D.C. Act 11–341 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3969. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–342 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3970. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–343 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3971. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–347 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3972. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–348 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3973. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–349 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3974. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–353 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3975. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–354 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3976. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–355 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3977. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–358 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3978. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–359 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3979. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–360 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3980. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–361 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3981. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–362 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3982. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–364 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3983. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–367 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3984. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–370 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3985. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–371 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3986. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–372 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3987. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–374 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3988. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–378 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3989. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–380 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3990. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–381 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3991. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–384 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3992. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–386 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3993. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–389 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3994. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–391 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3995. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–392 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3996. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, a rule relative to additions to the procurement list (received on August 27, 1996); to the Committee on Governmental Affairs.

EC–3997. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, a rule relative to additions to the procurement list (received on September 3, 1996); to the Committee on Governmental Affairs.

EC–3998. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, a rule relative to additions to the procurement list (received on September 6, 1996); to the Committee on Governmental Affairs.

EC–3999. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule concerning Senior Executive Service, (RIN 3602-AF96) received on September 3, 1996; to the Committee on Governmental Affairs.

EC–4000. A communication from the Comptroller General of The United States, transmitting, pursuant to law, a list of reports and testimony for July 1996; to the Committee on Governmental Affairs.

EC–4001. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report under the Inspector General Act for the period ending March 31, 1996; to the Committee on Governmental Affairs.

EC–4002. A communication from the Deputy Associate Administrator for Acquisition Policy of the General Services Administration, transmitting, pursuant to law, a report concerning a rule regarding Federal Acquisition Regulation; Payment by Electronic Funds Transfer (received August 28, 1996); to the Committee on Governmental Affairs.

EC–4003. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. SNOWE:

S. 2061. A bill to amend title II of the Trade Act of 1974 to clarify the definition of domestic industry and to include certain agricultural products for purposes of providing relief from injury caused by import competition, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 2062. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 2061. A bill to amend title II of the Trade Act of 1974 to clarify the definition of domestic industry and to include certain agricultural products for purposes of providing relief from injury caused by import competition, and for other purposes; to the Committee on Finance.

THE AGRICULTURAL TRADE REFORM ACT OF 1996

● Ms. SNOWE. Mr. President, I am introducing legislation today to give agricultural producers, including potato producers, some important and badly needed new tools for combating injurious increases in imports from foreign countries.

The Trade Act of 1974 contains provisions that permit U.S. industries to

seek relief from serious injury caused by increased quantities of imports. In practice, however, it has been very difficult for many U.S. industries to actually secure action under the act to remedy this kind of injury.

The ineffectiveness of the act results from some of the specific language in the statute. Specifically, the law requires the International Trade Commission, when evaluating a petition for relief from injury, to consider whether the injury affects the entire U.S. industry, or a segment of an industry located in a major geographic area of the U.S. whose production constitutes a substantial portion of the total domestic injury. This language has been interpreted by the ITC to mean that all or nearly all of the U.S. industry must be seriously injured by the imports before it can qualify for any relief.

Thus, if an important segment of an industry is being severely injured by imports that compete directly with that segment, the businesses who comprise this portion of the industry will not have much recourse—even though the industry segment in question may employ thousands of Americans and generate billions of dollars annually for the U.S. economy. In other words, our current trade laws leave large segments of an industry that serve particular regions and markets, or have other distinguishing features, practically helpless in the face of sharp and damaging import surges.

In addition, even if large industry subdivisions could qualify for assistance, the timeframes under the Trade Act for expedited, or provisional, relief for agricultural products are too long to respond in time to prevent or adequately remedy injury caused by increasing imports. At a minimum, 3 months must elapse before any relief can be provided, irrespective of the damage that American businesses may suffer during that time. And 3 months is an absolute minimum. In reality, it could take substantially longer to provide expedited relief.

Mr. President, when it comes to agricultural products, the problems in U.S. trade law that I have described are particularly acute. Due to their perishable nature, many agricultural products cannot be inventoried until imports subside or the ITC grants relief—if the industry is so fortunate—many months or even years later. And most agricultural producers, who are heavily dependent on credit each year to produce and sell a crop, cannot wait that long. They need assistance in the short term, while the injury is occurring, if they are going to survive an import surge. Also, because crops are grown during particular seasons and serve specific markets related to production in those growing seasons, the agricultural industry is more prone to segmentation. Finally, many of the agricultural industry entities that would have to file a petition for relief under the Trade Act are really grower groups that do not necessarily have the financial wherewithal to spend millions of dollars researching, filing, and pursuing a petition before the ITC.

The bill that I have introduced today is designed to empower America's agricultural producers to seek and obtain effective remedies for damaging import surges. It will make the Trade Act more user friendly for American businesses. Unlike the current law, which sets criteria for ITC consideration that are impossible to meet and that do not reflect the realities of today's industry, my bill establishes more useful criteria. It permits the ITC to consider the impacts of import surges on an important segment of an agricultural industry when determining whether a domestic industry has been injured by imports. This segment is defined as a portion of the domestic industry located in a specific geographic area whose collective production constitutes a significant portion of the entire domestic industry. The ITC would also be required to consider whether this segment primarily serves the domestic market in the specific geographic area, and whether substantial imports are entering the area.

Rather than rely solely on an industry petition to initiate an ITC review of whether provisional, or expedited, relief deserves to be granted, my bill would permit the U.S. Trade Representative or the Congress, via a resolution, to request such review.

Because the time frames in the present law for considering and providing provisional relief are so long that the damage from imports can already be done well before a decision by the ITC is ever issued, this bill would shorten the time frame for provisional relief determinations by the ITC by allowing the commission to waive, in certain circumstances, the act's requirement that imports be monitored by the USTR for at least 90 days.

And, finally, the bill expands the list of agricultural products eligible for provisional relief to include any potato product, including processed potato products. Under current law, only perishable agricultural products and citrus products are eligible to apply for expedited relief determinations. But this narrow eligibility list unreasonably excludes important U.S. agribusinesses, such as our frozen french fry producers, from the expedited remedies available in the Trade Act.

Major American companies like Ore-Ida and Lamb Weston have reported that U.S. companies have lost 150 million pounds of french fry sales in the U.S. market to Canada in 1996 alone due to Canadian imports priced below market rates. And Canada, particularly the western provinces, has dramatically expanded its french fry production capacity to expand exports to the United States even further over the next several years. Without the changes in my bill, these critical American businesses will have no effective means for combating a Canadian import surge in the next year.

For too long, American agriculture has been trying to combat sophisticated foreign competition with the equivalent of sticks and stones. My bill strengthens the position of American agricultural producers in the competitive arena, and will either provide effective remedies for agricultural producers, or provide effective deterrents to the depredations of their competitors from other countries. I hope other Senators with an interest in fair play for our domestic agricultural producers will join me in cosponsoring this important legislation. Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Agricultural Trade Reform Act of 1996''.

SEC. 2. DEFINITION OF DOMESTIC INDUSTRY, ETC.

(a) DOMESTIC INDUSTRY.—

(1) IN GENERAL.—Section 202(c)(6)(A)(i) of the Trade Act of 1974 (19 U.S.C. 2252(c)(6)(A)(i) is amended to read as follows:

''(A)(i) The term 'domestic industry' means, with respect to an article—

''(I) the producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article, or

''(II) the producers of a like or directly competitive perishable agricultural product, citrus product, or potato product, in a specific geographic area of the United States whose collective production in such area of such article constitutes a significant proportion of the total domestic production of such article.''.

(2) DETERMINATION BY COMMISSION.—Section 202(c)(4) of such Act (19 U.S.C. 2252(c)(4)) is amended—

(1) by striking ''and'' at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ''; and'', and

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

''(D) may—

''(i) in the case of one or more domestic producers—

''(I) who produce a like or directly competitive perishable agricultural product, citrus product, or potato product in a specific geographic area of the United States,

''(II) whose production of the product in such area constitutes a significant portion of the domestic industry in the United States, and

''(III) who primarily serve the market in such area, and

''(ii) if there are substantial imports of a like or directly competitive product in such area,

treat as such domestic industry only that portion of the production of the product located in such area.''.

(b) SPECIFIC GEOGRAPHIC AREA OF THE UNITED STATES, ETC.—Section 202(c)(6) of such Act (19 U.S.C. 2252(c)(6)) is amended by adding at the end the following new subparagraphs:

''(E) The term 'specific geographic area of the United States' means a discrete and distinguishable geographic area in the United

States in which a perishable agricultural product, citrus product, or potato product is produced.

''(F) The term 'significant portion of the domestic industry in the United States' means an important, recognizable part of the domestic industry, including a part of the industry characterized by production in the same growing season.''.

SEC. 3. PROVISIONAL RELIEF.

(a) IN GENERAL.—Section 202(d)(1)(C) of the Trade Act of 1974 (19 U.S.C. 2252(d)(1)(C)) is amended to read as follows:

''(C)(i) If—

''(I) a petition filed under subsection (a)—

''(aa) alleges injury from imports of a perishable agricultural product, citrus product, or potato product that has been, on the date the allegation is included in the petition, subject to monitoring by the Commission under subparagraph (B) for not less than 90 days; and

(bb) requests that provisional relief be provided under this subsection with respect to such imports; or

''(II) a request made of the President or the Trade Representative, or a resolution adopted by either the Committee on Ways and Means or the Committee on Finance, under subsection (b), states that provisional relief provided under this subsection with respect to such imports may be necessary to prevent or remedy serious injury, or the threat thereof, to the domestic industry

the Commission shall, not later than the 21st day after the day on which the request was filed, make a determination described in clause (ii), on the basis of available information.

''(ii) The determination described in this clause is a determination by the Commission whether increased imports (either actual or relative to domestic production) of the perishable agricultural product, citrus product, or potato product are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a like or directly competitive perishable agricultural product, citrus product, or potato product and whether either—

''(I) the serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

''(II) the serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.''.

(b) SPECIAL RULES FOR CONSIDERING CERTAIN REQUESTS.—Section 202(d)(1) of such Act (19 U.S.C. 2252(d)(1)) is amended by adding at the end the following new subparagraph:

''(H) In considering a petition filed under subsection (a) or a request or resolution described in subsection (b), the Commission may waive the 90-day monitoring requirement in subparagraph (C)(i)(I)(aa), if—

''(i) there is a reasonable expectation, based on all available evidence, including significant increases in production or production capacity for the product occurring in the country from which the like or directly competitive product is imported in the year preceding such petition, request, or resolution that the product will be imported from that country in the current year in such quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a like or directly competitive product; and

''(ii) the quantities of imports of the like or directly competitive product from that country reported for the 1-month period preceding the date of such petition, request, or resolution are consistent with such expectation.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 202(a)(2)(B)(i) of such Act (19 U.S.C. 2252(a)(2)(B)(i)) is amended by striking ''subsection (d)(1)(C)(i)'' and inserting ''subsection (d)(1)(C)(i)(I)(aa)''.

(2) Section 202(d)(1)(A) of such Act (19 U.S.C. 2252(d)(1)(A)) are amended by striking ''perishable agricultural product or citrus product'' each place it appears and inserting ''perishable agricultural product, citrus product, or potato product''.

(3) Section 202(d)(5) of such Act (19 U.S.C. 2252(d)(5)) is amended by adding at the end the following new subparagraph:

''(D) The term 'potato product' means any potato product including any processed potato product.''.●

By Mr. DOMENICI:

S. 2062. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

JUVENILE JUSTICE AND DELINQUENCY MODERNIZATION ACT OF 1996

Mr. DOMENICI. Mr. President, noting that the occupant of the chair is the chairman of the subcommittee of jurisdiction of the Judiciary Committee and noting that he and others on that committee have been working diligently in an effort to modernize the Juvenile Justice Act which has been on the books for a long time and obviously is in need of modernization, I rise today to introduce a bill which I hope the subcommittee and the Committee of the Judiciary will take into consideration as they put together a modern bill. I choose to call my bill, which is comprehensive and is the result of some long work on my part and some hard work on the part of a number of people, the Juvenile Justice Modernization Act of 1996.

Mr. President, I rise today to introduce the Juvenile Justice Modernization Act of 1996, a bill to change the focus of our Federal juvenile crime and delinquency prevention efforts. Simply put, the current Federal approach to juvenile crime is outdated, under-funded and ineffective. It fails to address today's increasingly violent juvenile offender, while simultaneously imposing unrealistic burdens on State and local governments.

The nature of juvenile crime has changed substantially since Congress first enacted the Juvenile Justice and Delinquency Prevention Act over 20 years ago. From 1985 to 1994, the teen homicide rate increased 172 percent. Today, more kids use more drugs, have more guns and commit more violent crimes than ever before. Violent street gangs have begun to supply children with the sense of belonging once provided by the traditional family structure. The time has come for a greater Federal role in combating violent juvenile crime, but that new role should not tie the hands of State and local governments nor prevent them from implementing new and innovative solutions to this growing problem.

In July, Senator THOMPSON, the chairman of the Judiciary Committee's Subcommittee on Youth Violence, and I held a hearing in my home State of New Mexico to address this issue. New Mexico faces many of the same problems as other States—rising youth violence, increased teen pregnancy rates, overburdened law enforcement, judicial and corrections systems and a lack of adequate funding for juvenile crime prevention and enforcement programs. In New Mexico alone, 43 percent of the juveniles in State correctional facilities had at least 10 prior referrals to the juvenile system, 75 percent have a history of committing violent crime, 80 percent have a history of gang involvement, 67 percent have been truant, dropped out or expelled from school, and 63 percent report weekly use of drugs or alcohol. Clearly my State, like most others, faces an enormous challenge.

When we held our hearings, I proposed that we should increase Federal funding to allow States to implement better prevention programs and law enforcement and prosecution policies which reflect the changing nature of juvenile crime. This bill increases Federal juvenile justice funding from $160 to $500 million and creates two separate $250 million block grants for States.

The first $250 million will be available to States in much the same manner as under the current Federal law. However, the bill eliminates two of the most burdensome mandates in Federal law and makes it easier for States to meet the remaining ones.

However, we cannot simply throw money at the States and expect that the problem will go away. States must be willing to try new and innovative approaches and get tough on the most violent juvenile offenders. The second $250 million will fund incentive grants, available to States which enact certain juvenile justice reforms. Many of the suggested reforms in the bill came from ideas raised at the hearings we held in New Mexico. At those hearings, we heard from a wide variety of witnesses, and I want to tell you what they told us, because many of them had thoughtful criticisms and solutions to the problems States and localities face in dealing with juvenile crime.

We heard from judges, who described to us the lack of respect many kids have for the justice system. Children are not born with a lack of respect for law and order, it is learned after numerous contacts with a criminal justice system that typically imposes no penalties until the child commits a heinous act of violence. As one judge so eloquently stated:

> The initial contact with the law is a very important event in a young delinquent's life * * * when that contact occurs and nothing of significance occurs, as the youth perceives matters, that youth has turned a corner and formed an opinion about the law enforcement community.

The judges universally agreed that the No. 1 thing we need to do in our juvenile justice system is create a system of graduated sanctions, so that every delinquent act—no matter how small—has a sure, swift and substantial punishment. For quite some time, our juvenile courts have focused too heavily on rehabilitation and not

enough on punishment. We instead need balance—we need to use punishment as well as treatment to re-teach kids the difference between right and wrong.

When confronted with certain penalties for bad acts, children respond and are less likely to re-offend in the future. This bill encourages States to implement graduated sanctions programs and provides them with the resources to do so.

We also heard from director of the Children, Youth and Families Department in New Mexico, and the superintendent of the largest juvenile correctional facility in the State. While both noted the need to hold juveniles accountable for their actions, they also indicated the need to get parents involved in the process and to make sure that juveniles who are parents take responsibility for their children. According to one witness who has worked with delinquent kids for over 20 years,

> Two decades ago, when kids were misbehaving or out of control, [she] could talk to Mom and Dad about it. Now, parents have become enablers rather than good role models who set limits.

My bill will encourage States to enact laws and pursue programs to strengthen families in order to prevent the next generation of kids from growing up without parents and without discipline. It will require juveniles who have children to take financial responsibility for them as a condition of their parole or probation. It also will encourage States to enact laws to impose civil liability on parents for the destructive acts of their children and will provide more money for prevention programs to give families a better chance to raise their children so that they never get into trouble.

At our hearing, we also heard from educators and community leaders. They universally noted the need to keep kids in school, and to give them constructive things to do and positive role models to guide them. My bill will encourage States to adopt zero-tolerance truancy policies, enhanced mentoring programs and to increase the availability of educational and recreational programs that benefit all children. It also will encourage States to provide alternative classrooms and schools for delinquent kids, so that children who are expelled for disciplinary reasons are not simply forgotten and left out of the education system. The easiest way to ensure that children will become criminals is to expel them from school and deny them an education. Children deserve every opportunity to get an education, and my bill will encourage that.

Finally, at our hearing we heard from the victims of violent juvenile crime. Their compelling stories convinced me of the need to change the way we currently treat the most violent juveniles. In my State, an innocent young girl was brutally attacked by a 15-year-old young man who stabbed her in the neck as part of his gang initiation. The attack left her paralyzed. In New Mexico, the maximum sentence the young man can receive is a little over 4 years in a juvenile facility. Here is what the 18-year-old victim said about our current juvenile justice system:

> The out-dated laws which exist in our legal system today are nothing but a joke to juveniles. Our laws were meant for juveniles who were committing crimes like truancy and breaking curfews. They are not designed to deal with the violent crimes that juveniles are committing today.

For any Senator who has spoken to victims of juvenile crime in their State, I think this comment sums up the fear and frustration felt around the country. Our system protects violent juvenile criminals rather than protecting victims. Unless a kid commits murder, our system usually fails to hold him accountable for his actions. That must change, and this bill encourages States to adopt mandatory adult prosecution for juveniles over age 14 who commit serious violent crimes.

The bill also protects victims in other ways—by giving States an incentive to adopt victims' rights legislation, to allow for open access to juvenile court proceedings, and to require adult records, including fingerprints and photographs, be kept for violent juveniles. Victims and their families should have access to court proceedings, the right to know when a criminal has been sentenced, when he will be released, and the public has a right to be protected from future violent acts through the imposition of adult sentences for adult crimes. If States adopt these suggested reforms, and I think that many States will, our streets will be safer and there will be fewer innocent victims of violent juvenile crime.

Mr. President, I realize that we cannot change the juvenile justice system overnight. And I realize that this is for the most part, an issue which must be dealt with at the State and local level. But the Federal Government has a role to play and a responsibility to fulfill. That responsibility is to ensure that our streets are safe by giving States the resources and flexibility to implement new and innovative solutions to this very serious problem. My bill provides some suggestions on how we might do that.

I realize that time is short in this Congress, but I really believe that we can no longer sweep this problem under the rug and act like the current approach actually works. Clearly, it does not. I hope that my colleagues will support my efforts along with the efforts of others, that we will give our input to the committees of jurisdiction and ultimately vote on the floor of the Senate to dramatically change the Federal Government's role as it pertains to youth offenders in the United States.

In summary, we will repeal the following mandates found in the Juvenile Justice Act:

Deinstitutionalization of status offenders, those juveniles who commit acts that are criminal if committed by a child but not criminal if done by an adult. We will remove youths from adult jails and lockups, and we will provide flexibility to States by changing the current law on ''sight and sound'' separation found in the Juvenile Justice Act into a broad principle: States must provide physical separation for incarcerated juveniles and adults, but not necessarily sight-and-sound separation, which has been such a burden and so expensive, in particular in rural and small town facilities in the United States. We need to provide for the sharing of staff in facilities, not require that there be separate staff in each instance.

We make new findings and purposes for this entire section. Then, ultimately, we say that our States will receive incentive grants if they do the following three things:

Implement graduated sanctions, whereby every juvenile offender receives punishment for every crime, no matter how small. Punishment should be of an increasing severity, based on the nature of the crime and if the juvenile is a repeat offender.

Second, fingerprint and photography records to be kept for juveniles 15 and under who commit felonies, and, finally, mandatory adult prosecution for juveniles 14 years and older who commit serious violent crimes.

In addition to these three, without which the incentive grants will not be available, we provide a long list of actions that many think are required in our States if we are ever going to get a handle on this, and then ask the States, as their best practices, to adopt at least five of them. These reforms have been suggested by the very best people who are out there in the field struggling to do something about this very serious problem.

Mr. President, I have a section-by-section analysis and an outline and short table of contents of the bill. I ask unanimous consent that they be printed in the RECORD and that the bill be printed in the RECORD.

There being no objection, the material was orderd to be printed in the RECORD, as follows:

S. 2062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Juvenile Justice Modernization Act of 1996''.

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

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Nation's juvenile justice system is in trouble—facilities are dangerously overcrowded, field staff is overworked, and a growing number of children are breaking the law;

(2) a redesigned juvenile corrections program for the next century should be based on 4 principles—accountability for offenders and their families, restitution for victims, community-based prevention, and community involvement;

(3) existing programs have not adequately responded to the particular problems of juvenile delinquents in the 1990's;

(4) State and local communities, which experience directly the devastating failure of the juvenile justice system, do not presently have sufficient resources to deal comprehensively with the problems of juvenile crime and delinquency;

(5) limited State and local resources are being unnecessarily wasted complying with overly technical Federal requirements for ''sight and sound'' separation currently in effect under the 1974 Act. Prohibiting the commingling of adults and juvenile populations would achieve this important purpose without imposing an undue burden on State and local governments;

(6) limited State and local resources are being unnecessarily wasted complying with the overly restrictive Federal mandate that no juveniles be detained or confined in any jail or lockup for adults. This mandate is particularly burdensome for rural communities;

(7) the juvenile justice system should give additional attention to the problem of juveniles who commit serious crimes, with particular attention given to the area of sentencing;

(8) the term ''prevention'' in the context of this Act means both ensuring that families have a greater chance to raise their children so that those children do not engage in criminal or delinquent activities, and preventing children who have engaged in those activities from becoming permanently entrenched in the juvenile justice system;

(9) in 1992 alone, there were over 110,000 juvenile arrests for violent crimes, and 16.64 times that number of juvenile arrests for property and other crimes;

(10) in 1994, males ages 14 through 24 constituted only 8 percent of the population but accounted for more than 25 percent of all homicide victims and nearly half of all convicted murderers;

(11) in a survey of 250 judges, 93 percent of those judges stated that juvenile offenders should be fingerprinted, 85 percent stated that juvenile criminal records should be made available to adult authorities, and 40 percent stated that the minimum age for facing murder charges should be 14 or 15;

(12) studies indicate that good parenting skills, including normative development, monitoring, and discipline, clearly affects whether children will become delinquent, and adequate supervision of free-time activities, whereabouts, and peer interaction is critical to ensure that children do not drift into delinquency;

(13) 20 years ago, less than half of our Nation's cities reported gang activity, while a generation later, reasonable estimates indicate that there are now more than 500,000 gang members in more than 16,000 gangs on the streets of our cities, and there were more than 580,000 gang crimes in 1993;

(14) while the premise of adult corrections is that incarceration prevents the offender from committing additional crimes and punishes the offender by depriving the offender of freedom, the premise of juvenile corrections and this Act is that, unlike adults, children have a significant potential to change and become productive, law-abiding members of society if the juvenile justice system is premised upon accountability, consistent imposition of sanctions and graduated sanctions imposed so that every wrongful Act has a penalty;

(15) the high incidence of delinquency in the United States today results in an enormous annual cost and an immeasurable loss of human life, personal security, and wasted human resources; and

(16) juvenile delinquency constitutes a growing threat to the national welfare, requiring immediate and comprehensive action by the Federal Government to reduce and eliminate this threat.

TITLE I—REFORM OF EXISTING PROGRAMS

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by striking ''(b)''; and

(B) by striking ''Federal Government'' and inserting ''Federal, State, and local governments''.

(b) PURPOSE.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

''SEC. 102. PURPOSES.

''The purposes of this title and title II are—

''(1) to assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

''(2) to encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;

''(3) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

''(4) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system;

''(5) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

''(6) to assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;

''(7) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;

''(8) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

''(9) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.''.

SEC. 102. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3), by inserting ''punishment,'' after ''control,'';

(2) in paragraph (22)(iii), by striking ''and'' at the end;

(3) in paragraph (23), by striking the period at the end and inserting a semicolon; and

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

''(24) the term 'serious violent crime' means—

''(A) murder or nonnegligent manslaughter, or robbery; or

''(B) aggravated assault committed with the use of a firearm, kidnaping, felony aggravated battery, assault with intent to commit a serious violent crime, and vehicular homicide committed while under the influence of an intoxicating liquor or controlled substance; and

''(25) the term 'serious habitual offender' means a juvenile who meets one or more of the following criteria:

''(A) Arrest for a capital, life, or first degree aggravated sexual offense.

''(B) Not less than 5 arrests, with 3 arrests chargeable as felonies and at least 3 arrests occurring within the preceding 12 months.

''(C) Not less than 10 arrests, with 2 arrests chargeable as felonies and at least 3 arrests occurring within the preceding 12 months.

''(D) Not less than 10 arrests, with 8 or more arrests for misdemeanor crimes involving theft, assault, battery, narcotics possession or distribution, or possession of weapons, and at least 3 arrests occurring within the preceding 12 months.''.

SEC. 103. YOUTH VIOLENCE REDUCTION.

(a) OFFICE OF YOUTH VIOLENCE REDUCTION.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended—

(1) by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''; and

(2) by striking subsections (b) and (c) and inserting the following:

''(b) ADMINISTRATOR.—The Office shall be headed by an Administrator (hereafter in this title referred to as the 'Administrator') who—

''(1) shall—

''(A) be a career appointee (as that term is defined in section 3132(a)(4) of title 5, United States Code) serving at the pleasure of the Attorney General and having experience in juvenile justice programs; and

''(B) report to the head of the Office of Justice Programs; and

''(2) may prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under this title.''.

(b) CONCENTRATION OF FEDERAL EFFORTS.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by inserting before ''diversion'' the following: ''punishment'';

(B) in the first sentence, by inserting before the period the following: '', and shall submit such plan to the Congress''; and

(C) by striking the second sentence;

(2) in subsection (b)—

(A) in paragraph (1), by adding ''and'' at the end; and

(B) by striking paragraphs (2) through (7) and inserting the following:

''(2) reduce duplication among Federal juvenile delinquency programs and activities

conducted by Federal departments and agencies.'';

(3) by redesignating subsection (h) as subsection (f); and

(4) by striking subsection (i).

(c) COORDINATING COUNCIL ON YOUTH VIOLENCE REDUCTION.—Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—

(1) in the section heading, by striking ''JUVENILE JUSTICE AND DELINQUENCY PREVENTION'' and inserting ''YOUTH VIOLENCE REDUCTION''; and

(2) by striking ''Justice and Delinquency Prevention'' each place that term appears and inserting ''Youth Violence Reduction''.

SEC. 104. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Governor of each State a report that contains the following with respect to such fiscal year:

(1) SUMMARY AND ANALYSIS.—A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, the number of repeat offenders, the number of juveniles using weapons, the number of juvenile and adults victims and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

(A) the types of offenses with which the juveniles are charged, data on serious violent crimes committed by juveniles and data on serious habitual offenders;

(B) the race and gender of the juveniles and their victims;

(C) the ages of the juveniles and their victims;

(D) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

(E) the number of juveniles who died while in custody and the circumstances under which they died;

(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school;

(G) the number of juveniles who are substance abusers; and

(H) information on juveniles fathering or giving birth to illegitimate children and whether these juveniles have assumed financial responsibility for their children.

(2) ACTIVITIES FUNDED.—A description of the activities for which funds are expended under this part.

(3) STATE COMPLIANCE.—A description based on the most recent data available of the extent to which each State complies with section 223 and with the plan submitted under such section by the State for such fiscal year.

(4) SUMMARY AND EXPLANATION.—A summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replacing such program or activity in other locations.

(5) EXEMPLARY PROGRAMS AND PRACTICES.—A description of selected exemplary delinquency prevention programs and accountability based youth violence reduction practices.

SEC. 105. BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.

Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) in subsection (a), by inserting before the period at the end the following: '', including initiatives for holding juveniles accountable for any act for which they are adjudicated delinquent, increasing public awareness of juvenile proceedings, and improving the content, accuracy, availability, and usefulness of juvenile court and law enforcement records (including fingerprints and photographs) and education programs such as funding for extended hours for libraries and recreational programs which benefit all juveniles'';

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) Of amounts made available to carry out this part in any fiscal year, $10,000,000 or 1 percent (whichever is greater) may be used by the Administrator—

''(A) to establish and maintain a clearinghouse to disseminate to the States information on juvenile delinquency prevention, treatment, and control; and

''(B) to provide training and technical assistance to States to improve the administration of the juvenile justice system.''; and

(B) in paragraph (2), by striking the last sentence.

SEC. 106. ALLOCATION.

Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended to read as follows:

''SEC. 222. ALLOCATION OF FUNDS.

''(a) ALLOCATION AND DISTRIBUTION OF FUNDS.—

''(1) IN GENERAL.—Of the total amount made available to carry out this part for each fiscal year, the Administrator shall allocate to each State the sum of—

''(A) an amount that bears the same relation to one-third of such total as the number of juveniles in the State bears to the number of juveniles in all States;

''(B) an amount that bears the same relation to one-third of such total as the number of juveniles from families with incomes below the poverty line in the State bears to the number of such juveniles in all States; and

''(C) an amount that bears the same relation to one-third of such total as the average annual number of part 1 violent crimes reported by the State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data are available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

''(2) MINIMUM REQUIREMENT.—Each State shall receive not less than 0.35 percent of one-third of the total amount appropriated to carry out this part for each fiscal year.

''(3) UNAVAILABILITY OF INFORMATION.—For purposes of this subsection, if data regarding the measures governing allocation of funds under paragraphs (1) and (2) in any State are unavailable or substantially inaccurate, the Administrator and the State shall utilize the best available comparable data for the purposes of allocation of any funds under this part.

''(b) AVAILABILITY.—Any amounts made available to carry out this section shall remain available until expended.''.

SEC. 107. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) by striking the second sentence;

(B) in paragraph (5) by striking '', other than'' and all that follows through ''section 222(d),''; and

(C) by striking paragraph (14) and inserting the following:

''(14) provide assurances that, in each secure facility located in the State (including any jail or lockup for adults), there is no commingling in the same cell or community room of, or any other regular contact between—

''(A) any juvenile detained or confined for any period of time in that facility; and

''(B) any adult offender detained or confined for any period of time in that facility.'';

(D) by striking paragraphs (3), (8), (9), (10), (12), (13), (15), (17), (18), (19), (24), and (25); and

(E) by redesignating paragraphs (4), (5), (6), (7), (11), (14), (16), (20), (21), (22), and (23) as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), and (13), respectively; and

(2) by striking subsections (c) and (d).

SEC. 108. REPEALS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in title II—

(A) by striking parts C, E, F, G, and H;

(B) by striking part I, as added by Public Law 102–586; and

(C) by amending the heading of part I, as in effect immediately before the date of enactment of Public Law 102–586, to read as follows:

''PART E—GENERAL AND ADMINISTRATIVE PROVISIONS''; and

(2) by striking title V, as added by Public Law 102–586.

TITLE II—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

SEC. 201. INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part B the following:

''PART C—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

''SEC. 241. AUTHORIZATION OF GRANTS.

''The Administrator shall provide juvenile delinquent accountability grants under section 242 to eligible States to carry out the purposes of this title.

''SEC. 242. ACCOUNTABILITY-BASED INCENTIVE GRANTS.

''(a) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application at such time, in such form, and containing such assurances and information as the Administrator may require by rule, including assurances that the State has in effect (or will have in effect not later than 1 year after the date on which the State submits such application) laws, or has implemented (or will implement not later than 1 year after the date on which the State submits such application)—

''(1) policies and programs that ensure that juveniles who commit an act after attaining 14 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution;

''(2) graduated sanctions for juvenile offenders, ensuring a sanction for every delinquent or criminal act, ensuring that the sanction is of increasing severity based on the nature of the act, and escalating the sanction with each subsequent delinquent or criminal act; and

''(3) a system of records relating to any adjudication of juveniles less than 15 years of age who are adjudicated delinquent for conduct that if committed by an adult would

constitute a serious violent crime. Such records shall be—

''(A) equivalent to the records that would be kept of adults arrested for such conduct, including fingerprints and photographs;

''(B) submitted to the Federal Bureau of Investigation in the same manner as adult records are so submitted;

''(C) retained for a period of time that is equal to the period of time records are retained for adults; and

''(D) available to law enforcement agencies, the courts, and school officials (and such school officials shall be subject to the same standards and penalties that law enforcement and juvenile justice system employees are subject to under Federal and State law, for handling and disclosing such information).

''(b) ADDITIONAL AMOUNT BASED ON ACCOUNTABILITY-BASED YOUTH VIOLENCE REDUCTION PRACTICES.—A State that receives a grant under subsection (a) is eligible to receive an additional amount of funds added to such grant if such State demonstrates that the State has in effect, or will have in effect, not later than 1 year after the deadline established by the Administrator for the submitting of applications under subsection (a) for the fiscal year at issue, not less than 5 of the following practices:

''(1) VICTIMS' RIGHTS.—Increased victims' rights, including the right to a final conclusion free from unreasonable delay, and the right to be notified of any release or escape of an offender who committed a crime against a particular victim.

''(2) VICTIM RESTITUTION.—Mandatory victim restitution.

''(3) ACCESS TO PROCEEDINGS.—Public access to juvenile court proceedings.

''(4) PARENTAL RESPONSIBILITY.—Juvenile curfews and parental civil liability for serious acts committed by juveniles released to the custody of their parents by the court.

''(5) ZERO TOLERANCE FOR DEADBEAT JUVENILE PARENTS.—Require as condition of parole that—

''(A) juvenile offenders who are parents demonstrate parental responsibility by working and paying child support; and

''(B) juveniles attend and successfully complete school or pursue vocational training.

''(6) SERIOUS HABITUAL OFFENDERS COMPREHENSIVE ACTION PROGRAM (SHOCAP).—A multidisciplinary, interagency management, information and monitoring system for the early identification, control, supervision, and treatment of the most serious juvenile offenders.

''(7) COMMUNITY-WIDE PARTNERSHIPS.—Community-wide partnerships involving county, municipal government, school districts, appropriate State agencies, and nonprofit organizations to administer a unified approach to juvenile delinquency.

''(8) ZERO TOLERANCE FOR TRUANCY.—School districts should implement programs to curb truancy and implement certain and swift punishments for truancy, including parental notification of every absence, mandatory Saturday school makeup sessions for truants or weekends in jail for truants and denial of participation or attendance at extracurricular activities by truants.

''(9) ALTERNATIVE SCHOOLING.—A requirement that, as a condition of receiving any State funding provided to school districts in accordance with a formula allocation based on the number of children enrolled in school in the school district, each school district shall establish one or more alternative schools or classrooms for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons and shall require that such juveniles attend the alternative schools or classrooms. Any juvenile who refuses to attend such alternative school or classroom shall be immediately detained pending a hearing. If a student is transferred from a regular school to an alternative school for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons such State funding shall also be transferred to the alternative school.

''(10) JUDICIAL JURISDICTION.—A system under which municipal and magistrate courts have—

''(A) jurisdiction over minor delinquency offenses such as truancy, curfew violations, and vandalism; and

''(B) short term detention authority for habitual minor delinquent behavior.

''(11) ELIMINATION OF CERTAIN INEFFECTIVE PENALTIES.—Eliminate 'counsel and release' or 'refer and release' as a penalty for juveniles with respect to the second or subsequent offense for which the juvenile is referred to a juvenile probation officer.

''(12) REPORT BACK ORDERS.—A system of 'report back' orders whenever juveniles are placed on probation, so that after a period of time (not to exceed 2 months) the juvenile appears before and advises the judge of the progress of the juvenile in meeting certain goals.

''(13) PENALTIES FOR USE OF FIREARM.—Mandatory penalties for the use of a firearm during a violent crime or a drug felony.

''(14) STREET GANGS.—Make it illegal to engage in criminal conduct as a member of a street gang and impose severe penalties for terrorism by criminal street gangs.

''(15) CHARACTER COUNTS.—Character education and training for juvenile offenders.

''(16) MENTORING.—Mentoring programs for at-risk youth.

''(17) DRUG COURTS AND COMMUNITY-ORIENTED POLICING STRATEGIES.—Courts for juveniles charged with drug offenses and community-oriented policing strategies.

''SEC. 243. FORMULAS FOR GRANTS.

''The amount made available for any fiscal year for grants under section 241 shall be allocated among the States proportionately on the basis of the number of residents of such States who are less than 18 years of age, in accordance with the following:

''(1) 50 percent shall be allocated among the States that meet the requirements of section 242(a).

''(2) 50 percent shall be allocated among the States that meet the requirements of subsections (a) and (b) of section 242.

''SEC. 244. ACCOUNTABILITY.

''A State that receives a grant under section 241 shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Administrator, and shall ensure that any funds used to carry out section 241 shall represent the best value for the State at the lowest possible cost and employ the best available technology.

''SEC. 245. LIMITATION ON USE OF FUNDS.

''(a) NONSUPPLANTING REQUIREMENT.—Funds made available under section 241 shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

''(b) ADMINISTRATIVE AND RELATED COSTS.—Not more than 2 percent of the funds appropriated under section 291(c) for a fiscal year shall be available to the Administrator for such fiscal year for purposes of—

''(1) research and evaluation, including assessment of the effect on public safety and other effects of the expansion of correctional capacity and sentencing reforms implemented pursuant to this part; and

''(2) technical assistance relating to the use of grants made under section 241, and development and implementation of policies, programs, and practices described in section 242.

''(c) CARRYOVER OF APPROPRIATIONS.—Funds appropriated under section 291(c) shall remain available until expended.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this part may not exceed 90 percent of the costs of a proposal as described in an application approved under this part.''.

TITLE III—GENERAL PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended to read as follows:

''SEC. 291. AUTHORIZATION OF APPROPRIATIONS.

''(a) OFFICE OF YOUTH VIOLENCE REDUCTION.—There are authorized to be appropriated for each of fiscal years 1997, 1998, 1999, 2000, and 2001 such sums as may be necessary to carry out part A.

''(b) BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.—There is authorized to be appropriated to carry out part B $250,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

''(c) INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.—There is authorized to be appropriated to carry out part C $250,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

''(d) SOURCE OF APPROPRIATIONS.—Funds authorized by this section to be appropriated may be appropriated from the Violent Crime Reduction Trust Fund.''.

SEC. 302. TECHNICAL AND CONFORMING AMENDMENTS.

(a) JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. et seq.) is amended—

(1) in part A, by striking the part designation and the part heading and inserting the following:

''OFFICE OF YOUTH VIOLENCE REDUCTION'';

(2) in section 217(a), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(3) in part B, in the part heading, by striking ''FEDERAL ASSISTANCE'' and inserting ''BLOCK GRANTS'';

(4) in section 222, by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(5) in section 299A, by striking ''this Act'' each place that term appears and inserting ''this title'';

(6) by striking section 299C;

(7) in section 299D—

(A) in subsection (b), by striking ''Except as provided in the second sentence of section 222(c), financial'' and inserting ''Financial''; and

(B) by striking subsection (d);

(8) by redesignating sections 299A, 299B, and 299D as sections 292, 293, and 294, respectively;

(9) in section 385(c), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''; and

(10) in section 403(2), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(b) TITLE 5.—Section 5315 of subchapter II of chapter 53 of title 5, United States Code, is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(c) TITLE 18.—Section 4351(b) of title 18, United States Code, is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(d) TITLE 39.—Section 3220 of title 39, United States Code, is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place that term appears and inserting ''Office of Youth Violence Reduction''.

(e) SOCIAL SECURITY ACT.—Section 463(f) of the Social Security Act (42 U.S.C. 663(f)) is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(f) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—The Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 102(a)(5), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(2) in section 801, by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place that term appears and inserting ''Office of Youth Violence Reduction'';

(3) in section 804, by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place that term appears and inserting ''Office of Youth Violence Reduction'';

(4) in section 805, by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(5) in section 813, by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(6) in section 1701(a), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''; and

(7) in section 2501(a)(2), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(g) VICTIMS OF CHILD ABUSE ACT.—Sections 217 and 222 of the Victims of Child Abuse Act (42 U.S.C. 13013, 13022) are amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place that term appears and inserting ''Office of Youth Violence Reduction''.

(h) NATIONAL CHILD PROTECTION ACT OF 1993.—Section 2(f) of the National Child Protection Act of 1993 (42 U.S.C. 5119(f)) is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(i) OTHER REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Office of Juvenile Justice and Delinquency Prevention established under section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, as in effect on the day before the date of enactment of this Act, shall be deemed to refer to the Office of Youth Violence Reduction established under section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended by this Act.

SEC. 303. EFFECTIVE DATE; APPLICABILITY OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year beginning after the date of enactment of this Act.

(b) APPLICABILITY OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any fiscal year beginning before the effective date of this Act.

Juvenile Justice Modernization Act of 1996—SECTION-BY-SECTION ANALYSIS

Section 1—Short title & table of contents.

TITLE I—REFORM OF EXISTING JUVENILE JUSTICE PROGRAMS

Section 101—Strikes the ''Findings'' in subsection (a) of Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601). Amends subparagraph (b) of Section 101 to recognize the need for comprehensive state, local and federal government action to combat juvenile crime.

Amends the ''Purposes'' in Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) to recognize the new Act's focus on assisting State and local governments' efforts to promote public safety by supporting juvenile delinquency prevention and law enforcement programs and to provide for the establishment, operation and evaluation of federally assisted juvenile crime programs.

Section 102—Amends Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) and adds two new terms.

For purposes of the Act, ''serious violent crime'' means murder, nonnegligent manslaughter, forcible rape, robbery, aggravated assault with a firearm, kidnaping, felony aggravated battery, assault with the intent to commit a serious violent crime, or vehicular homicide committed while under the influence of an intoxicating liquor or controlled substance.

''Serious habitual offender'' means a juvenile who meets one or more of several criteria: (1) Arrest for a capital, life or first degree aggravated sexual offense; (2) 5 or more arrests, with 3 chargeable as felonies and at least 3 arrests within the preceding 12 months; (3) 10 or more arrests, with 2 chargeable as felonies and at least 3 arrests in the preceding 12 months; or (4) 10 or more arrests, with 8 or more for misdemeanor crimes involving theft, battery, narcotics possession or possession of weapons, with at least 3 arrests occurring within the preceding 12 months.

Section 103—Amends Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) and renames the Office of Juvenile Justice and Delinquency Prevention. OJJDP will be known as the ''Office of Youth Violence Reduction.''

Eliminates Presidential appointment for the Administrator of the Office. Requires that the Administrator of the Office be a career appointee with experience in juvenile justice programs. The Administrator will report to the head of the Office of Justice Programs and will continue to prescribe regulations and administer grants awarded by the Office. Eliminates the Deputy Administrator position.

Amends Section 204 of the JJ&DP Act and requires the Administrator to submit to Congress the plan for the implementation of federal juvenile delinquency programs. Eliminates requirement that the Administrator consult with the Coordinating Council on Juvenile Justice and Delinquency Prevention. Limits the Office's responsibilities to two: to report to the President on all matters related to federal juvenile justice programs and to reduce duplication of federal juvenile justice programs and the activities of federal departments and agencies.

Renames the Coordinating Council on Juvenile Justice and Delinquency Prevention as the ''Coordinating Council on Youth Violence Reduction.''

Amends Section 207 of the JJ&DP Act and requires the Administrator to submit an annual report to the President, Congress and the Governors of the 50 states which contains a summary and analysis of juvenile crime and incarceration data, as well as information on juvenile substance abuse and the degree to which juvenile offenders have taken financial responsibility for their children. The annual report also must contain a description of activities funded under the Act, an explanation of the extent to which states comply with the requirements of Section 223, a summary and evaluation of each program or activity for which assistance is provided, and a list and description of selected exemplary delinquency prevention programs and accountability-based youth violence reduction practices.

Section 104—Amends Section 221 of the JJ&DP Act to authorize the Administrator to make grants to states for initiatives with the additional purposes of holding juveniles accountable for all delinquent acts, increasing public awareness of juvenile proceedings, improving juvenile court and law enforcement records, including fingerprints and photographs and increasing the availability of education programs which benefit all juveniles.

Allows the Administrator to use the greater of one percent of the funds made available under the Act or $10 million to establish and maintain a clearinghouse to disseminate to States information on juvenile delinquency, prevention, treatment and control and to provide training and technical assistance to States to improve their juvenile justice systems.

Section 105—Amends Section 222 of the JJ&DP Act and creates a new formula for the allocation and distribution of grants under Part B of the Act. $250 million available under this section will be allocated based equally on the number of juveniles in each state, the number of juveniles in the state living below the poverty line and the violent crime rate of the state.

Maintains federal funding levels by requiring that each state continue to receive 0.35 percent of one-third of the funds appropriated to carry out the Act. Allows the Administrator and states to use the best available comparable data to determine eligibility under the formula. Eliminates the requirement that states use 5 percent of grant money to assist state advisory groups.

Section 106—Amends Section 223 of the JJ&DP Act and eliminates the requirement that states update their plans annually to include new programs and challenge activities. Eliminates the requirement that states form juvenile justice advisory groups. Eliminates the requirement that 75 percent of funds be used for particular programs.

Eliminates many of the mandates imposed upon states as conditions of receiving federal funds, including deinstitutionalization of status offenders and removal of juveniles from adult jails and lock-ups. Requires that States provide assurances that there is no commingling of or regular contact between juvenile and adult offenders in the same cell or community room in state facilities.

Section 107—Repeals several parts in title II of the JJ&DP Act. Eliminates the National Institute for Juvenile Justice and Delinquency Prevention, Special Emphasis Prevention and Treatment Programs, State Challenge Activities, Treatment for Juvenile Offenders Who Are Victims of Child Abuse or Neglect, Mentoring, Boot Camps and the White House Conference on Juvenile Justice. Eliminates state incentive grants for local delinquency prevention programs.

TITLE II—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

Section 201—Amends the JJ&DP Act by creating a new Part C. Creates a new Section 241 authorizing the Administrator to award $250 million in new incentive grants for states which enact certain accountability-based reforms to their juvenile justice systems. States must submit applications to the Administrator certifying that the State has

enacted or implemented (or will enact or implement within one year) certain laws and policies which will improve the State's juvenile justice system.

Creates a new Section 242(a). States must enact the following three reforms in order to receive 50 percent of the funds available under Part C: (1) policies and programs to ensure that juveniles age 14 or over who commit ''serious violent crimes'' are prosecuted as adults; (2) graduated sanctions, ensuring a punishment for every delinquent or criminal act, and ensuring that the sanctions are of increasing severity for each subsequent offense; and (3) require that adult records (including fingerprints and photographs) be kept for juveniles under age 15 who commit ''serious violent crimes.''

Creates a new Section 242(b). In addition to the reforms mentioned above, States must enact five of the following in order to receive 100 percent of the funds available under Part C: (1) victims' rights laws; (2) mandatory victim restitution; (3) public access to juvenile court proceedings; (4) juvenile curfews and civil parental responsibility laws for serious acts committed by juveniles released to the custody of their parents; (5) financial responsibility for offspring and successful completion of school or vocational training as a condition of parole or probation; (6) serious habitual offender comprehensive action plans, a multi disciplinary interagency system for the early identification, control, monitoring, supervision and treatment of the most serious juvenile offenders; (7) community-wide partnerships involving county and municipal governments, school districts, State agencies and private organizations to administer a unified approach to juvenile justice; (8) zero tolerance for truancy, including parental notification and mandatory make-up sessions for truants; (9) alternative schools or classrooms for expelled or suspended juveniles; (10) jurisdiction for municipal and magistrate courts over minor delinquency offenses and short-term detention authority for habitual minor delinquency behavior; (11) expedited prosecution procedures and prompt resolution of juvenile cases; (12) eliminate ''counsel and release'' or ''refer and release'' as a penalty for second offenses for which juveniles are referred to a juvenile probation officer; (13) ''report back orders'' whereby juveniles on probation appear before the court and advise the court of their progress in meeting certain goals; (14) mandatory penalties for the use of a firearm during a violent crime or drug felony; (15) laws making it illegal to engage in criminal conduct as a member of a street gang; (16) character education and training; (17) mentoring programs for at-risk youth; (18) courts for juveniles charged with drug offenses and community-oriented policing strategies.

Creates a new Section 243. Grants will be allocated proportionately based on the number of residents in the State under the age of 18, in accordance with the following: (1) 50 percent allocated among the States which meet the requirements of Section 242(a); and (2) 50 percent among the States which meet the requirements of Sections 242(a) and 242(b).

Creates a new Section 244 requiring that States utilize accounting, auditing and fiscal procedures prescribed by the Administrator and that States ensure that funds used will represent the best value for the State at the lowest cost and employ the best available technology.

Creates a new Section 245 prohibiting States from using grants to supplant existing State juvenile justice funds. Allows up to 2 percent of available funds be available to the Administrator for research and evaluation projects, and technical assistance. Appropriated funds will carry over and remain available until expended. The Federal share of grant received under Part C must not exceed 90 percent of the costs of the submitted proposal.

TITLE III—GENERAL PROVISIONS

Section 301—Authorizes necessary funding through 2001 for the Office of Youth Violence Reduction. Authorizes $250 million for each year through 2001 for Part B grants and $250 million for each year through 2001 for Part C grants. Allows appropriation of funds from the Violent Crime Reduction Trust Fund.

Section 302—Technical and conforming amendments.

Section 303—Sets the effective date of the Act as the first day of the first fiscal year beginning after the date of enactment.

OUTLINE OF DOMENICI JUVENILE JUSTICE BILL

TITLE I—GRANTS TO STATES

1. New ''Findings'' and ''Purposes'' sections which discuss the increase and changing nature of juvenile crime.

2. Repeal the following mandates found in the current Juvenile Justice Act:

(a) deinstitutionalization of ''status'' offenders—those juveniles who commit acts that are criminal if committed by a child but not criminal if done by an adult;

(b) remove youths from adult jails and lockups; and

3. Provide flexibility to states by changing the current law ''sight and sound'' mandate found in the Juvenile Justice Act into a broad principle:

(a) provide physical separation of incarcerated juveniles and adults, but not necessarily sight and sound separation;

(Need to allow for the sharing of staff and facilities. Rural areas should be able to keep adults and juveniles in the same facility so long as they are in separate cells.)

Require states to provide assurances that they are adhering to the principles.

4. More money and more flexibility for states:

GRANTS

Replace Justice's OJJDP with a new office within DOJ's OJP. Make the new Administrator a career person who serves at the pleasure of the Attorney General.

Increase funding from $150 million per year to $500 million.

Use one-half ($250 million) for grants to the states for prevention programs for juveniles and meeting requirements of the incentive grants. Grants will be distributed proportionately based on number of juveniles below age 18, poverty and crime rates.

States could use the money to continue to fund existing programs, create their own new programs or to meet the requirements for the second set of grants.

Allow funds to be used for programs directed at all juveniles not just ''at risk'' juveniles. For example, money could be used to keep libraries and gyms open and staffed after hours.

No strings other than one mandate regarding minorities and retaining one current mandate, as a ''principle.''

States file an action plan with the Office of Juvenile Crime Control and Delinquency Prevention.

$250 million for new incentive-based grants for states which enact certain reforms (much like Truth-in-Sentencing).

Grants would be used for law enforcement.

THREE STRINGS FOR THE INCENTIVE GRANTS

States must certify to the Administrator that they have enacted or will within one year enact laws to require that they have implemented a system of:

1. Graduated sanctions, whereby every juvenile offender receives a punishment for every crime.

The punishment should be of increasing severity based on the nature of the crime and if the juvenile is a repeat offender.

2. Fingerprint and photograph records to be kept for juveniles 15 and under who commit felonies.

Records would be kept like adult records—submitted to the FBI, available to law enforcement, courts and schools.

For non-felony crimes, records would follow juvenile as long as he/she is in the juvenile system. Whether to seal records would be at the discretion of the judge, but would always be available for law enforcement purposes.

For felony crimes (regardless of whether tried as juvenile or adult) records would follow juvenile into adulthood. There would be no special rules allowing sealing of records just because the offender is a juvenile.

3. Mandatory adult prosecution for juveniles 14 or over who commit a ''serious violent crimes.''

''Serious violent crimes'' are defined as murder, non-negligent manslaughter, forcible rape, robbery, aggravated assault with a firearm, kidnaping, felony aggravated battery, and vehicular homicide committed while under the influence of an intoxicating liquor or controlled substance.

States would also have to enact at least five of the following juvenile justice ''best practices'' to receive the additional funds:

1. Provide for victims' rights including final conclusion free from unreasonable delay and right to be notified of any release or escape of an offender who committed a crime against a particular victim.

2. Mandatory victim restitution.

3. Public access to juvenile court proceedings.

4. Parental responsibility laws for serious acts committed by juveniles released to their parents by the court and juvenile curfews.

5. Financial responsibility for offspring as condition for parole.

6. Serious habitual offenders comprehensive action program. If you do the crime you do the time. Among other items, it establishes a system for tracking the most serious juvenile offenders

7. Establish community-wide partnerships involving county, municipal governments, school districts, appropriate state agencies and non-profits to administer a unified approach to delinquency.

8. Zero tolerance for truancy. School districts should implement programs to curb truancy and implement certain and swift punishments for truancy. For example, parents should be advised of every absence; schools should hold Saturday ''make-up'' sessions or weekends in jail or denying extra curricular activities to truants.

9. Alternative schools or classrooms for expelled or suspended juveniles. Expelled or suspended students should be required to attend. Alternative schools should start earlier and go later than regular school. Counseling, tutoring, community service, and work oriented restitution would be required during extra hours. Any juvenile who refuses to attend alternative school would be subject to immediate detention pending a hearing. Funding made available from the state on a formula for each pupil should follow the child so if the child is put into an alternative school, the state funding should follow that student.

10. Provide municipal and magistrate courts with jurisdiction over minor delinquency offenses such as truancy, curfew, motor vehicle violations and graffiti. Authorize Municipal and Magistrate courts short term detention authority in response to persistent minor delinquent behavior.

11. Establish expedited procedures for prosecution and prompt resolution of juvenile cases.

12. Eliminate ''counsel and release'' or ''refer and release'' as a penalty for a second or subsequent offense.

13. Institute a system of ''report back'' orders whenever juveniles are placed on probation so that after a period of time (two months) the juvenile advises the judge of his/her progress toward meeting certain goals.

14. Mandatory penalties for the use of a firearm during a violent crime or drug felony.

15. Enact a state law making it illegal to engage in criminal conduct as a member of a street gang and enact a street terrorism act.

16. Provide Character education and training, like Character Counts.

17. Establish mentoring programs for youth in trouble.

18. Youth drug courts and community oriented policing strategies targeted at juveniles.

Mr. DOMENICI. Mr. President, I send the bill to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. The bill will be received and referred.

ADDITIONAL COSPONSORS

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1632

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1632, a bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes.

S. 1975

At the request of Mr. MCCONNELL, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1975, a bill to amend the Competitive, Special, and Facilities Research Grant Act to provide increased emphasis on competitive grants to promote agricultural research projects regarding precision agriculture and to provide for the dissemination of the results of the research projects, and for other purposes.

S. 1978

At the request of Mr. DORGAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1978, a bill to establish an Emergency Commission To End the Trade Deficit.

S. 2030

At the request of Mr. LOTT, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

S. 2056

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 2056, a bill to prohibit employment discrimination on the basis of sexual orientation.

SENATE RESOLUTION 286

At the request of Mr. DODD, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Maine [Mr. COHEN], the Senator from Ohio [Mr. DEWINE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Pennsylvania [Mr. SPECTER], the Senator from South Carolina [Mr. THURMOND], the Senator from Louisiana [Mr. BREAUX], the Senator from South Dakota [Mr. DASCHLE], the Senator from California [Mrs. FEINSTEIN], the Senator from Kentucky [Mr. FORD], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Resolution 286, a resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

AMENDMENTS SUBMITTED

THE TREASURY DEPARTMENT APPROPRIATIONS ACT, 1997

WYDEN (AND KENNEDY) AMENDMENT NO. 5206

Mr. WYDEN (for himself and Mr. KENNEDY) proposed an amendment to the bill (H.R. 3756) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the end of the Committee amendment insert the following new title:

TITLE —PROTECTION OF PATIENT COMMUNICATIONS

SEC. 01. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This title may be cited as the ''Patient Communications Protection Act of 1996''.

(b) FINDINGS.—Congress finds the following:

(1) Patients need access to all relevant information to make appropriate decisions, with their physicians, about their health care.

(2) Restrictions on the ability of physicians to provide full disclosure of all relevant information to patients making health care decisions violate the principles of informed consent and practitioner ethical standards.

(3) The offering and operation of health plans affect commerce among the States. Health care providers located in one State serve patients who reside in other States as well as that State. In order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in one State as well as those operating among the several States.

SEC. 02. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) IN GENERAL.—

(1) PROHIBITION OF CERTAIN PROVISIONS.—Subject to paragraph (2), an entity offering a health plan (as defined in subsection (d)(2)) may not include any provision that prohibits or restricts any medical communication (as defined in subsection (b)) as part of—

(A) a written contract or agreement with a health care provider.

(B) a written statement to such a provider or

(C) an oral communication to such a provider.

(2) CONSTRUCTION.—Nothing in this section shall be construed as preventing an entity from exercising mutually agreed upon terms and conditions not inconsistent with paragraph (1), including terms or conditions requiring a physician to participate in, and cooperate with, all programs, policies, and procedures developed or operated by the person, corporation, partnership, association, or other organization to ensure, review, or improve the quality of health care.

(3) NULLIFICATION.—Any provision described in paragraph (1) is null and void.

(b) MEDICAL COMMUNICATION DEFINED.—In this section, the term ''medical communication'' means a communication made by a health care provider with a patient of the provider (or the guardian or legal representative of such patient) with respect to the patient's physical or mental condition or treatment options.

(c) ENFORCEMENT THROUGH IMPOSITION OF CIVIL MONEY PENALTY.—

(1) IN GENERAL.—Any entity that violates paragraph (1) of subsection (a) shall be subject to a civil money penalty of up to $25,000 for each violation. No such penalty shall be imposed solely on the basis of an oral communication unless the communication is part of a pattern or practice of such communications and the violation is demonstrated by a preponderance of the evidence.

(2) PROCEDURES.—The provisions of subsection (c) through (1) of section 1129A of the Social Security Act (42 U.S.C. 1320a-(a) shall apply to civil money penalties under paragraph (1) in the same manner as they apply to a penalty or proceeding under section 1128(a) of such Act.

(d) DEFINITIONS.—For purposes of this section.

(1) HEALTH CARE PROVIDER.—The term ''health care provider'' means anyone licensed or certified under State law to provide health care services.

(2) HEALTH PLAN.—The term ''health plan'' means any public or private health plan or arrangement (including an employee welfare benefit plan) which provides, or pays the cost of, health benefits, and includes an organization of health care providers that furnishes health services under a contract or agreement with such a plan.

(3) COVERAGE OF THIRD PARTY ADMINISTRATORS.—In the case of a health plan that is an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974), any third party administrator or other person with responsibility for contracts with health care providers under the plan shall be considered, for purposes of this section, to be an entity offering such health plan.

(e) NON-PREEMPTION OF STATE LAW.—A State may establish or enforce requirements