.

“(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

“(2) The time limitations under paragraph (1) shall apply to—

“(A) an initial application for a writ of habeas corpus;

“(B) any second or successive application for a writ of habeas corpus; and

“(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

“(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

“(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

“(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

“(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

“(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

“(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

“(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

“(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

“(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

“(2) The time limitations under paragraph (1) shall apply to—

“(A) an initial application for a writ of habeas corpus;

“(B) any second or successive application for a writ of habeas corpus; and

“(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

“(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the

applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

“(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

“(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

“(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.”.

(b) **TECHNICAL AMENDMENT.**—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

“154. Special habeas corpus procedures in capital cases 2261.”.

(c) **EFFECTIVE DATE.**—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 608. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended—

(1) in paragraph (4)(A), by striking “shall” and inserting “may”;

(2) in paragraph (4)(B), by striking “shall” and inserting “may”;

(3) by amending paragraph (9) to read as follows:

“(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant’s attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.”.

Subtitle B—Criminal Procedural Improvements

SEC. 621. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) **AIRCRAFT PIRACY.**—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking “and later found in the United States”;

(2) by amending paragraph (2) to read as follows:

“(2) The courts of the United States have jurisdiction over the offense in paragraph (1) if—

“(A) a national of the United States was aboard the aircraft;

“(B) an offender is a national of the United States; or

“(C) an offender is afterwards found in the United States.”; and

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

“(3) For purposes of this subsection, the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”.

(b) **DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.**—Section 32(b) of title 18, United States Code, is amended—

(1) by striking “(b) Whoever” and inserting “(b)(1) Whoever”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by striking “, if the offender is later found in the United States.”; and

(4) by adding at the end the following new paragraphs:

“(2) The courts of the United States have jurisdiction over an offense described in this subsection if—

“(A) a national of the United States was on board, or would have been on board, the aircraft;

“(B) an offender is a national of the United States; or

“(C) an offender is afterwards found in the United States.

“(3) For purposes of this subsection, the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”.

(c) **MURDER OR MANSLAUGHTER OF INTERNATIONALLY PROTECTED PERSONS.**—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “, except that”;

(2) in subsection (b), by adding at the end the following new paragraph:

“(7) ‘National of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”;

(3) in subsection (c), by striking the first sentence and inserting the following: “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.”.

(d) **PROTECTION OF INTERNATIONALLY PROTECTED PERSONS.**—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting “national of the United States,” before “and”; and

(2) in subsection (e), by striking the first sentence and inserting the following: “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.”.

(e) **THREATS AGAINST INTERNATIONALLY PROTECTED PERSONS.**—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting “national of the United States,” before “and”; and

(2) in subsection (d), by striking the first sentence and inserting the following: “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.”.

(f) **KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.**—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a na-

tional of the United States, or (3) an offender is afterwards found in the United States.”; and

(2) by adding at the end the following: “For purposes of this subsection, the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”.

(g) **VIOLENCE AT INTERNATIONAL AIRPORTS.**—Section 37(b)(2) of title 18, United States Code, is amended to read as follows:

“(2) the prohibited activity takes place outside the United States, and—

“(A) the offender is later found in the United States; or

“(B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).”.

(h) **NATIONAL OF THE UNITED STATES DEFINED.**—Section 178 of title 18, United States Code, is amended—

(1) by striking the “and” at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; and”; and

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

“(5) the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”.

SEC. 622. EXPANSION OF TERRITORIAL SEA.

(a) **TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.**—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, for purposes of criminal jurisdiction is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

(b) **ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.**—Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended—

(1) in subsection (a), by inserting after “title,” the following: “or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district”; and

(2) by adding at the end the following new subsection:

“(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Commonwealth, territory, possession, or district it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.”.

SEC. 623. EXPANSION OF WEAPONS OF MASS DESTRUCTION STATUTE.

(a) **IN GENERAL.**—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “threatens,” before “attempts”; and

(B) by inserting “that has moved in, or affected interstate commerce” after “destruction”;

(2) by redesignating subsection (b) as subsection (c);

(3) by adding immediately after subsection (a) the following new subsection:

“(b) USE OUTSIDE UNITED STATES.—Any national of the United States who outside of the United States uses, threatens, attempts, or conspires to use, a weapon of mass destruction, shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisonment for any term of years or for life.”; and

(4) by amending subsection (c)(2)(B), as redesignated by paragraph (3), by striking “poison gas” and inserting “any poisonous chemical agent or substance, regardless of form or delivery system, designed for causing widespread death or injury.”;

(b) DEFINITION OF DESTRUCTIVE DEVICE.—Section 921(a)(4)(A) of title 18, United States Code, is amended by striking “poison gas” and inserting “poisonous chemical agent or substance”.

(c) CONFORMING AMENDMENT.—Section 5845(f)(1) of the Internal Revenue Code of 1986 is amended by striking “poison gas” and inserting “poisonous chemical agent or substance”.

SEC. 624. ADDITION OF TERRORISM OFFENSES TO THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (B)—

(A) by inserting after “Section” the following: “32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member), section”; and

(B) by inserting after “section 224 (relating to sports bribery),” the following: “section 351 (relating to congressional or Cabinet officer assassination),”;

(C) by inserting after “section 664 (relating to embezzlement from pension and welfare funds),” the following: “section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce),”;

(D) by inserting after “sections 891–894 (relating to extortionate credit transactions),” the following: “section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),”;

(E) by inserting after “section 1084 (relating to the transmission of gambling information),” the following: “section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1203 (relating to hostage taking),”;

(F) by inserting after “section 1344 (relating to financial institution fraud),” the following: “section 1361 (relating to willful injury of government property within the special maritime and territorial jurisdiction),”;

(G) by inserting after “section 1513 (relating to retaliating against a witness, victim, or an informant),” the following: “section 1751 (relating to Presidential assassination),”;

(H) by inserting after “section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire),” the following: “section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),”;

(I) by inserting after “2321 (relating to trafficking in certain motor vehicles or motor vehicle parts),” the following: “section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to acts of terrorism transcending national boundaries),

section 2339A (relating to providing material support to terrorists),”;

(2) by striking “or” before “(E)”;

(3) by inserting before the semicolon at the end of the following: “, or (F) section 46502 of title 49, United States Code”.

SEC. 625. ADDITION OF TERRORISM OFFENSES TO THE MONEY LAUNDERING STATUTE.

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

(1) in subparagraph (B), by amending clause (ii) to read as follows:

“(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;”;

(2) in subparagraph (D)—

(A) by inserting after “an offense under” the following: “section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),”;

(B) by inserting after “section 215 (relating to commissions or gifts for procuring loans),” the following: “section 351 (relating to congressional or Cabinet officer assassination),”;

(C) by inserting after “section 798 (relating to espionage),” the following: “section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),”;

(D) by inserting after “section 875 (relating to interstate communications),” the following: “section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),”;

(E) by inserting after “section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution),” the following: “section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),”;

(F) by inserting after “section 1203 (relating to hostage taking),” the following: “section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),”;

(G) by inserting after “section 1708 (relating to theft from the mail),” the following: “section 1751 (relating to Presidential assassination),”;

(H) by inserting after “2114 (relating to bank and postal robbery and theft),” the following: “section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),”;

(I) by striking “of this title” and inserting the following: “section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code.”.

SEC. 626. PROTECTION OF CURRENT OR FORMER OFFICIALS, OFFICERS, OR EMPLOYEES OF THE UNITED STATES.

(a) AMENDMENT TO INCLUDE ASSAULTS, MURDERS, AND THREATS AGAINST FAMILIES OF FEDERAL OFFICIALS.—Section 115(a)(2) of title 18, United States Code, is amended by inserting “, or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or” after “assaults, kidnaps, or murders, or attempts to kidnap or murder”.

(b) MURDER OR ATTEMPTS TO MURDER CURRENT OR FORMER FEDERAL OFFICERS OR EMPLOYEES.—Section 1114 of title 18, United States Code, is amended to read as follows:

“§ 1114. Protection of officers and employees of the United States

“Whoever kills or attempts to kill a current or former officer or employee of the United States or its instrumentalities, or an immediate family member of such officer or employee, during or on account of the performance of their official duties, shall be punished—

“(1) in the case of murder, as provided under section 1111;

“(2) in the case of manslaughter, as provided under section 1112; and

“(3) in the case of attempted murder not more than 20 years.”.

(c) AMENDMENT TO CLARIFY THE MEANING OF THE TERM DEADLY OR DANGEROUS WEAPON IN THE PROHIBITION ON ASSAULT ON FEDERAL OFFICERS OR EMPLOYEES.—Section 111(b) of title 18, United States Code, is amended by inserting after “deadly or dangerous weapon” the following: “(including a weapon intended to cause death or danger but that fails to do so by reason of a defective or missing component)”.

SEC. 627. ADDITION OF CONSPIRACY TO TERRORISM OFFENSES.

(a) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—(1) Section 32(a)(7) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(2) Section 32(b)(D) of title 18, United States Code, as redesignated by section 721(b)(2), is amended by inserting “or conspires” after “attempts”.

(b) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(a) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(c) INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.—(1) Section 115(a)(1)(A) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(2) Section 115(a)(2) of title 18, United States Code, as amended by section 729, is further amended by inserting “or conspires” after “attempts”.

(3) Section 115(b)(2) of title 18, United States Code, is amended by striking both times it appears “or attempted kidnapping” and inserting both times “, attempted kidnapping or conspiracy to kidnap”.

(4)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking “or attempted murder” and inserting “, attempted murder or conspiracy to murder”.

(B) Section 115(b)(3) of title 18, United States Code, is further amended by striking “and 1113” and inserting “, 1113, and 1117”.

(d) PROHIBITIONS WITH RESPECT TO BIOLOGICAL WEAPONS.—Section 175(a) of title 18, United States Code, is amended by inserting “, or conspires to do so,” after “any organization to do so.”.

(e) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(f) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a)(1)(H) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(g) VIOLENCE AGAINST MARITIME FIXED PLATFORMS.—Section 2281(a)(1)(F) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(h) AIRCRAFT PIRACY.—Section 46502 of title 49, United States Code, is amended—

(1) in subsection (a)(2), by inserting “, conspiring,” after “committing” and

(2) in subsection (b)—

(A) in paragraph (1), by inserting “or conspiring to commit” after “committing”;

(B) in paragraph (2), by inserting "conspired or" after "has placed,"; and

(C) in paragraph (3), by inserting "conspired or" after "has placed,".

SEC. 628. CLARIFICATION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended—

(1) by striking "(e) Whoever" and inserting "(e)(1) Whoever"; and

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

"(2) Whoever willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made to violate subsection (f) or (i) of this section or section 81 of this title shall be fined under this title, imprisoned for not more than 5 years, or both."

TITLE VII—MARKING OF PLASTIC EXPLOSIVES

SEC. 701. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan Am flight 103 in December 1988 and UTA flight 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

SEC. 702. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_3)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C ., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature."

SEC. 703. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding after subsection (k) the following new subsections:

"(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

"(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the effective date of section 801 of the Comprehensive Terrorism Prevention Act of 1995 by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to—

"(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of the Comprehensive Terrorism Prevention Act of 1995 by any person during a period not exceeding 3 years after the date of enactment of the Comprehensive Terrorism Prevention Act of 1995; or

"(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of the Comprehensive Terrorism Prevention Act of 1995 by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of section 801 of the Comprehensive Terrorism Prevention Act of 1995, to fail to report to the Secretary within 120 days after such effective date the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe."

SEC. 704. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates any of subsections (a) through (i) or (l) through (o) of section 842 shall be fined under this title or imprisoned not more than 10 years, or both."

SEC. 705. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsection";

(2) in paragraph (1), by inserting before the semicolon "and which pertain to safety"; and

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

"(c) It is an affirmative defense against any proceeding involving subsections (l) through (o) of section 842 if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive that, within 3 years after the date of enactment of the Comprehensive Terrorism Prevention Act of 1995, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

"(3) For purposes of this subsection, the term 'military device' includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes."

SEC. 706. INVESTIGATIVE AUTHORITY.

Section 846 of title 18, United States Code, is amended—

(1) in the last sentence, by inserting in the last sentence before "subsection" the phrase "subsection (m) or (n) of section 842 or"; and

(2) by adding at the end the following: "The Attorney General shall exercise authority over violations of subsection (m) or (n) of section 842 only when they are committed by a member of a terrorist or revolutionary group. In any matter involving a terrorist or revolutionary group or individual, as determined by the Attorney General, the Attorney General shall have primary investigative responsibility and the Secretary shall assist the Attorney General as requested."

SEC. 707. EFFECTIVE DATE.

The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 708. STUDY ON TAGGING OF EXPLOSIVE MATERIALS.

(a) STUDY.—The Attorney General in consultation with the Secretary of the Treasury shall conduct a study, as soon as is practicable after the date of enactment of this Act, and make recommendations concerning—

(1) tagging of explosive materials for purposes of identification and detection;

(2) the possibility and practicality of rendering inert, common chemicals used in manufacturing explosives and the potential costs of implementing such controls;

(3) the possibility and feasibility of imposing controls on certain precursor chemicals used to manufacture explosives; and

(4) the potential cost of such control materials.

(b) **CONSULTATION.**—In carrying out this section, the Attorney General shall consult with other Federal, State, and local officials and private industry sources with expertise in tagging of explosive materials, representatives from affected industries, and such other individuals as the Attorney General may require.

(c) **REPORT.**—The Attorney General, or a designee of the Attorney General, shall prepare and submit to the President and the Congress a report containing—

(1) a detailed explanation of the findings and determinations made in the study conducted pursuant to subsection (a);

(2) summaries of other studies pertaining to tagging explosives and the results of those studies;

(3) the prospective costs and benefits of any recommendations made;

(4) the impact on the safety, manufacturing, and distribution of affected products; and

(5) the anticipated benefits for law enforcement.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE VIII—NUCLEAR MATERIALS

SEC. 801. FINDINGS AND PURPOSE.

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

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the illicit trafficking in the relatively more common, commercially available and usable nuclear and byproduct materials poses a potential to cause significant loss of life and environmental damage;

(7) reported trafficking incidents in the early 1990's suggest that the individuals involved in trafficking these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Ger-

many, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant future threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage such business ventures, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) **PURPOSE.**—The purpose of this title is to provide Federal law enforcement agencies the necessary tools and fullest possible basis allowed under the Constitution to combat the threat of nuclear contamination and proliferation that may result from illegal possession and use of radioactive materials.

SEC. 802. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “nuclear material” each place it appears and inserting “nuclear material or nuclear byproduct material”;

(B) in paragraph (1)—

(i) in subparagraph (A), by inserting “or the environment” after “property”; and

(ii) by amending subparagraph (B) to read as follows:

“(B)(i) circumstances exist that are likely to cause the death or serious bodily injury to any person or substantial damage to property or the environment, or such circumstances have been represented to the defendant to exist;” and

(C) in paragraph (6), by inserting “or the environment” after “property”;

(2) in subsection (c)—

(A) by amending paragraph (2) to read as follows:

“(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;”;

(B) in paragraph (3)—

(i) by striking “at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and”; and

(ii) by striking “or” at the end of the paragraph;

(C) in paragraph (4)—

(i) by striking “nuclear material for peaceful purposes” and inserting “nuclear material or nuclear byproduct material”; and

(ii) by striking the period at the end of the paragraph and inserting “; or”; and

(D) by adding at the end the following new paragraph:

“(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.”; and

(3) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “with an isotopic concentration not in excess of 80 percent plutonium 238”; and

(ii) in subparagraph (C), by striking “(C) uranium” and inserting “(C) enriched uranium, defined as uranium”;

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

“(2) the term ‘nuclear byproduct material’ means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;”;

(D) by striking “and” at the end of paragraph (4), as redesignated;

(E) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(F) by adding at the end the following new paragraphs:

“(6) the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

“(7) the term ‘United States corporation or other legal entity’ means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.”.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Tuesday, June 13, 1995 at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 755, a bill to amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, United States Senate, Washington, DC. 20510. For further information, please call David Garman of the Committee Staff at (202) 224-7933.