

Danner	Kildee	Poshard
de la Garza	Klein	Price (NC)
de Lugo (VI)	Klink	Rahall
Deal	Kopetski	Reed
DeFazio	Kreidler	Reynolds
DeLauro	LaFalce	Romero-Barcelo
Dellums	Lambert	(PR)
Derrick	Lancaster	Rostenkowski
Dicks	Lantos	Roybal-Allard
Dingell	LaRocco	Rush
Dixon	Laughlin	Sabo
Durbin	Levin	Sanders
Edwards (CA)	Lewis (GA)	Sangmeister
Edwards (TX)	Lipinski	Sarpalio
Ehlers	Long	Sawyer
Engel	Lowe	Schenk
English	Maloney	Schroeder
Eshoo	Mann	Schumer
Evans	Manton	Scott
Farr	Margolies-	Serrano
Fazio	Mezvinsky	Shepherd
Fields (LA)	Markey	Slattery
Filner	Martinez	Slaughter
Fingerhut	Matsui	Smith (IA)
Flake	Mazzoli	Spratt
Foglietta	McCloskey	Stokes
Frank (MA)	McCurdy	Strickland
Frost	McDermott	Studds
Furse	McHale	Stupak
Gejdenson	McKinney	Swift
Gephardt	McNulty	Synar
Gilman	Meehan	Thompson
Glickman	Meeke	Thornton
Gonzalez	Menendez	Torres
Green	Mfume	Torricelli
Greenwood	Miller (CA)	Towns
Gutierrez	Mineta	Trafficant
Hall (OH)	Minge	Tucker
Hamburg	Mink	Underwood (GU)
Hamilton	Moakley	Unsoeld
Harman	Mollohan	Upton
Hastings	Montgomery	Velazquez
Hefner	Morella	Vento
Hilliard	Murtha	Visclosky
Hinchey	Nadler	Volkmer
Hoagland	Neal (MA)	Washington
Hochbrueckner	Neal (NC)	Waters
Horn	Norton (DC)	Watt
Hoyer	Oberstar	Waxman
Hughes	Obey	Wheat
Inslee	Olver	Whitten
Jacobs	Owens	Williams
Jefferson	Pallone	Wilson
Johnson (GA)	Parker	Wise
Johnson (SD)	Pastor	Wolf
Johnson, E. B.	Payne (NJ)	Woolsey
Johnston	Pelosi	Wyden
Kanjorski	Penny	Wynn
Kennedy	Pickett	Yates
Kennelly	Pomeroy	

NOT VOTING—16

Andrews (NJ)	Ford (MI)	Peterson (FL)
Brewster	Franks (NJ)	Rangel
Collins (IL)	Gallo	Rose
Faleomavaega	Grandy	Sharp
(AS)	Kaptur	Stark
Fish	Linder	

So the amendment was not agreed to. After some further time,

35.30 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following substitute amendment submitted by Mr. HUGHES for the amendment submitted by Mr. MCCOLLUM:

Substitute amendment submitted by Mr. HUGHES:

Strike title VI and insert the following:

TITLE VI—VIOLENT OFFENDER INCARCERATION

SEC. 601. GRANTS FOR CORRECTIONAL FACILITIES.

(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States, organized as multi-State compacts, to develop, expand, modify, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent offenders.

(b) ELIGIBILITY.—To be eligible to receive a grant under this title a State or States, or-

ganized as multi-State compacts, shall submit an application to the Attorney General which includes—

(1) assurances that the State or States, have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public;

(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

(3) assurances that funds received under this section will be used to develop, expand, modify, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent offenders;

(4) assurances that the State or States have a comprehensive correctional plan which represents an integrated approach to the management and operation of correctional facilities and programs and which includes diversional programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, prisoner rehabilitation and treatment programs, prisoner work activities (including, to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities), and job skills programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance, and an assessment of recidivism rates;

(5) assurances that the State or States have involved counties and other units of local government, when appropriate, in the development, expansion, modification, or improvement of correctional facilities and programs designed to ensure the incarceration of violent offenders;

(6) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds; and

(7) documentation of the multi-State compact agreement that specifies the development, expansion, modification, or improvement of correctional facilities and programs.

(c) CONSIDERATION.—The Attorney General, in making such grants shall give consideration to the special burden placed on States which incarcerate a substantial number of inmates who are in the United States illegally.

(d) MATCHING REQUIREMENT.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal described in an application approved under this title.

SEC. 602. RULES AND REGULATIONS.

The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this title not later than 90 days after the date of the enactment of this title.

SEC. 603. TECHNICAL ASSISTANCE AND TRAINING.

The Attorney General may request that the Director of the National Institute of Corrections and the Director of the Federal Bureau of Prisons provide technical assistance and training to a State or States that receive a grant under this title to achieve the purposes of this title.

SEC. 604. EVALUATION.

The Attorney General may request the Director of the National Institute of Correc-

tions to assist with an evaluation of programs established with funds under this title.

SEC. 605. DEFINITION.

For purposes of this title, the term "State or States" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$600,000,000 for each of the fiscal years 1995 through 1999 to carry out the purposes of this title.

Amendment submitted by Mr. MCCOLLUM:

Strike title VI and insert the following:

SEC 601. SHORT TITLE.

This title may be cited as the "Violent Offender Incarceration Act".

SEC 602. GRANTS FOR CORRECTIONAL FACILITIES.

(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual eligible States and to eligible States, organized as regional compacts—

(1) to develop, construct, expand and operate correctional facilities to ensure that prison space is available for the confinement of persons convicted of a serious violent felony, and

(2) to develop, construct, expand, and operate temporary or permanent correctional facilities, including facilities on military bases, for the confinement of convicted non-violent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

(b) ELIGIBILITY.—To be eligible to receive a grant under this title a State or States, organized as regional compacts, shall submit an application to the Attorney General which includes—

(1) a plan consistent with section 2(b)(2)(A) to incarcerate all criminals convicted of a serious violent felony over the next 5 years with Federal assistance;

(2) a certification that the State or States—

(A) have established a truth in sentencing policy under which offenders will serve no less than 85 percent of the term of imprisonment to which they are sentenced with respect to conviction of a serious violent felony after having been convicted of a prior serious violent felony or a serious drug offense;

(B) have established pretrial detention similar to and at least as restrictive as that provided in the Federal system under section 3142 of title 18, United States Code;

(C) have established provisions which require that a person who is convicted of a serious violent felony shall be sentenced to life imprisonment if—

(i) the person has been convicted (and those convictions have become final) on 2 or more prior occasions in a court of the United States or of a State of a serious violent felony, or of 1 or more serious violent felonies and 1 or more serious drug offenses; and

(ii) each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense;

(D) have established provisions which require the sentencing authority to allow defendant's victims (limited to the victims of defendants convicted of a serious violent felony) or the family of victims the opportunity to be heard regarding the issue of sentencing, and provide that the victim and victims family is notified whenever such defendant is to be released;

(E) will use funds received under this title to supplement, not supplant, other Federal, State, and local funds.

(c) EXCEPTION.—The sentencing requirements under subparagraphs (A) and (C) of subsection (b)(2) shall apply except that the State may provide that the Governor of the State may allow for the release of a prisoner over the age of 70 after a public hearing in which representatives of the public and the prisoner's victims have an opportunity to be heard regarding a proposed release.

(d) ADDITIONAL ELIGIBILITY PROVISION.—A State shall also be eligible for funding under this title when such State has enacted legislation that provides for the State to be in compliance with this section not later than 3 years after the date of the enactment of such legislation or with respect to subparagraph (A) of the subsection (b)(2) a State may receive funding upon approval of the Attorney General of a good faith plan to reach the 85 percent requirement within 5 years.

(e) CONSIDERATION.—The Attorney General, in making such grants, shall give consideration to the special burden placed on States which incarcerate a substantial number of inmates who are in the United States illegally.

SEC. 603. FEDERAL FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$2,000,000,000 for each of the fiscal years 1995 through 1999 to carry out the purposes of this title.

(b) CARRY OVER OF APPROPRIATIONS.—Any funds authorized, but not expended during a fiscal year shall be carried over and will be made available until expended.

(c) MATCHING REQUIREMENT.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal described in an application approved under this title.

SEC. 604. RULES AND REGULATIONS.

The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this title not later than 90 days after the date of the enactment of this title.

SEC. 605. DEFINITIONS AS USED IN THIS TITLE.

As used in this section—

(1) The term "arson" means an offense that has as its elements maliciously damaged or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive;

(2) the term "assault with intent to commit rape" means an offense that has as its elements engaging in physical conduct by which a person intentionally places another person in fear of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code);

(3) the term "extortion" means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

(4) the term "firearms use" means an offense that has as its elements those described in section 924(c) or 929(a) of title 18, United States Code, if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both;

(5) the term "kidnapping" means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force;

(6) the term "serious violent felony" means—

(A) a Federal or State offense, by whatever designation and wherever committed, con-

sisting of murder (as described in section 1111 of title 18, United States Code); manslaughter other than involuntary manslaughter (as described in section 1112 of such title); assault with intent to commit murder (as described in section 113(a) of such title); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242 of such title); abusive sexual contact (as described in section 2244(a)(1) and 2244(a)(2) of such title); kidnapping; aircraft piracy (as described in section 902(i)(2) or 902(n)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)(2) or (n)(2))); robbery (as described in section 2111 of title 18, United States Code); carjacking (as described in section 2119 of title 18) extortion; arson; firearms use; or attempt, conspiracy, or solicitation to commit any of the above offenses;

(B) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense;

(C) robbery; an attempt, conspiracy, or solicitation to commit robbery, or an offense described in paragraph (6)(B) shall not serve as a basis for sentencing under this title if the defendant establishes by clear and convincing evidence that—

(i) no firearm or other dangerous weapon was involved in the offense; and

(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person; or

(D) arson shall not serve as the basis for sentencing under this title if the defendant establishes by clear and convincing evidence that—

(i) the offense posed no threat to human life; and

(ii) the defendant reasonably believed the offense posed no threat to human life;

(7) the term "serious drug offense" means—

(i) an offense subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act; or

(ii) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act.

(8) the term "State" means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

The vote was taken by electronic device.

It was decided in the affirmative Yeas 215 Nays 206 Answered present 1

35.31 [Roll No. 126] AYES—215

- Abercrombie Bishop Chapman Ackerman Blackwell Clay Andrews (ME) Bonior Clayton Andrews (TX) Borski Clyburn Applegate Boucher Coleman Baesler Brooks Collins (GA) Barcia Brown (CA) Collins (MI) Barlow Brown (OH) Conyers Barrett (WI) Bryant Cooper Becerra Byrne Coppersmith Beilenson Cantwell Costello Berman Cardin Coyne Bilbray Carr Danner

- de la Garza Kleczka Kleint DeFazio Kopetski DeLauro Kreidler Dellums LaFalce Derrick Lancaster Dicks Lantos Dingell LaRocco Dixon Laughlin Durbin Levin Edwards (CA) Lewis (GA) Edwards (TX) Lipinski Engel Lloyd Lipinski English Long Lloyd Eshoo Lowey Evans Maloney Farr Mann Fazio Manton Fields (LA) Markey Filner Martinez Fingerhut Matsui Flake Mazzoli Foglietta McCloskey Ford (TN) McDermott Frank (MA) McKinney Frost McNulty Furse Meehan Gejdenson Meek Gephardt Menendez Gibbons Mfume Glickman Miller (CA) Gonzalez Mineta Gordon Minge Green Mink Gutierrez Moakley Hall (OH) Mollohan Hamburg Murtha Hamilton Nadler Hastings Neal (MA) Hefner Neal (NC) Hilliard Norton (DC) Hinchey Oberstar Hoagland Obey Hochbrueckner Olver Hoyer Ortiz Hughes Orton Hutto Owens Inglis Pallone Inslee Pastor Jacobs Payne (NJ) Jefferson Pelosi Johnson (GA) Penny Johnson (SD) Pickett Johnson, E. B. Pomeroy Johnston Poshard Kanjorski Price (NC) Kennedy Rahall Kennelly Reed

- Reynolds Romero-Barcelo (PR) Rose Rostenkowski Rowland Roybal-Allard Rush Sabo Sanders Sangmeister Sarpalius Sawyer Schenk Schroeder Schumer Scott Serrano Sharp Shepherd Skaggs Skelton Slattery Slaughter Smith (IA) Spratt Stokes Strickland Studds Stupak Swift Synar Tanner Tejada Thompson Thornton Thurman Torres Towns Tucker Underwood (GU) Unsoeld Valentine Velazquez Vento Visclosky Volkmmer Washington Watt Waxman Wheat Whitten Williams Wilson Wise Woolsey Wyden Wynn Yates

NOES—206

- Allard Crapo Cunningham Hefley Archer Darden Hegerger Arney DeLay Hobson Bacchus (FL) Deutsch Hoekstra Bachus (CA) Diaz-Balart Hoke Baker (AL) Dickey Holden Ballenger Dooley Horn Barca Doolittle Houghton Barrett (NE) Dornan Huffington Bartlett Dreier Hunter Barton Duncan Hutchinson Bateman Dunn Hyde Bentley Ehlers Inhofe Bereuter Emerson Istook Bevill Everett Johnson (CT) Bilirakis Ewing Johnson, Sam Bliley Fawell Kasich Blute Fields (TX) Kim Boehlert Fowler King Boehner Franks (CT) Kingston Bonilla Gallegly Klink Brewster Gekas Klug Browder Geren Knollenberg Bunning Gilchrist Kolbe Burton Gillmor Kyl Buyer Gilman Lambert Callahan Gingrich Lazio Clay Calvert Goodlatte Leach Camp Goodling Lehman Canady Goss Levy Castle Grams Greenwood Clinger Lewis (CA) Coble Gunderson Lewis (FL) Combust Hall (TX) Lightfoot Condit Hancock Linder Cox Hansen Livingston Cramer Harman Machtley Crane Hastert Manzullo