Public Law 107–273
107th Congress

An Act

Nov. 2, 2002
[H.R. 2215]

To authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes.

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

21st Century Department of Justice Appropriations Authorization Act.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "21st Century Department of Justice Appropriations Authorization Act".

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

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DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2002 AND 2003

SEC. 101. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 2002.

There are authorized to be appropriated for fiscal year 2002, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $92,668,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $173,647,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $50,735,000, which shall include for each such fiscal year, not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $549,176,000, which shall include for each such fiscal year—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $130,791,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,353,968,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and

crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147): *Provided*, That such amounts in the appropriations account "General Legal Services" as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $3,524,864,000, which shall include for each such fiscal year—

(A) not to exceed $33,791,000 for construction, to remain available until expended; and

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $648,696,000, which shall include for each such fiscal year not to exceed $15,000,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,622,152,000.

(10) FEDERAL PRISONER DETENTION.—For the support of United States prisoners in non-Federal institutions, as authorized by section 4013(a) of title 18 of the United States Code: $706,182,000, to remain available until expended.

(11) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,481,783,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(12) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: $3,499,854,000, which shall include—

(A) not to exceed $2,739,695,000 for salaries and expenses of enforcement and border affairs (i.e., the Border Patrol, deportation, intelligence, investigations, and inspection programs, and the detention program);

(B) not to exceed $631,745,000 for salaries and expenses of citizenship and benefits (i.e., programs not included under subparagraph (A));

(C) for each such fiscal year, not to exceed $128,454,000 for construction, to remain available until expended; and

(D) not to exceed $50,000 to meet unforeseen emergencies of a confidential character.

(13) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed $6,000,000 for construction of protected witness safesites.

(14) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $338,577,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(15) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,136,000.

(16) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $9,269,000.

(17) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(18) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $9,876,000.

(19) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,000,000.

(20) JOINT AUTOMATED BOOKING SYSTEM.—For expenses necessary for the operation of the Joint Automated Booking System: $1,000,000.

(21) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $94,615,000.

(22) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: such sums as necessary.

(23) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: $4,989,000.

(24) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: $132,862,000.

SEC. 102. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 2003.

There are authorized to be appropriated for fiscal year 2003, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $121,079,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $198,869,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $66,288,000, which shall include for each such fiscal year, not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $659,181,000, which shall include for each such fiscal year—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $141,855,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,550,948,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public

Law 105–147): *Provided*, That such amounts in the appropriations account "General Legal Services" as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $4,323,912,000, which shall include for each such fiscal year—

(A) not to exceed $1,250,000 for construction, to remain available until expended; and

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $737,346,000, which shall include for each such fiscal year not to exceed $15,153,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,605,068,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,582,044,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: $4,131,811,000, which shall include—

(A) not to exceed $3,253,561,000 for salaries and expenses of Border Patrol, detention and removals, intelligence, investigations, inspections, and international enforcement, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character;

(B) not to exceed $88,598,000 for salaries and expenses of immigration services, including international services; and

(C) not to exceed $789,652,000 for salaries and expenses for support and administration (i.e., data and communications, information and records management, construction, etc.).

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed $6,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $362,131,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,194,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,732,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $11,355,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,388,583,000.

(19) IDENTIFICATION SYSTEM INTEGRATION.—For expenses necessary for the operation of the Identification System Integration: $24,505,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $149,292,000.

(21) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: such sums as necessary.

(22) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: $35,000,000.

(23) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: $215,811,000.

(24) LEGAL ACTIVITIES OFFICE.—For necessary expenses related to office automation: $15,942,000.

SEC. 103. APPOINTMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS; REDUCTION OF CERTAIN LITIGATION POSITIONS.

Deadline.

(a) APPOINTMENTS.—Not later than September 30, 2003, the Attorney General may exercise authority under section 542 of title 28, United States Code, to appoint 200 assistant United States attorneys in addition to the number of assistant United States attorneys serving on the date of the enactment of this Act.

(b) SELECTION OF APPOINTEES.—Individuals first appointed under subsection (a) shall be appointed from among attorneys who are incumbents of 200 full-time litigation positions in divisions of the Department of Justice and whose official duty station is at the seat of Government.

(c) TERMINATION OF POSITIONS.—Each of the 200 litigation positions that become vacant by reason of an appointment made in accordance with subsections (a) and (b) shall be terminated at the time the vacancy arises.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

28 USC 509 note.

SEC. 104. AUTHORIZATION FOR ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS FOR PROJECT SAFE NEIGHBORHOODS.

(a) IN GENERAL.—The Attorney General shall establish a program for each United States Attorney to provide for coordination with State and local law enforcement officials in the identification and prosecution of violations of Federal firearms laws including school gun violence and juvenile gun offenses.

(b) AUTHORIZATION FOR HIRING 94 ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS.—There are authorized to be appropriated to carry out this section $9,000,000 for fiscal year 2002 to hire an additional Assistant United States Attorney in each United States Attorney Office.

TITLE II—PERMANENT ENABLING PROVISIONS

SEC. 201. PERMANENT AUTHORITY.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

"§ 530C. Authority to use available funds

"(a) IN GENERAL.—Except to the extent provided otherwise by law, the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) may, in the reasonable discretion of the Attorney General, be carried out through any means, including—

"(1) through the Department's own personnel, acting within, from, or through the Department itself;

"(2) by sending or receiving details of personnel to other branches or agencies of the Federal Government, on a reimbursable, partially-reimbursable, or nonreimbursable basis;

"(3) through reimbursable agreements with other Federal agencies for work, materials, or equipment;

"(4) through contracts, grants, or cooperative agreements with non-Federal parties; and

"(5) as provided in subsection (b), in section 524, and in any other provision of law consistent herewith, including, without limitation, section 102(b) of Public Law 102–395 (106 Stat. 1838), as incorporated by section 815(d) of Public Law 104–132 (110 Stat. 1315).

"(b) PERMITTED USES.—

"(1) GENERAL PERMITTED USES.—Funds available to the Attorney General (i.e., all funds available to carry out the activities described in subsection (a)) may be used, without limitation, for the following:

"(A) The purchase, lease, maintenance, and operation of passenger motor vehicles, or police-type motor vehicles for law enforcement purposes, without regard to general purchase price limitation for the then-current fiscal year.

"(B) The purchase of insurance for motor vehicles, boats, and aircraft operated in official Government business in foreign countries.

"(C) Services of experts and consultants, including private counsel, as authorized by section 3109 of title 5, and at rates of pay for individuals not to exceed the maximum daily rate payable from time to time under section 5332 of title 5.

"(D) Official reception and representation expenses (i.e., official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions, but excluding expenses of public tours of facilities of the Department of Justice), in accordance with distributions and procedures established, and rules issued, by the Attorney General, and expenses of public tours of facilities of the Department of Justice.

"(E) Unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney

General and accounted for solely on the certificate of the Attorney General.

"(F) Miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration.

"(G) In accordance with procedures established and rules issued by the Attorney General—

"(i) attendance at meetings and seminars;

"(ii) conferences and training; and

"(iii) advances of public moneys under section 3324 of title 31: *Provided*, That travel advances of such moneys to law enforcement personnel engaged in undercover activity shall be considered to be public money for purposes of section 3527 of title 31.

"(H) Contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

"(I) Payment of interpreters and translators who are not citizens of the United States, in accordance with procedures established and rules issued by the Attorney General.

"(J) Expenses or allowances for uniforms as authorized by section 5901 of title 5, but without regard to the general purchase price limitation for the then-current fiscal year.

"(K) Expenses of—

"(i) primary and secondary schooling for dependents of personnel stationed outside the United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

"(ii) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

"(L) payment of rewards (i.e., payments pursuant to public advertisements for assistance to the Department of Justice), in accordance with procedures and regulations established or issued by the Attorney General: *Provided*, That—

"(i) no such reward shall exceed $2,000,000, unless—

"(I) the reward is to combat domestic terrorism or international terrorism (as defined in section 2331 of title 18); or

"(II) a statute should authorize a higher amount;

"(ii) no such reward of $250,000 or more may be made or offered without the personal approval of either the Attorney General or the President;

Notice.
Deadline.

"(iii) the Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary

of the Senate and of the House of Representatives not later than 30 days after the approval of a reward under clause (ii);

"(iv) any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5) may provide the Attorney General with funds for the payment of rewards; and

"(v) neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

"(2) SPECIFIC PERMITTED USES.—

"(A) AIRCRAFT AND BOATS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for the purchase, lease, maintenance, and operation of aircraft and boats, for law enforcement purposes.

"(B) PURCHASE OF AMMUNITION AND FIREARMS; FIREARMS COMPETITIONS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, for the Federal Prison System, for the Office of the Inspector General, and for the Immigration and Naturalization Service may be used for—

"(i) the purchase of ammunition and firearms; and

"(ii) participation in firearms competitions.

"(C) CONSTRUCTION.—Funds available to the Attorney General for construction may be used for expenses of planning, designing, acquiring, building, constructing, activating, renovating, converting, expanding, extending, remodeling, equipping, repairing, or maintaining buildings or facilities, including the expenses of acquisition of sites therefor, and all necessary expenses incident or related thereto; but the foregoing shall not be construed to mean that funds generally available for salaries and expenses are not also available for certain incidental or minor construction, activation, remodeling, maintenance, and other related construction costs.

"(3) FEES AND EXPENSES OF WITNESSES.—Funds available to the Attorney General for fees and expenses of witnesses may be used for—

"(A) expenses, mileage, compensation, protection, and per diem in lieu of subsistence, of witnesses (including advances of public money) and as authorized by section 1821 or other law, except that no witness may be paid more than 1 attendance fee for any 1 calendar day;

"(B) fees and expenses of neutrals in alternative dispute resolution proceedings, where the Department of Justice is a party; and

"(C) construction of protected witness safesites.

"(4) FEDERAL BUREAU OF INVESTIGATION.—Funds available to the Attorney General for the Federal Bureau of Investigation for the detection, investigation, and prosecution of crimes against the United States may be used for the conduct of all its authorized activities.

"(5) IMMIGRATION AND NATURALIZATION SERVICE.—Funds available to the Attorney General for the Immigration and Naturalization Service may be used for—

"(A) acquisition of land as sites for enforcement fences, and construction incident to such fences;

"(B) cash advances to aliens for meals and lodging en route;

"(C) refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; and

"(D) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies.

"(6) FEDERAL PRISON SYSTEM.—Funds available to the Attorney General for the Federal Prison System may be used for—

"(A) inmate medical services and inmate legal services, within the Federal prison system;

"(B) the purchase and exchange of farm products and livestock;

"(C) the acquisition of land as provided in section 4010 of title 18; and

"(D) the construction of buildings and facilities for penal and correctional institutions (including prison camps), by contract or force account, including the payment of United States prisoners for their work performed in any such construction;

except that no funds may be used to distribute or make available to a prisoner any commercially published information or material that is sexually explicit or features nudity.

"(7) DETENTION TRUSTEE.—Funds available to the Attorney General for the Detention Trustee may be used for all the activities of such Trustee in the exercise of all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service and to the detention of aliens in the custody of the Immigration and Naturalization Service, including the overseeing of construction of detention facilities or for housing related to such detention, the management of funds appropriated to the Department for the exercise of detention functions, and the direction of the United States Marshals Service and Immigration Service with respect to the exercise of detention policy setting and operations for the Department of Justice.

"(c) RELATED PROVISIONS.—

"(1) LIMITATION OF COMPENSATION OF INDIVIDUALS EMPLOYED AS ATTORNEYS.—No funds available to the Attorney General may be used to pay compensation for services provided by an individual employed as an attorney (other than an individual employed to provide services as a foreign attorney in special cases) unless such individual is duly licensed and authorized to practice as an attorney under the law of a State, a territory of the United States, or the District of Columbia.

"(2) REIMBURSEMENTS PAID TO GOVERNMENTAL ENTITIES.—Funds available to the Attorney General that are paid as reimbursement to a governmental unit of the Department of

Justice, to another Federal entity, or to a unit of State or local government, may be used under authorities available to the unit or entity receiving such reimbursement.

"(d) FOREIGN REIMBURSEMENTS.—Whenever the Department of Justice or any component participates in a cooperative project to improve law enforcement or national security operations or services with a friendly foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Department of Justice or any component. The amount of a reimbursement or contribution credited shall be available only for payment of the share of the project expenses allocated to the participating foreign country.

"(e) RAILROAD POLICE TRAINING FEES.—The Attorney General is authorized to establish and collect a fee to defray the costs of railroad police officers participating in a Federal Bureau of Investigation law enforcement training program authorized by Public Law 106–110, and to credit such fees to the appropriation account 'Federal Bureau of Investigation, Salaries and Expenses', to be available until expended for salaries and expenses incurred in providing such services.

"(f) WARRANTY WORK.—In instances where the Attorney General determines that law enforcement-, security-, or mission-related considerations mitigate against obtaining maintenance or repair services from private sector entities for equipment under warranty, the Attorney General is authorized to seek reimbursement from such entities for warranty work performed at Department of Justice facilities, and to credit any payment made for such work to any appropriation charged therefor.".

(b) CONFORMING AMENDMENT.—The table of sections of chapter 31 of title 28, United States Code, is amended by adding at the end the following:

"530C. Authority to use available funds.".

SEC. 202. PERMANENT AUTHORITY RELATING TO ENFORCEMENT OF LAWS.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

"§ 530D. Report on enforcement of laws

"(a) REPORT.—

"(1) IN GENERAL.—The Attorney General shall submit to the Congress a report of any instance in which the Attorney General or any officer of the Department of Justice—

"(A) establishes or implements a formal or informal policy to refrain—

"(i) from enforcing, applying, or administering any provision of any Federal statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer on the grounds that such provision is unconstitutional; or

"(ii) within any judicial jurisdiction of or within the United States, from adhering to, enforcing, applying, or complying with, any standing rule of decision (binding upon courts of, or inferior to those of,

that jurisdiction) established by a final decision of any court of, or superior to those of, that jurisdiction, respecting the interpretation, construction, or application of the Constitution, any statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer;

"(B) determines—

"(i) to contest affirmatively, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law; or

"(ii) to refrain (on the grounds that the provision is unconstitutional) from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of any such provision; or

"(C) approves (other than in circumstances in which a report is submitted to the Joint Committee on Taxation, pursuant to section 6405 of the Internal Revenue Code of 1986) the settlement or compromise (other than in bankruptcy) of any claim, suit, or other action—

"(i) against the United States (including any agency or instrumentality thereof) for a sum that exceeds, or is likely to exceed, $2,000,000, excluding prejudgment interest; or

"(ii) by the United States (including any agency or instrumentality thereof) pursuant to an agreement, consent decree, or order (or pursuant to any modification of an agreement, consent decree, or order) that provides injunctive or other nonmonetary relief that exceeds, or is likely to exceed, 3 years in duration: *Provided*, That for purposes of this clause, the term "injunctive or other nonmonetary relief" shall not be understood to include the following, where the same are a matter of public record—

"(I) debarments, suspensions, or other exclusions from Government contracts or grants;

"(II) mere reporting requirements or agreements (including sanctions for failure to report);

"(III) requirements or agreements merely to comply with statutes or regulations;

"(IV) requirements or agreements to surrender professional licenses or to cease the practice of professions, occupations, or industries;

"(V) any criminal sentence or any requirements or agreements to perform community service, to serve probation, or to participate in supervised release from detention, confinement, or prison; or

"(VI) agreements to cooperate with the government in investigations or prosecutions (whether or not the agreement is a matter of public record).

"(2) SUBMISSION OF REPORT TO THE CONGRESS.—For the purposes of paragraph (1), a report shall be considered to be submitted to the Congress if the report is submitted to—

"(A) the majority leader and minority leader of the Senate;

"(B) the Speaker, majority leader, and minority leader of the House of Representatives;

"(C) the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives and the chairman and ranking minority member of the Committee on the Judiciary of the Senate; and

"(D) the Senate Legal Counsel and the General Counsel of the House of Representatives.

"(b) DEADLINE.—A report shall be submitted—

"(1) under subsection (a)(1)(A), not later than 30 days after the establishment or implementation of each policy;

"(2) under subsection (a)(1)(B), within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but in no event later than 30 days after the making of each determination; and

"(3) under subsection (a)(1)(C), not later than 30 days after the conclusion of each fiscal-year quarter, with respect to all approvals occurring in such quarter.

"(c) CONTENTS.—A report required by subsection (a) shall—

"(1) specify the date of the establishment or implementation of the policy described in subsection (a)(1)(A), of the making of the determination described in subsection (a)(1)(B), or of each approval described in subsection (a)(1)(C);

"(2) include a complete and detailed statement of the relevant issues and background (including a complete and detailed statement of the reasons for the policy or determination, and the identity of the officer responsible for establishing or implementing such policy, making such determination, or approving such settlement or compromise), except that—

"(A) such details may be omitted as may be absolutely necessary to prevent improper disclosure of national-security- or classified information, of any information subject to the deliberative-process-, executive-, attorney-work-product-, or attorney-client privileges, or of any information the disclosure of which is prohibited by section 6103 of the Internal Revenue Code of 1986, or other law or any court order if the fact of each such omission (and the precise ground or grounds therefor) is clearly noted in the statement: *Provided*, That this subparagraph shall not be construed to deny to the Congress (including any House, Committee, or agency thereof) any such omitted details (or related information) that it lawfully may seek, subsequent to the submission of the report; and

"(B) the requirements of this paragraph shall be deemed satisfied—

"(i) in the case of an approval described in subsection (a)(1)(C)(i), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the legal and factual basis or bases for the settlement

or compromise (if not apparent on the face of documents provided); and

"(ii) in the case of an approval described in subsection (a)(1)(C)(ii), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the injunctive or other nonmonetary relief (if not apparent on the face of documents provided); and

"(3) in the case of a determination described in subsection (a)(1)(B) or an approval described in subsection (a)(1)(C), indicate the nature, tribunal, identifying information, and status of the proceeding, suit, or action.

"(d) DECLARATION.—In the case of a determination described in subsection (a)(1)(B), the representative of the United States participating in the proceeding shall make a clear declaration in the proceeding that any position expressed as to the constitutionality of the provision involved is the position of the executive branch of the Federal Government (or, as applicable, of the President or of any executive agency or military department).

"(e) APPLICABILITY TO THE PRESIDENT AND TO EXECUTIVE AGENCIES AND MILITARY DEPARTMENTS.—The reporting, declaration, and other provisions of this section relating to the Attorney General and other officers of the Department of Justice shall apply to the President (but only with respect to the promulgation of any unclassified Executive order or similar memorandum or order), to the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) that establishes or implements a policy described in subsection (a)(1)(A) or is authorized to conduct litigation, and to the officers of such executive agency.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

"530D. Report on enforcement of laws.".

2 USC 288k.

(2) Section 712 of Public Law 95–521 (92 Stat. 1883) is amended by striking subsection (b) and inserting:

Notification.

"(b) The Attorney General shall notify Counsel as required by section 530D of title 28.".

Deadline. 28 USC 530D note.

(3) Not later than 30 days after the date of the enactment of this Act, the President shall advise the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) of the enactment of this section.

Deadline. Reports. 28 USC 530D note.

(4)(A) Not later than 90 days after the date of the enactment of this Act, the Attorney General (and, as applicable, the President, and the head of any executive agency or military department described in subsection (e) of section 530D of title 28, United States Code, as added by subsection (a)) shall submit to Congress a report (in accordance with subsections (a), (c), and (e) of such section) on—

(i) all policies of which the Attorney General and applicable official are aware described in subsection (a)(1)(A) of such section that were established or implemented before the date of the enactment of this Act and were in effect on such date; and

(ii) all determinations of which the Attorney General and applicable official are aware described in subsection (a)(1)(B) of such section that were made before the date of the enactment of this Act and were in effect on such date.

(B) If a determination described in subparagraph (A)(ii) relates to any judicial, administrative, or other proceeding that is pending in the 90-day period beginning on the date of the enactment of this Act, with respect to any such determination, then the report required by this paragraph shall be submitted within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but not later than 30 days after the date of the enactment of this Act.

(5) Section 101 of Public Law 106–57 (113 Stat. 414) is amended by striking subsection (b). 2 USC 130f.

SEC. 203. MISCELLANEOUS USES OF FUNDS; TECHNICAL AMENDMENTS.

(a) BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 504(a) by striking "502" and inserting "501(b)"; 42 USC 3754.

(2) in section 506(a)(1) by striking "participating"; 42 USC 3756.

(3) in section 510(a)(3) by striking "502" and inserting "501(b)"; 42 USC 3760.

(4) in section 510 by adding at the end the following:

"(d) No grants or contracts under subsection (b) may be made, entered into, or used, directly or indirectly, to provide any security enhancements or any equipment to any non-governmental entity that is not engaged in law enforcement or law enforcement support, criminal or juvenile justice, or delinquency prevention."; and

(5) in section 511 by striking "503" and inserting "501(b)". 42 USC 3761.

(b) ATTORNEYS SPECIALLY RETAINED BY THE ATTORNEY GENERAL.—The 3d sentence of section 515(b) of title 28, United States Code, is amended by striking "at not more than $12,000".

SEC. 204. TECHNICAL AND MISCELLANEOUS AMENDMENTS TO DEPARTMENT OF JUSTICE AUTHORITIES; AUTHORITY TO TRANSFER PROPERTY OF MARGINAL VALUE; RECORDKEEPING; PROTECTION OF THE ATTORNEY GENERAL.

(a) Section 524 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "to the Attorney General" after "available";

(2) in subsection (c)(1)—

(A) by striking the semicolon at the end of the 1st subparagraph (I) and inserting a period;

(B) by striking the 2d subparagraph (I);

(C) by striking "(A)(iv), (B), (F), (G), and (H)" in the first sentence following the second subparagraph (I) and inserting "(B), (F), and (G)"; and

(D) by striking "fund" in the 3d sentence following the 2d subparagraph (I) and inserting "Fund";

(3) in subsection (c)(2)—

(A) by inserting before the period in the last sentence ", without both the personal approval of the Attorney General and written notice within 30 days thereof to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives";

(B) by striking "for information" each place it appears; and

(C) by striking "$250,000" the 2d and 3d places it appears and inserting "$500,000";

(4) in subsection (c)(3) by striking "(F)" and inserting "(G)";

(5) in subsection (c)(5) by striking "Fund which" and inserting "Fund, that";

(6) in subsection (c)(8)(A), by striking "(A)(iv), (B), (F), (G), and (H)" and inserting "(B), (F), and (G)"; and

(7) in subsection (c)(9)(B)—

(A) by striking "year 1997" and inserting "years 2002 and 2003"; and

(B) by striking "Such transfer shall not" and inserting "Each such transfer shall be subject to satisfaction by the recipient involved of any outstanding lien against the property transferred, but no such transfer shall".

(b) Section 522 of title 28, United States Code, is amended by inserting "(a)" before "The", and by inserting at the end the following:

"(b) With respect to any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose beginning not later than 1 year after the date of enactment of 21st Century Department of Justice Appropriations Authorization Act and continuing thereafter, and notwithstanding any other provision of law, the same criteria shall be used (and shall be required to be used, as applicable) to classify or categorize offenders and victims (in the criminal context), and to classify or categorize actors and acted upon (in the noncriminal context).".

(c) Section 534(a)(3) of title 28, United States Code, is amended by adding "and" after the semicolon.

(d) Section 509(3) of title 28, United States Code, is amended by striking the 2d period.

(e) Section 533 of title 28, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by adding after paragraph (2) a new paragraph as follows:

"(3) to assist in the protection of the person of the Attorney General.".

31 USC 6503 note.

(f) No compensation or reimbursement paid pursuant to section 501(a) of Public Law 99–603 (100 Stat. 3443) or section 241(i) of the Act of June 27, 1952 (ch. 477) shall be subject to section 6503(d) of title 31, United States Code, and no funds available to the Attorney General may be used to pay any assessment made pursuant to such section 6503 with respect to any such compensation or reimbursement.

28 USC 527 note.

(g) Section 108 of Public Law 103–121 (107 Stat. 1164) is amended by replacing "three" with "six", by replacing "only" with ", first,", and by replacing "litigation." with "litigation, and, thereafter, for financial systems, and other personnel, administrative, and litigation expenses of debt collection activities.".

SEC. 205. OVERSIGHT; WASTE, FRAUD, AND ABUSE WITHIN THE DEPARTMENT OF JUSTICE.

(a) Section 529 of title 28, United States Code, is amended by inserting "(a)" before "Beginning", and by adding at the end the following:

"(b) Notwithstanding any provision of law limiting the amount of management or administrative expenses, the Attorney General shall, not later than May 2, 2003, and of every year thereafter, prepare and provide to the Committees on the Judiciary and Appropriations of each House of the Congress using funds available for the underlying programs—

Deadline.
Reports.

"(1) a report identifying and describing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract that was made, entered into, awarded, or, for which additional or supplemental funds were provided in the immediately preceding fiscal year, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services), and including, without limitation, for each such grant, cooperative agreement, or contract: the term, the dollar amount or value, a description of its specific purpose or purposes, the names of all grantees or parties, the names of each unsuccessful applicant or bidder, and a description of the specific purpose or purposes proposed in each unsuccessful application or bid, and of the reason or reasons for rejection or denial of the same; and

"(2) a report identifying and reviewing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract over $5,000,000 made, entered into, awarded, or for which additional or supplemental funds were provided, after October 1, 2002, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services) that was programmatically and financially closed out or that otherwise ended in the immediately preceding fiscal year (or even if not yet closed out, was terminated or otherwise ended in the fiscal year that ended 2 years before the end of such immediately preceding fiscal year), and including, without limitation, for each such grant, cooperative agreement, or contract: a description of how the appropriated funds involved actually were spent, statistics relating to its performance, its specific purpose or purposes, and its effectiveness, and a written declaration by each non-Federal grantee and each non-Federal party to such agreement or to such contract, that—

"(A) the appropriated funds were spent for such purpose or purposes, and only such purpose or purposes;

"(B) the terms of the grant, cooperative agreement, or contract were complied with; and

"(C) all documentation necessary for conducting a full and proper audit under generally accepted accounting principles, and any (additional) documentation that may have been required under the grant, cooperative agreement, or contract, have been kept in orderly fashion and will be preserved for not less than 3 years from the date of such close out, termination, or end;

except that the requirement of this paragraph shall be deemed satisfied with respect to any such description, statistics, or declaration if such non-Federal grantee or such non-Federal party shall have failed to provide the same to the Attorney General, and the Attorney General notes the fact of such failure and the name of such grantee or such party in the report.".

(b) Section 1913 of title 18, United States Code, is amended by striking "to favor" and inserting "a jurisdiction, or an official of any government, to favor, adopt,", by inserting ", law, ratification, policy," after "legislation" every place it appears, by striking "by Congress" the 2d place it appears, by inserting "or such official" before ", through the proper", by inserting ", measure," before "or resolution", by striking "Members of Congress on the request of any Member" and inserting "any such Member or official, at his request,", by striking "for legislation" and inserting "for any legislation", and by striking the period and the paragraph following "business" and inserting ", or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.".

(c) Section 1516(a) of title 18, United States Code, is amended by inserting ", entity, or program" after "person", and by inserting "grant, or cooperative agreement," after "subcontract,".

42 USC 3712 note.

(d) Section 112 of title I of section 101(b) of division A of Public Law 105–277 (112 Stat. 2681–67) is amended by striking "fiscal year" and all that follows through "Justice—", and inserting "any fiscal year the Attorney General—".

(e) Section 2320(f) of title 18, United States Code, is amended—

(1) by striking "title 18" each place it appears and inserting "this title"; and

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

(3) by inserting "(1)" after "(f)"; and

(4) by adding at the end the following:

"(2)(A) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

"(i) The number of infringement cases in these categories: audiovisual (videos and films); audio (sound recordings); literary works (books and musical compositions); computer programs; video games; and, others.

"(ii) The number of online infringement cases.

"(iii) The number and dollar amounts of fines assessed in specific categories of dollar amounts. These categories shall be: no fines ordered; fines under $500; fines from $500 to $1,000; fines from $1,000 to $5,000; fines from $5,000 to $10,000; and fines over $10,000.

"(iv) The total amount of restitution ordered in all copyright infringement cases.

"(B) In this paragraph, the term 'online infringement cases' as used in paragraph (2) means those cases where the infringer—

"(i) advertised or publicized the infringing work on the Internet; or

"(ii) made the infringing work available on the Internet for download, reproduction, performance, or distribution by other persons.

"(C) The information required under subparagraph (A) shall be submitted in the report required in fiscal year 2005 and thereafter.".

SEC. 206. ENFORCEMENT OF FEDERAL CRIMINAL LAWS BY ATTORNEY GENERAL.

Section 535 of title 28, United States Code, is amended in subsections (a) and (b), by replacing "title 18" with "Federal criminal law", and in subsection (b), by replacing "or complaint" the 1st place it appears with "matter, or complaint witnessed, discovered, or", and by inserting "or the witness, discoverer, or recipient, as appropriate," after "agency,".

SEC. 207. STRENGTHENING LAW ENFORCEMENT IN UNITED STATES TERRITORIES, COMMONWEALTHS, AND POSSESSIONS.

(a) EXTENDED ASSIGNMENT INCENTIVE.—Chapter 57 of title 5, United States Code, is amended—

(1) in subchapter IV, by inserting at the end the following:

"§ 5757. Extended assignment incentive

"(a) The head of an Executive agency may pay an extended assignment incentive to an employee if—

"(1) the employee has completed at least 2 years of continuous service in 1 or more civil service positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands;

"(2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and

"(3) the agency determines it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in the territory or possession, the Commonwealth of Puerto Rico or Commonwealth of the Northern Mariana Islands, except that the total amount of service performed in a particular territory, commonwealth, or possession under 1 or more agreements established under this section may not exceed 5 years.

"(b) The sum of extended assignment incentive payments for a service period may not exceed the greater of—

"(1) an amount equal to 25 percent of the annual rate of basic pay of the employee at the beginning of the service period, times the number of years in the service period; or

"(2) $15,000 per year in the service period.

"(c)(1) Payment of an extended assignment incentive shall be contingent upon the employee entering into a written agreement with the agency specifying the period of service and other terms and conditions under which the extended assignment incentive is payable.

"(2) The agreement shall set forth the method of payment, including any use of an initial lump-sum payment, installment payments, or a final lump-sum payment upon completion of the entire period of service.

"(3) The agreement shall describe the conditions under which the extended assignment incentive may be canceled prior to the

completion of agreed-upon service period and the effect of the cancellation. The agreement shall require that if, at the time of cancellation of the incentive, the employee has received incentive payments which exceed the amount which bears the same relationship to the total amount to be paid under the agreement as the completed service period bears to the agreed-upon service period, the employee shall repay that excess amount, at a minimum, except that an employee who is involuntarily reassigned to a position stationed outside the territory, commonwealth, or possession or involuntarily separated (not for cause on charges of misconduct, delinquency, or inefficiency) may not be required to repay any excess amounts.

"(d) An agency may not put an extended assignment incentive into effect during a period in which the employee is fulfilling a recruitment or relocation bonus service agreement under section 5753 or for which an employee is receiving a retention allowance under section 5754.

"(e) Extended assignment incentive payments may not be considered part of the basic pay of an employee.

"(f) The Office of Personnel Management may prescribe regulations for the administration of this section, including regulations on an employee's entitlement to retain or receive incentive payments when an agreement is canceled. Neither this section nor implementing regulations may impair any agency's independent authority to administratively determine compensation for a class of its employees."; and

(2) in the analysis by adding at the end the following:

"5757. Extended assignment incentive.".

(b) CONFORMING AMENDMENT.—Section 5307(a)(2)(B) of title 5, United States Code, is amended by striking "or 5755" and inserting "5755, or 5757".

5 USC 5307 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 6 months after the date of enactment of this Act.

Deadline.
5 USC 5757 note.

(d) REPORT.—No later than 3 years after the effective date of this section, the Office of Personnel Management, after consultation with affected agencies, shall submit a report to Congress assessing the effectiveness of the extended assignment incentive authority as a human resources management tool and making recommendations for any changes necessary to improve the effectiveness of the incentive authority. Each agency shall maintain such records and report such information, including the number and size of incentive offers made and accepted or declined by geographic location and occupation, in such format and at such times as the Office of Personnel Management may prescribe, for use in preparing the report.

TITLE III—MISCELLANEOUS

SEC. 301. REPEALERS.

(a) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL INSTITUTE OF CORRECTIONS.—Chapter 319 of title 18, United States Code, is amended by striking section 4353.

(b) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES MARSHALS SERVICE.—Section 561 of title 28, United States Code, is amended by striking subsection (i).

(c) REDUNDANT AUTHORIZATIONS OF PAYMENTS FOR REWARDS.—

(1) Public Law 107–56 is amended by striking section 501. 18 USC 3071 note.

(2) Chapter 203 of title 18, United States Code, is amended by striking sections 3059, 3059A, 3059B, 3075, and all the matter after the first sentence of 3072.

(3) Public Law 101–647 is amended in section 2565, by replacing all the matter after "2561" in subsection (c)(1) with "the Attorney General may, in his discretion, pay a reward to the declarant" and by striking subsection (e); and by striking section 2569. 12 USC 4205, 4209.

SEC. 302. TECHNICAL AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE.

Title 18 of the United States Code is amended—

(1) in section 4041 by striking "at a salary of $10,000 a year";

(2) in section 4013—

(A) in subsection (a)—

(i) by replacing "the support of United States prisoners" with "Federal prisoner detention";

(ii) in paragraph (2) by adding "and" after "hire;";

(iii) in paragraph (3) by replacing "entities; and" with "entities."; and

(iv) in paragraph (4) by inserting "The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for" before "entering"; and

(B) by redesignating—

(i) subsections (b) and (c) as subsections (c) and (d); and

(ii) paragraph (a)(4) as subsection (b), and subparagraphs (A), (B), and (C), of such paragraph (a)(4) as paragraphs (1), (2), and (3) of such subsection (b); and

(3) in section 209(a)—

(A) by striking "or makes" and inserting "makes"; and

(B) by striking "supplements the salary of, any" and inserting "supplements, the salary of any".

SEC. 303. REQUIRED SUBMISSION OF PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE FOR FISCAL YEARS 2004 AND 2005.

When the President submits to the Congress the budget of the United States Government for fiscal year 2004, the President shall simultaneously submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such proposed legislation authorizing appropriations for the Department of Justice for fiscal years 2004 and 2005 as the President may judge necessary and expedient.

SEC. 304. STUDY OF UNTESTED RAPE EXAMINATION KITS.

Not later than 6 months after the date of enactment of this Act, the Attorney General shall conduct a study to assess and report to Congress the number of untested rape examination kits Deadline. Reports.

that currently exist nationwide and shall submit to the Congress a report containing a summary of the results of such study. For the purpose of carrying out such study, the Attorney General shall attempt to collect information from all law enforcement jurisdictions in the United States.

SEC. 305. REPORTS ON USE OF DCS 1000 (CARNIVORE).

18 USC 3126 note.

(a) REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER 18 U.S.C. 3123.—At the same time that the Attorney General submits to Congress the annual reports required by section 3126 of title 18, United States Code, that are respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, on the number of orders under section 3123 applied for by law enforcement agencies of the Department of Justice whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program), which report shall include information concerning—

(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(2) the offense specified in the order or application, or extension of an order;

(3) the number of investigations involved;

(4) the number and nature of the facilities affected;

(5) the identity of the applying investigative or law enforcement agency making the application for an order; and

(6) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

18 USC 2519 note.

(b) REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER 18 U.S.C. 2518.—At the same time that the Attorney General, or Assistant Attorney General specially designated by the Attorney General, submits to the Administrative Office of the United States Courts the annual report required by section 2519(2) of title 18, United States Code, that is respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, that contains the following information with respect to those orders described in that annual report that were applied for by law enforcement agencies of the Department of Justice and whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program)—

(1) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of title 18, United States Code, did not apply by reason of section 2518 (11) of title 18);

(2) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(3) the offense specified in the order or application, or extension of an order;

(4) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application;

(5) the nature of the facilities from which or place where communications were to be intercepted;

(6) a general description of the interceptions made under such order or extension, including—

(A) the approximate nature and frequency of incriminating communications intercepted;

(B) the approximate nature and frequency of other communications intercepted;

(C) the approximate number of persons whose communications were intercepted;

(D) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order; and

(E) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(7) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(8) the number of trials resulting from such interceptions;

(9) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(10) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(11) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

SEC. 306. STUDY OF ALLOCATION OF LITIGATING ATTORNEYS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit a report to the chairman and ranking minority member of the Committees on the Judiciary of the House of Representatives and Committee on the Judiciary of the Senate, detailing the distribution or allocation of appropriated funds, attorneys and other personnel, and per-attorney workloads, for each Office of United States Attorney and each division of the Department of Justice except the Justice Management Division. Deadline.

SEC. 307. USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended to read as follows:

"(b) USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.—Funds provided under section 20103 or 20104 may be applied to the cost of—

"(1) altering existing correctional facilities to provide separate facilities for juveniles under the jurisdiction of an adult criminal court who are detained or are serving sentences in adult prisons or jails;

"(2) providing correctional staff who are responsible for supervising juveniles who are detained or serving sentences

under the jurisdiction of an adult criminal court with orientation and ongoing training regarding the unique needs of such offenders; and

"(3) providing ombudsmen to monitor the treatment of juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court in adult facilities, consistent with guidelines issued by the Assistant Attorney General.".

SEC. 308. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

"(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice;

"(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility;

"(4) may investigate allegations of criminal wrongdoing or administrative misconduct by a person who is the head of any agency or component of the Department of Justice; and

"(5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General."; and

(2) by adding at the end the following:

"(d) The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, except with respect to allegations described in subsection (b)(3), shall report that information to the Inspector General.".

SEC. 309. REVIEW OF THE DEPARTMENT OF JUSTICE.

5 USC app. 8E note.

(a) APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN THE OFFICE OF INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Justice shall direct that 1 official from the office of the Inspector General be responsible for supervising and coordinating independent oversight of programs and operations of the Federal Bureau of Investigation until September 30, 2004.

(2) CONTINUATION OF OVERSIGHT.—The Inspector General may continue individual oversight in accordance with paragraph (1) after September 30, 2004, at the discretion of the Inspector General.

(b) INSPECTOR GENERAL OVERSIGHT PLAN FOR THE FEDERAL BUREAU OF INVESTIGATION.—Not later than 30 days after the date

of the enactment of this Act, the Inspector General of the Department of Justice shall submit to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives, a plan for oversight of the Federal Bureau of Investigation, which plan may include—

(1) an audit of the financial systems, information technology systems, and computer security systems of the Federal Bureau of Investigation;

(2) an audit and evaluation of programs and processes of the Federal Bureau of Investigation to identify systemic weaknesses or implementation failures and to recommend corrective action;

(3) a review of the activities of internal affairs offices of the Federal Bureau of Investigation, including the Inspections Division and the Office of Professional Responsibility;

(4) an investigation of allegations of serious misconduct by personnel of the Federal Bureau of Investigation;

(5) a review of matters relating to any other program or operation of the Federal Bureau of Investigation that the Inspector General determines requires review; and

(6) an identification of resources needed by the Inspector General to implement a plan for oversight of the Federal Bureau of Investigation.

(c) REPORT ON INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives concerning— Deadline.

(1) whether there should be established, within the Department of Justice, a separate office of the Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation;

(2) what changes have been or should be made to the rules, regulations, policies, or practices governing the Federal Bureau of Investigation in order to assist the Office of the Inspector General in effectively exercising its authority to investigate the conduct of employees of the Federal Bureau of Investigation;

(3) what differences exist between the methods and practices used by different Department of Justice components in the investigation and adjudication of alleged misconduct by Department of Justice personnel;

(4) what steps should be or are being taken to make the methods and practices described in paragraph (3) uniform throughout the Department of Justice; and

(5) whether a set of recommended guidelines relating to the discipline of Department of Justice personnel for misconduct should be developed, and what factors, such as the nature and seriousness of the misconduct, the prior history of the employee, and the rank and seniority of the employee at the time of the misconduct, should be taken into account in establishing such recommended disciplinary guidelines.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF JUSTICE.—There is authorized to be appropriated $2,000,000 to the Department of Justice for fiscal year 2003—

(1) for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Inspector General by 25 full-time employees who shall conduct an increased number of audits, inspections, and investigations of alleged misconduct by employees of the Federal Bureau of Investigation;

(2) to fund expanded audit coverage of the grant programs administered by the Office of Justice Programs of the Department of Justice; and

(3) to conduct special reviews of efforts by the Federal Bureau of Investigation to implement recommendations made by the Office of Inspector General in reports on alleged misconduct by the Bureau.

(b) FEDERAL BUREAU OF INVESTIGATION.—There is authorized to be appropriated $1,700,000 to the Federal Bureau of Investigation for fiscal year 2003 for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Professional Responsibility by 10 full-time special agents and 4 full-time support employees.

SEC. 311. REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.

(a) REPEAL OF COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.—Section 808 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat.1310) is repealed.

28 USC 534 note.

(b) REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.—Not later than 45 days after the end of fiscal year 2002, the Attorney General shall submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report on the number of investigations and prosecutions under section 111 of title 18, United States Code, and section 115 of title 18, United States Code, for the fiscal year 2002.

Deadline.

SEC. 312. ADDITIONAL FEDERAL JUDGESHIPS.

(a) PERMANENT DISTRICT JUDGES FOR THE DISTRICT COURTS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

President.
28 USC 133 note.

(A) 5 additional district judges for the southern district of California;

(B) 1 additional district judge for the western district of North Carolina; and

(C) 2 additional district judges for the western district of Texas.

(2) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of paragraph (1) of this subsection, such table is amended—

28 USC 133.

(A) by striking the item relating to California and inserting the following:

"California:
Northern 14
Eastern 6
Central 27
Southern ..... 13";

(B) by striking the item relating to North Carolina and inserting the following:

"North Carolina:
Eastern 4
Middle 4
Western ..... 4";

and

(C) by striking the item relating to Texas and inserting the following:

"Texas:
Northern 12
Southern 19
Eastern 7
Western ..... 13".

(3) EFFECTIVE DATE.—This subsection shall take effect on July 15, 2003. 28 USC 133 note.

(b) DISTRICT JUDGESHIPS FOR THE CENTRAL AND SOUTHERN DISTRICTS OF ILLINOIS, THE NORTHERN DISTRICT OF NEW YORK, AND THE EASTERN DISTRICT OF VIRGINIA.— 28 USC 133 note.

(1) CONVERSION OF TEMPORARY JUDGESHIPS TO PERMANENT JUDGESHIPS.—The existing district judgeships for the central district and the southern district of Illinois, the northern district of New York, and the eastern district of Virginia authorized by section 203(c) (3), (4), (9), and (12) of the Judicial Improvements Act of 1990 (Public Law 101–650, 28 U.S.C. 133 note) shall be authorized under section 133 of title 28, United States Code, and the incumbents in such offices shall hold the offices under section 133 of title 28, United States Code (as amended by this section).

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table contained in section 133(a) of title 28, United States Code, is amended—

(A) by striking the item relating to Illinois and inserting the following:

"Illinois:
Northern 22
Central 4
Southern ..... 4";

(B) by striking the item relating to New York and inserting the following:

"New York:
Northern 5
Southern 28
Eastern 15
Western ..... 4";

and

(C) by striking the item relating to Virginia and inserting the following:

"Virginia:
Eastern 11
Western ..... 4".

28 USC 133 note.

(3) EFFECTIVE DATE.—With respect to the central or southern district of Illinois, the northern district of New York, or the eastern district of Virginia, this subsection shall take effect on the earlier of—

(A) the date on which the first vacancy in the office of district judge occurs in such district; or

(B) July 15, 2003.

28 USC 133 note.

President.

(c) TEMPORARY JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional district judge for the northern district of Alabama;

(B) 1 additional judge for the district of Arizona;

(C) 1 additional judge for the central district of California;

(D) 1 additional judge for the southern district of Florida;

(E) 1 additional district judge for the district of New Mexico;

(F) 1 additional district judge for the western district of North Carolina; and

(G) 1 additional district judge for the eastern district of Texas.

(2) VACANCIES NOT FILLED.—The first vacancy in the office of district judge in each of the offices of district judge authorized by this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created in the applicable district by this subsection, shall not be filled.

(3) EFFECTIVE DATE.—This subsection shall take effect on July 15, 2003.

(d) EXTENSION OF TEMPORARY FEDERAL DISTRICT COURT JUDGESHIP FOR THE NORTHERN DISTRICT OF OHIO.—

(1) IN GENERAL.—Section 203(c) of the Judicial Improvement Act of 1990 (28 U.S.C. 133 note) is amended—

(A) in the first sentence following paragraph (12), by striking "and the eastern district of Pennsylvania" and inserting ", the eastern district of Pennsylvania, and the northern district of Ohio"; and

(B) by inserting after the third sentence following paragraph (12) "The first vacancy in the office of district judge in the northern district of Ohio occurring 15 years or more after the confirmation date of the judge named to fill the temporary judgeship created under this subsection shall not be filled.".

28 USC 133 note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this section.

TITLE IV—VIOLENCE AGAINST WOMEN

Violence Against Women Office Act.

SEC. 401. SHORT TITLE.

42 USC 3711 note.

This title may be cited as the "Violence Against Women Office Act".

SEC. 402. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2002(d)—

42 USC 3796gg–1.

(A) in paragraph (2), by striking "section 2005" and inserting "section 2010"; and

(B) in paragraph (3), by striking "section 2006" and inserting "section 2011";

(2) by redesignating sections 2002 through 2006 as sections 2006 through 2011, respectively; and

42 USC 3796gg–1—3796gg–5.

(3) by inserting after section 2001 the following:

"SEC. 2002. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

42 USC 3796gg–0.

"(a) IN GENERAL.—There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Violence Against Women Office (in this part referred to as the "Office").

"(b) SEPARATE OFFICE.—The Office shall be a separate and distinct office within the Department of Justice, headed by a Director, who shall report to the Attorney General and serve as Counsel to the Attorney General on the subject of violence against women, and who shall have final authority over all grants, cooperative agreements, and contracts awarded by the Office.

"(c) JURISDICTION.—Under the general authority of the Attorney General, the Office—

"(1) shall have sole jurisdiction over all duties and functions described in section 2004; and

"(2) shall be solely responsible for coordination with other departments, agencies, or offices of all activities authorized or undertaken under the Violence Against Women Act of 1994 (title VI of Public 103–322) and the Violence Against Women Act of 2000 (Division B of Public Law 106–386).

"SEC. 2003. DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

42 USC 3796gg–0a.

President.

"(a) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint a Director for the Violence Against Women Office (in this title referred to as the 'Director') to be responsible, under the general authority of the Attorney General, for the administration, coordination, and implementation of the programs and activities of the Office.

"(b) OTHER EMPLOYMENT.—The Director shall not—

"(1) engage in any employment other than that of serving as Director; or

"(2) hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) or the Violence Against Women Act of 2000 (division B of Public Law 106–386).

"(c) VACANCY.—In the case of a vacancy, the President may designate an officer or employee who shall act as Director during the vacancy.

"(d) COMPENSATION.—The Director shall be compensated at a rate of pay not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

42 USC 3796gg–0b.

"SEC. 2004. DUTIES AND FUNCTIONS OF DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

"The Director shall have the following duties:

"(1) Maintaining liaison with the judicial branches of the Federal and State Governments on matters relating to violence against women.

"(2) Providing information to the President, the Congress, the judiciary, State, local, and tribal governments, and the general public on matters relating to violence against women.

"(3) Serving, at the request of the Attorney General, as the representative of the Department of Justice on domestic task forces, committees, or commissions addressing policy or issues relating to violence against women.

"(4) Serving, at the request of the President, acting through the Attorney General, as the representative of the United States Government on human rights and economic justice matters related to violence against women in international fora, including, but not limited to, the United Nations.

"(5) Carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) and the Violence Against Women Act of 2000 (division B of Public Law 106–386), including with respect to those functions—

"(A) the development of policy, protocols, and guidelines;

"(B) the development and management of grant programs and other programs, and the provision of technical assistance under such programs; and

"(C) the award and termination of grants, cooperative agreements, and contracts.

"(6) Providing technical assistance, coordination, and support to—

"(A) other components of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to violence against women, including the litigation of civil and criminal actions relating to enforcing such laws;

"(B) other Federal, State, local, and tribal agencies, in efforts to develop policy, provide technical assistance, and improve coordination among agencies carrying out efforts to eliminate violence against women, including Indian or indigenous women; and

"(C) grantees, in efforts to combat violence against women and to provide support and assistance to victims of such violence.

"(7) Exercising such other powers and functions as may be vested in the Director pursuant to this part or by delegation of the Attorney General.

"(8) Establishing such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Office.

"SEC. 2005. STAFF OF VIOLENCE AGAINST WOMEN OFFICE.

42 USC 3796gg–0c.

"The Attorney General shall ensure that the Director has adequate staff to support the Director in carrying out the Director's responsibilities under this part.

"SEC. 2006. AUTHORIZATION OF APPROPRIATIONS.

42 USC 3796gg–0d.

"There are authorized to be appropriated such sums as are necessary to carry out this part for each fiscal year until fiscal year 2005.".

SEC. 403. EFFECTIVE DATE.

42 USC 3796gg–0 note.

This title shall take effect 90 days after this bill becomes law.

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUBS OF AMERICA

SEC. 1101. BOYS AND GIRLS CLUBS OF AMERICA.

Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking "1,000" and inserting "1,200";

(B) by striking "2,500" and inserting "4,000"; and

(C) by striking "December 31, 1999" and inserting "December 31, 2005, serving not less than 5,000,000 young people";

(2) in subsection (c)—

(A) in paragraph (1), by striking "1997, 1998, 1999, 2000, and 2001" and inserting "2002, 2003, 2004, 2005, and 2006"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "1,000" and inserting "1,200"; and

(ii) in subparagraph (B), by striking "2,500 Boys and Girls Clubs of America facilities in operation before January 1, 2000" and inserting "4,000 Boys and Girls Clubs of America facilities in operation before January 1, 2007"; and

(3) in subsection (e), by striking paragraph (1) and paragraph (2) and inserting the following:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $70,000,000 for fiscal year 2002;

"(B) $80,000,000 for fiscal year 2003;

"(C) $80,000,000 for fiscal year 2004; and

"(D) $80,000,000 for fiscal year 2005.".

Drug Abuse Education, Prevention, and Treatment Act of 2002.

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT OF 2002

42 USC 3711 note.

SEC. 2001. SHORT TITLE.

This title may be cited as the "Drug Abuse Education, Prevention, and Treatment Act of 2002".

Subtitle A—Drug-Free Prisons and Jails

SEC. 2101. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

"(c) ADDITIONAL USE OF FUNDS.—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release.".

SEC. 2102. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

Part S of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1901(a)—

(A) by striking "purpose of developing" and inserting the following: "purpose of—

"(1) developing"; and

(B) striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(2) encouraging the establishment and maintenance of drug-free prisons and jails.";

42 USC 3796ff–1.

(2) in section 1902, by adding at the end the following:

"(f) USE OF GRANT AMOUNTS FOR NONRESIDENTIAL AFTERCARE SERVICES.—A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services."; and

42 USC 3796ff–3.

(3) in section 1904, by adding at the end the following:

"(c) LOCAL ALLOCATION.—At least 10 percent of the total amount made available to a State under section 1904(a) for any fiscal year shall be used by the State to make grants to local correctional and detention facilities in the State (provided such facilities exist therein), for the purpose of assisting jail-based substance abuse treatment programs that are effective and science-based established by those local correctional facilities.".

SEC. 2103. MANDATORY REVOCATION OF PROBATION AND SUPERVISED RELEASE FOR FAILING A DRUG TEST.

(a) REVOCATION OF PROBATION.—Section 3565(b) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "or" after the semicolon;

(2) in paragraph (3), by striking "(4)," and inserting "(4); or"; and

(3) by adding after paragraph (3) the following:

"(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;".

(b) REVOCATION OF SUPERVISED RELEASE.—Section 3583(g) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "or" after the semicolon;

(2) in paragraph (3), by inserting "or" after the semicolon; and

(3) by adding after paragraph (3) the following:

"(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;".

Subtitle B—Treatment and Prevention

SEC. 2201. REPORT ON DRUG-TESTING TECHNOLOGIES.

42 USC 3722 note.

(a) REQUIREMENT.—The National Institute of Justice shall conduct a study of drug-testing technologies in order to identify and assess the efficacy, accuracy, and usefulness for purposes of the National effort to detect the use of illicit drugs of any drug-testing technologies (including the testing of hair) that may be used as alternatives or complements to urinalysis as a means of detecting the use of such drugs.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Institute shall submit to Congress a report on the results of the study conducted under subsection (a).

Deadline.

SEC. 2202. DRUG AND SUBSTANCE ABUSE TREATMENT, PREVENTION, EDUCATION, AND RESEARCH STUDY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President, after consultation with the Attorney General, Secretary of Health and Human Services, Secretary of Education, and other appropriate Federal officers, shall—

Deadline.

(1) conduct a thorough review of all Federal drug and substance abuse treatment, prevention, education, and research programs; and

(2) make such recommendations to Congress as the President may judge necessary and expedient to streamline, consolidate, coordinate, simplify, and more effectively conduct and deliver drug and substance abuse treatment, prevention, and education.

(b) REPORT TO CONGRESS.—The report to Congress shall—

(1) contain a survey of all Federal drug and substance abuse treatment, prevention, education, and research programs;

(2) indicate the legal authority for each program, the amount of funding in the last 2 fiscal years for each program, and a brief description of the program; and

(3) identify authorized programs that were not funded in fiscal year 2002 or 2003.

SEC. 2203. DRUG ABUSE AND ADDICTION RESEARCH.

Section 464N of the Public Health Service Act (42 U.S.C. 285o–2) is amended by striking subsection (c) and inserting the following:

"(c) DRUG ABUSE AND ADDITION RESEARCH.—

"(1) GRANTS OR COOPERATIVE AGREEMENTS.—The Director of the Institute may make grants or enter into cooperative agreements to expand the current and ongoing interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to drug abuse and addiction, including related biomedical, behavioral, and social issues.

"(2) USE OF FUNDS.—Amounts made available under a grant or cooperative agreement under paragraph (1) for drug abuse and addiction may be used for research and clinical trials relating to—

"(A) the effects of drug abuse on the human body, including the brain;

"(B) the addictive nature of drugs and how such effects differ with respect to different individuals;

"(C) the connection between drug abuse and mental health;

"(D) the identification and evaluation of the most effective methods of prevention of drug abuse and addiction;

"(E) the identification and development of the most effective methods of treatment of drug addiction, including pharmacological treatments;

"(F) risk factors for drug abuse;

"(G) effects of drug abuse and addiction on pregnant women and their fetuses; and

"(H) cultural, social, behavioral, neurological, and psychological reasons that individuals abuse drugs, or refrain from abusing drugs.

"(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State, and local entities involved in combating drug abuse and addiction.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each fiscal year.

"(B) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to the authorization of appropriations in subparagraph (A) for a fiscal year shall supplement and not supplant any other amounts appropriated in such fiscal year for research on drug abuse and addiction.".

Subtitle C—Drug Courts

SEC. 2301. DRUG COURTS.

(a) DRUG COURTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part DD the following new part:

"PART EE—DRUG COURTS

"SEC. 2951. GRANT AUTHORITY. 42 USC 3797u.

"(a) IN GENERAL.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for adult drug courts, juvenile drug courts, family drug courts, and tribal drug courts that involve—

"(1) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders;

"(2) coordination with the appropriate State or local prosecutor; and

"(3) the integrated administration of other sanctions and services, which shall include—

"(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

"(B) substance abuse treatment for each participant;

"(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

"(D) offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services;

"(E) payment, in whole or part, by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; and

"(F) payment, in whole or part, by the offender of restitution, to the extent practicable, to either a victim of the offender's offense or to a restitution or similar victim support fund.

"(b) LIMITATION.—Economic sanctions imposed on an offender pursuant to this section shall not be at a level that would interfere with the offender's rehabilitation.

"SEC. 2952. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS. 42 USC 3797u–1.

"The Attorney General shall—

"(1) issue regulations or guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders; and

"(2) immediately suspend funding for any grant under this part, pending compliance, if the Attorney General finds that violent offenders are participating in any program funded under this part.

"SEC. 2953. DEFINITION. 42 USC 3797u–2.

"(a) IN GENERAL.—Except as provided in subsection (b), in this part, the term 'violent offender' means a person who—

"(1) is charged with or convicted of an offense, during the course of which offense or conduct—

"(A) the person carried, possessed, or used a firearm or dangerous weapon;

"(B) there occurred the death of or serious bodily injury to any person; or

"(C) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or

"(2) has 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

"(b) DEFINITION FOR PURPOSES OF JUVENILE DRUG COURTS.—For purposes of juvenile drug courts, the term 'violent offender' means a juvenile who has been convicted of, or adjudicated delinquent for, an offense that—

"(1) has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or the possession or use of a firearm; or

"(2) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

42 USC 3797u–3.

"SEC. 2954. ADMINISTRATION.

"(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

"(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines necessary to carry out this part.

"(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan that shall provide for the consultation and coordination with appropriate State and local prosecutors, particularly when program participants fail to comply with program requirements;

"(2) explain the applicant's inability to fund the program adequately without Federal assistance;

"(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

"(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

"(6) certify that participating offenders will be supervised by 1 or more designated judges with responsibility for the drug court program;

"(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

"(8) describe the methodology that will be used in evaluating the program.

"SEC. 2955. APPLICATIONS. 42 USC 3797u–4.

"To request funds under this part, the chief executive or the chief justice of a State or the chief executive or judge of a unit of local government or Indian tribal government, or the chief judge of a State court or the judge of a local court or Indian tribal court shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"SEC. 2956. FEDERAL SHARE. 42 USC 3797u–5.

"(a) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2955 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section.

"(b) IN-KIND CONTRIBUTIONS.—In-kind contributions may constitute a portion of the non-Federal share of a grant.

"SEC. 2957. DISTRIBUTION AND ALLOCATION. 42 USC 3797u–6.

"(a) GEOGRAPHIC DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"(b) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this part have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this part not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this part.

"SEC. 2958. REPORT. 42 USC 3797u–7.

"A State, Indian tribal government, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General a description and an evaluation report on a date specified by the Attorney General regarding the effectiveness of this part.

"SEC. 2959. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION. 42 USC 3797u–8.

"(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees (including uniform data collection standards and reporting requirements), the Attorney General shall carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part DD the following:

"PART EE—DRUG COURTS

"Sec. 2951. Grant authority.
"Sec. 2952. Prohibition of participation by violent offenders.
"Sec. 2953. Definition.
"Sec. 2954. Administration.
"Sec. 2955. Applications.
"Sec. 2956. Federal share.
"Sec. 2957. Distribution and allocation.
"Sec. 2958. Report.
"Sec. 2959. Technical assistance, training, and evaluation.".

Deadline.

(c) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall—

(1) devise a plan to implement recommendations of the General Accounting Office to—

(A) develop and implement a management information system that is able to track and readily identify the universe of drug court programs funded by the Drug Court Program Office of the Department of Justice;

(B) take steps to ensure and sustain an adequate grantee response rate to the Drug Court Program Office's data collection efforts by improving efforts to notify and remind grantees of their reporting requirements;

(C) take corrective action toward grantees that do not comply with the data collection reporting requirement of the Department of Justice;

(D) reinstate the collection of post-program data in the Drug Court Program Office's data collection effort, selectively spot checking grantee responses to ensure accurate reporting;

(E) analyze performance and outcome data collected from grantees and report annually on the results;

(F) consolidate the multiple Department of Justice-funded drug court program-related data collection efforts to better ensure that the primary focus is on the collection and reporting of data on Drug Court Program Office-funded drug court programs;

(G) conduct a methodologically sound national impact evaluation of Drug Court Program Office-funded drug court programs; and

(H) consider ways to reduce the time needed to provide information on the overall impact of Federally-funded drug court programs; and

(2) submit a report on the plan to the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 2302. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3), by inserting before the period at the end the following: "or EE"; and

(2) by adding at the end the following:

"(25)(A) Except as provided in subparagraph (C), there are authorized to be appropriated to carry out part EE—

"(i) $50,000,000 for fiscal year 2002;

"(ii) $54,000,000 for fiscal year 2003;

"(iii) $58,000,000 for fiscal year 2004; and

"(iv) $60,000,000 for fiscal year 2005.

"(B) The Attorney General shall reserve not less than 1 percent and not more than 4.5 percent of the sums appropriated for this program in each fiscal year for research and evaluation of this program.

"(C) No funds made available to carry out part EE shall be expended if the Attorney General fails to submit the report required to be submitted under section 2401(c) of title II of Division B of the 21st Century Department of Justice Appropriations Authorization Act.".

SEC. 2303. STUDY BY THE GENERAL ACCOUNTING OFFICE.

42 USC 3797u note.

(a) IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by part EE of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as added by section 2401 and report to Congress the results of the study on or before January 1, 2005.

(b) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under subsection (a), including the identities and criminal records of program participants.

(c) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by part EE of the Omnibus Crime Control and Safe Streets Act of 1968, the Comptroller General shall consider, among other things—

(1) recidivism rates of program participants;

(2) completion rates among program participants;

(3) drug use by program participants; and

(4) the costs of the program to the criminal justice system.

Subtitle D—Program for Successful Reentry of Criminal Offenders Into Local Communities

CHAPTER 1—POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES

SEC. 2411. POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES.

18 USC 3601 note.

(a) FEDERAL REENTRY CENTER DEMONSTRATION.—

(1) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall establish the Federal Reentry Center Demonstration project. The project shall involve appropriate prisoners from the Federal prison population and shall utilize community corrections facilities, home confinement, and a coordinated response by Federal agencies to assist participating prisoners in preparing for and adjusting to reentry into the community.

(2) PROJECT ELEMENTS.—The project authorized by paragraph (1) shall include the following core elements:

(A) A Reentry Review Team for each prisoner, consisting of a representative from the Bureau of Prisons,

the United States Probation System, the United States Parole Commission, and the relevant community corrections facility, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner.

(B) A system of graduated levels of supervision with the community corrections facility to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing sanctions for a prisoner's violation of the conditions of participation in the project.

(C) Substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed.

(3) PROBATION OFFICERS.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall assign 1 or more probation officers from each participating judicial district to the Reentry Demonstration project. Such officers shall be assigned to and stationed at the community corrections facility and shall serve on the Reentry Review Teams.

Deadline.

(4) PROJECT DURATION.—The Reentry Center Demonstration project shall begin not later than 6 months following the availability of funds to carry out this subsection, and shall last 3 years.

(b) DEFINITIONS.—In this section, the term "appropriate prisoner" shall mean a person who is considered by prison authorities—

(1) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(2) to lack the skills and family support network that facilitate successful reintegration into the community.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated, to remain available until expended—

(1) to the Federal Bureau of Prisons—

(A) $1,375,000 for fiscal year 2003;

(B) $1,110,000 for fiscal year 2004;

(C) $1,130,000 for fiscal year 2005;

(D) $1,155,000 for fiscal year 2006; and

(E) $1,230,000 for fiscal year 2007; and

(2) to the Federal Judiciary—

(A) $3,380,000 for fiscal year 2003;

(B) $3,540,000 for fiscal year 2004;

(C) $3,720,000 for fiscal year 2005;

(D) $3,910,000 for fiscal year 2006; and

(E) $4,100,000 for fiscal year 2007.

CHAPTER 2—STATE REENTRY GRANT PROGRAMS

SEC. 2421. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after part EE the following new part:

"PART FF—OFFENDER REENTRY AND COMMUNITY SAFETY

"SEC. 2976. ADULT AND JUVENILE OFFENDER STATE AND LOCAL REENTRY DEMONSTRATION PROJECTS. 42 USC 3797w.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $1,000,000 to States, Territories, and Indian tribes, in partnership with units of local government and nonprofit organizations, for the purpose of establishing adult and juvenile offender reentry demonstration projects.

"(b) ADULT OFFENDER REENTRY DEMONSTRATION PROJECTS.—Funds for adult offender demonstration projects may be expended for—

"(1) oversight/monitoring of released offenders;

"(2) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and basic educational training, and other programming to promote effective reintegration into the community as needed;

"(3) convening community impact panels, victim impact panels or victim impact educational classes; and

"(4) establishing and implementing graduated sanctions and incentives.

"(c) JUVENILE OFFENDER REENTRY DEMONSTRATION PROJECTS.—Funds for the juvenile offender reentry demonstration projects may be expended for—

"(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

"(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;

"(3) oversight/monitoring of released juvenile offenders; and

"(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, family involvement and support, and other services as needed.

"(d) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies in the implementation

of the program, including existing community corrections and parole; and

"(4) describe the methodology and outcome measures that will be used in evaluating the program.

"(e) APPLICANTS.—The applicants as designated under 2601(a)—

"(1) shall prepare the application as required under subsection 2601(b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(f) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(g) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a description and an evaluation report at such time and in such manner as the Attorney General may reasonably require that contains—

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated $15,000,000 for fiscal year 2003, $15,500,000 for fiscal year 2004, and $16,000,000 for fiscal year 2005.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

42 USC 3797w–1.

"SEC. 2977. STATE REENTRY PROJECT EVALUATION.

"(a) EVALUATION.—The Attorney General shall evaluate the demonstration projects authorized by section 2976 to determine their effectiveness.

Deadline.

"(b) REPORT.—Not later than April 30, 2005, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate containing—

"(1) the findings of the evaluation required by subsection (a); and

"(2) any recommendations the Attorney General has with regard to expanding, changing, or eliminating the demonstration projects.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part EE the following:

"PART FF—OFFENDER REENTRY AND COMMUNITY SAFETY ACT

"Sec. 2976. Adult Offender State and Local Reentry Demonstration Projects.
"Sec. 2977. State reentry project evaluation.".

Subtitle E—Other Matters

SEC. 2501. AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 303(g)(2) of the Controlled Substances Act (21 U.S.C. 823(g)(2)) is amended—

(1) in subparagraph (I), by striking "on October 17, 2000," and all that follows through "such drugs," and inserting "on the date of approval by the Food and Drug Administration of a drug in schedule III, IV, or V, a State may not preclude a practitioner from dispensing or prescribing such drug, or combination of such drugs,"; and

(2) in subparagraph (J)(i), by striking "October 17, 2000," and inserting "the date referred to in subparagraph (I),".

SEC. 2502. STUDY OF METHAMPHETAMINE TREATMENT.

Section 3633 of the Methamphetamine Anti-Proliferation Act of 2000 (114 Stat. 1236) is amended by striking "the Institute of Medicine of the National Academy of Sciences" and inserting "the National Institute on Drug Abuse".

SEC. 2503. AUTHORIZATION OF FUNDS FOR DEA POLICE TRAINING IN SOUTH AND CENTRAL ASIA.

There is authorized to be appropriated to the Attorney General not less than $5,000,000 for fiscal year 2003 for regional antidrug training by the Drug Enforcement Administration for law enforcement entities (including police, border control, and other entities engaged in drug interdiction and narcotics control efforts), as well as increased precursor chemical control efforts in the South and Central Asia region.

SEC. 2504. UNITED STATES-THAILAND DRUG PROSECUTOR EXCHANGE PROGRAM.

(a) PROGRAM AUTHORIZATION.—The Attorney General shall establish an exchange program in which prosecutors, judges, or policy makers from the Kingdom of Thailand participate in an exchange program to observe Federal prosecutors in an effort to learn about the various rules and procedures used to prosecute violations of federal criminal narcotics laws.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $75,000 for fiscal year 2003 and $75,000 for fiscal year 2004.

TITLE III—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM

SEC. 3001. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

(a) IN GENERAL.—Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "as provided in paragraph (2)" and inserting "as provided in paragraph (3)";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

"(A) influence, delay, or prevent the testimony of any person in an official proceeding;

"(B) cause or induce any person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

"(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

"(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).'"; and

(D) in paragraph (3), as redesignated—

(i) by striking "and" at the end of subparagraph (A); and

(ii) by striking subparagraph (B) and inserting the following:

"(B) in the case of—

"(i) an attempt to murder; or

"(ii) the use or attempted use of physical force against any person;

imprisonment for not more than 20 years; and

"(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 10 years.";

(2) in subsection (b), by striking "or physical force"; and

(3) by adding at the end the following:

"(k) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) RETALIATING AGAINST A WITNESS.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

"(e) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(c) CONFORMING AMENDMENTS.—

(1) WITNESS TAMPERING.—Section 1512 of title 18, United States Code, is amended in subsections (b)(3) and (d)(2) by inserting "supervised release," after "probation".

(2) RETALIATION AGAINST A WITNESS.—Section 1513 of title 18, United States Code, is amended in subsections (a)(1)(B) and (b)(2) by inserting "supervised release," after "probation".

SEC. 3002. CORRECTION OF ABERRANT STATUTES TO PERMIT IMPOSITION OF BOTH A FINE AND IMPRISONMENT.

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

(1) in section 401, by inserting "or both," after "fine or imprisonment,";

(2) in section 1705, by inserting ", or both" after "years"; and

(3) in sections 1916, 2234, and 2235, by inserting ", or both" after "year".

(b) IMPOSITION BY MAGISTRATE.—Section 636 of title 28, United States Code, is amended—

(1) in subsection (e)(2), by inserting ", or both," after "fine or imprisonment"; and

(2) in subsection (e)(3), by inserting "or both," after "fine or imprisonment,".

SEC. 3003. REINSTATEMENT OF COUNTS DISMISSED PURSUANT TO A PLEA AGREEMENT.

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

"§ 3296. Counts dismissed pursuant to a plea agreement

"(a) IN GENERAL.—Notwithstanding any other provision of this chapter, any counts of an indictment or information that are dismissed pursuant to a plea agreement shall be reinstated by the District Court if—

"(1) the counts sought to be reinstated were originally filed within the applicable limitations period;

"(2) the counts were dismissed pursuant to a plea agreement approved by the District Court under which the defendant pled guilty to other charges;

"(3) the guilty plea was subsequently vacated on the motion of the defendant; and

"(4) the United States moves to reinstate the dismissed counts within 60 days of the date on which the order vacating the plea becomes final. Deadline.

"(b) DEFENSES; OBJECTIONS.—Nothing in this section shall preclude the District Court from considering any defense or objection, other than statute of limitations, to the prosecution of the counts reinstated under subsection (a).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Chapter 213 of title 18, United States Code, is amended in the table of sections by adding at the end the following new item:

"3296. Counts dismissed pursuant to a plea agreement.".

SEC. 3004. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting ", or any part thereof" after "as to any one or more counts".

SEC. 3005. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

(a) DRUG ABUSE PENALTIES.—Subparagraphs (A), (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "Any sentence" and inserting "Notwithstanding section 3583 of title 18, any sentence".

(b) PENALTIES FOR DRUG IMPORT AND EXPORT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraphs (1), (2), and (3), by striking "Any sentence" and inserting "Notwithstanding section 3583 of title 18, any sentence"; and

(2) in paragraph (4), by inserting "notwithstanding section 3583 of title 18," before "in addition to such term of imprisonment".

SEC. 3006. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting "(and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment)" after "may reduce the term of imprisonment".

SEC. 3007. CLARIFICATION THAT MAKING RESTITUTION IS A PROPER CONDITION OF SUPERVISED RELEASE.

Subsections (c) and (e) of section 3583 of title 18, United States Code, are amended by striking "and (a)(6) and inserting "(a)(6), and (a)(7)".

Criminal Law Technical Amendments Act of 2002.

TITLE IV—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2002

18 USC 1 note.

SEC. 4001. SHORT TITLE.

This title may be cited as the "Criminal Law Technical Amendments Act of 2002".

SEC. 4002. TECHNICAL AMENDMENTS RELATING TO CRIMINAL LAW AND PROCEDURE.

(a) MISSING AND INCORRECT WORDS.—

(1) CORRECTION OF GARBLED SENTENCE.—Section 510(c) of title 18, United States Code, is amended by striking "fine of under this title" and inserting "fine under this title".

(2) INSERTION OF MISSING WORDS.—Section 981(d) of title 18, United States Code, is amended by striking "proceeds from the sale of this section" and inserting "proceeds from the sale of such property under this section".

(3) CORRECTION OF INCORRECT WORD.—Sections 1425 through 1427, 1541 through 1544 and 1546(a) of title 18, United States Code, are each amended by striking "to facility" and inserting "to facilitate".

Effective date.

18 USC 1091.

(4) CORRECTING ERRONEOUS AMENDATORY LANGUAGE ON EXECUTED AMENDMENT.—Effective on the date of the enactment of Public Law 103-322, section 60003(a)(13) of such public law is amended by striking "$1,000,000 or imprisonment" and inserting "$1,000,000 and imprisonment".

(5) CORRECTION OF REFERENCE TO SHORT TITLE OF LAW.—That section 2332d(a) of title 18, United States Code, which relates to financial transactions is amended by inserting "of 1979" after "Export Administration Act".

(6) ELIMINATION OF TYPOGRAPHICAL ERROR.—Section 1992(b) of title 18, United States Code, is amended by striking "term or years" and inserting "term of years".

(7) SPELLING CORRECTION.—Section 2339A(a) of title 18, United States Code, is amended by striking "or an escape" and inserting "of an escape".

(8) SECTION 3553.—Section 3553(e) of title 18, United States Code, is amended by inserting "a" before "minimum".

(9) MISSPELLING IN SECTION 205.—Section 205(d)(1)(B) of title 18, United States Code, is amended by striking "groups's" and inserting "group's".

(10) CONFORMING CHANGE AND INSERTING MISSING WORD IN SECTION 709.—The paragraph in section 709 of title 18, United States Code, that begins with "A person who" is amended—

(A) by striking "A person who" and inserting "Whoever"; and

(B) by inserting "or" after the semicolon at the end.

(11) ERROR IN LANGUAGE BEING STRICKEN.—Effective on the date of its enactment, section 726(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) is amended— 18 USC 1956.

(A) in subparagraphs (C) and (E), by striking "section" the first place it appears; and

(B) in subparagraph (G), by striking "relating to" the first place it appears.

(b) MARGINS, PUNCTUATION, AND SIMILAR ERRORS.—

(1) MARGIN ERROR.—Section 1030(c)(2) of title 18, United States Code, is amended so that the margins of subparagraph (B) and each of its clauses, are moved 2 ems to the left.

(2) CORRECTING CAPITALIZATION IN LANGUAGE TO BE STRICKEN.—Effective on the date of its enactment, section 607(g)(2) of the Economic Espionage Act of 1996 is amended by striking "territory" and inserting "Territory". Effective date. 18 USC 1716.

(3) CORRECTING PARAGRAPHING.—The material added to section 521(a) of title 18, United States Code, by section 607(q) of the Economic Espionage Act of 1996 is amended to appear as a paragraph indented 2 ems from the left margin.

(4) SUBSECTION PLACEMENT CORRECTION.—Section 1513 of title 18, United States Code, is amended by transferring subsection (d) so that it appears following subsection (c).

(5) CORRECTION TO ALLOW FOR INSERTION OF NEW SUBPARAGRAPH AND CORRECTION OF ERRONEOUS INDENTATION.—Section 1956(c)(7) of title 18, United States Code, is amended—

(A) in subparagraph (B)(ii), by moving the margin 2 ems to the right;

(B) by striking "or" at the end of subparagraph (D);

(C) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(D) in subparagraph (F)—

(i) by striking "Any" and inserting "any"; and

(ii) by striking the period at the end and inserting a semicolon.

(6) CORRECTION OF CONFUSING SUBDIVISION DESIGNATION.—Section 1716 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph, by inserting "(j)(1)" before "Whoever";

(B) in the second undesignated paragraph—

(i) by striking "not more than $10,000" and inserting "under this title"; and

(ii) by inserting "(2)" at the beginning of that paragraph;

(C) by inserting "(3)" at the beginning of the third undesignated paragraph; and

(D) by redesignating subsection (j) as subsection (k).

(7) PUNCTUATION CORRECTION IN SECTION 1091.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "subsection (a)(1)," and inserting "subsection (a)(1)".

(8) PUNCTUATION CORRECTION IN SECTION 2311.—Section 2311 of title 18, United States Code, is amended by striking the period after "carcasses thereof" the second place that term appears and inserting a semicolon.

(9) SYNTAX CORRECTION.—Section 115(b)(2) of title 18, United States Code, is amended by striking ", attempted kidnapping, or conspiracy to kidnap of a person" and inserting "or attempted kidnapping of, or a conspiracy to kidnap, a person".

(10) CORRECTING CAPITALIZATION IN SECTION 982.—Section 982(a)(8) of title 18, United States Code, is amended by striking "Court" and inserting "court".

(11) PUNCTUATION CORRECTIONS IN SECTION 1029.—Section 1029 of title 18, United States Code, is amended—

(A) in subsection (c)(1)(A)(ii), by striking "(9)," and inserting "(9)"; and

(B) in subsection (e), by adding a semicolon at the end of paragraph (8).

(12) CORRECTIONS OF CONNECTORS AND PUNCTUATION IN SECTION 1030.—Section 1030 of title 18, United States Code, is amended—

(A) by inserting "and" at the end of subsection (c)(2)(B)(iii); and

(B) by striking the period at the end of subsection (e)(4)(I) and inserting a semicolon.

(13) CORRECTION OF PUNCTUATION IN SECTION 1032.—Section 1032(1) of title 18, United States Code, is amended by striking "13," and inserting "13".

(14) CORRECTION OF PUNCTUATION IN SECTION 1345.—Section 1345(a)(1) of title 18, United States Code, is amended—

(A) in subparagraph (B), by striking ", or" and inserting "; or"; and

(B) in subparagraph (C), by striking the period and inserting a semicolon.

(15) CORRECTION OF PUNCTUATION IN SECTION 3612.—Section 3612(f)(2)(B) of title 18, United States Code, is amended by striking "preceding." and inserting "preceding".

(16) CORRECTION OF INDENTATION IN CONTROLLED SUBSTANCES ACT.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by moving the margin of subparagraph (C) 2 ems to the left.

(c) ELIMINATION OF REDUNDANCIES.—

Effective date.

(1) ELIMINATION OF DUPLICATE AMENDMENTS.—Effective on the date of its enactment, paragraphs (1), (2), and (4) of section 601(b), paragraph (2) of section 601(d), paragraph (2) of section 601(f), paragraphs (1) and (2)(A) of section 601(j), paragraphs

(1) and (2) of section 601(k), subsection (d) of section 602, paragraph (4) of section 604(b), subsection (r) of section 605, and paragraph (2) of section 607(j) of the Economic Espionage Act of 1996 are repealed.

18 USC 247, 281, 1114, 2339A, 2423, 2516, 3286, 3563; 21 USC 802.

(2) ELIMINATION OF EXTRA COMMA.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(A) by striking "Code,," and inserting "Code,"; and

(B) by striking "services),," and inserting "services),".

(3) REPEAL OF SECTION GRANTING DUPLICATIVE AUTHORITY.—

(A) Section 3503 of title 18, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3503.

(4) ELIMINATION OF OUTMODED REFERENCE TO PAROLE.—Section 929(b) of title 18, United States Code, is amended by striking the last sentence.

(d) CORRECTION OF OUTMODED FINE AMOUNTS.—

(1) IN TITLE 18, UNITED STATES CODE.—

(A) IN SECTION 492.—Section 492 of title 18, United States Code, is amended by striking "not more than $100" and inserting "under this title".

(B) IN SECTION 665.—Section 665(c) of title 18, United States Code, is amended by striking "a fine of not more than $5,000" and inserting "a fine under this title".

(C) IN SECTIONS 1924, 2075, 2113(b), AND 2236.—

(i) Section 1924(a) of title 18, United States Code, is amended by striking "not more than $1,000," and inserting "under this title".

(ii) Sections 2075 and 2113(b) of title 18, United States Code, are each amended by striking "not more than $1,000" and inserting "under this title".

(iii) Section 2236 of title 18, United States Code, is amended by inserting "under this title" after "warrant, shall be fined", and by striking "not more than $1,000".

(D) IN SECTION 372 AND 752.—Sections 372 and 752(a) of title 18, United States Code, are each amended by striking "not more than $5,000" and inserting "under this title".

(E) IN SECTION 924(e)(1).—Section 924(e)(1) of title 18, United States Code, is amended by striking "not more than $25,000" and inserting "under this title".

(2) IN THE CONTROLLED SUBSTANCES ACT.—

(A) IN SECTION 401.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended—

(i) in paragraph (1), by striking "and shall be fined not more than $10,000" and inserting "or fined under title 18, United States Code, or both"; and

(ii) in paragraph (2), by striking "and shall be fined not more than $20,000" and inserting "or fined under title 18, United States Code, or both".

(B) IN SECTION 402.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)) is amended—

(i) in subparagraph (A), by striking "of not more than $25,000" and inserting "under title 18, United States Code"; and

(ii) in subparagraph (B), by striking "of $50,000" and inserting "under title 18, United States Code".

(C) IN SECTION 403.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(i) by striking "of not more than $30,000" each place that term appears and inserting "under title 18, United States Code"; and

(ii) by striking "of not more than $60,000" each place it appears and inserting "under title 18, United States Code".

(e) CROSS REFERENCE CORRECTIONS.—

(1) SECTION 3664.—Section 3664(o)(1)(C) of title 18, United States Code, is amended by striking "section 3664(d)(3)" and inserting "subsection (d)(5)".

(2) CHAPTER 228.—Section 3592(c)(1) of title 18, United States Code, is amended by striking "section 36" and inserting "section 37".

(3) CORRECTING ERRONEOUS CROSS REFERENCE IN CONTROLLED SUBSTANCES ACT.—Section 511(a)(10) of the Controlled Substances Act (21 U.S.C. 881(a)(10)) is amended by striking "1822 of the Mail Order Drug Paraphernalia Control Act" and inserting "422".

Effective date.
18 USC 247.

(4) CORRECTION TO REFLECT CROSS REFERENCE CHANGE MADE BY OTHER LAW.—Effective on the date of its enactment, section 601(c)(3) of the Economic Espionage Act of 1996 is amended by striking "247(d)" and inserting "247(e)".

(5) TYPOGRAPHICAL AND TYPEFACE ERROR IN TABLE OF CHAPTERS.—The item relating to chapter 123 in the table of chapters at the beginning of part I of title 18, United States Code, is amended—

(A) by striking "2271" and inserting "2721"; and

(B) so that the item appears in bold face type.

(6) SECTION 4104.—Section 4104(d) of title 18, United States Code, is amended by striking "section 3653 of this title and rule 32(f) of" and inserting "section 3565 of this title and the applicable provisions of".

Effective date.

18 USC 2441.

(7) ERROR IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 583 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (111 Stat. 2436) is amended by striking "Section 2401" and inserting "Section 2441".

(8) ERROR IN CROSS REFERENCE TO COURT RULES.—The first sentence of section 3593(c) of title 18, United States Code, is amended by striking "rule 32(c)" and inserting "rule 32".

(9) SECTION 1836.—Section 1836 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "this section" and inserting "this chapter"; and

(B) in subsection (b), by striking "this subsection" and inserting "this section".

(10) CORRECTION OF ERRONEOUS CITE IN CHAPTER 119.—Section 2510(10) of title 18, United States Code, is amended by striking "shall have" and all that follows through "United

States Code;" and inserting "has the meaning given that term in section 3 of the Communications Act of 1934;".

(11) ELIMINATION OF OUTMODED CITE IN SECTION 2339A.—Section 2339A(a) of title 18, United States Code, is amended by striking "2332c,".

(12) CORRECTION OF REFERENCES IN AMENDATORY LANGUAGE.—Effective the date of its enactment, section 115(a)(8)(B) of Public Law 105–119 is amended—

Effective date. 18 USC 3563.

(A) in clause (i)—

(i) by striking "at the end of" and inserting "following"; and

(ii) by striking "paragraph" the second place it appears and inserting "subsection"; and

(B) in clause (ii), by striking "subparagraph (A)" and inserting "clause (i)".

(f) TABLES OF SECTIONS CORRECTIONS.—

(1) CONFORMING TABLE OF SECTIONS TO HEADING OF SECTION.—The item relating to section 1837 in the table of sections at the beginning of chapter 90 of title 18, United States Code, is amended by striking "Conduct" and inserting "Applicability to conduct".

(2) CONFORMING HEADING TO TABLE OF SECTIONS ENTRY.—The heading of section 1920 of title 18, United States Code, is amended by striking "**employee's**" and inserting "**employees**'".

SEC. 4003. ADDITIONAL TECHNICALS.

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

(1) in section 922(t)(1)(C), by striking "1028(d)(1)" and inserting "1028(d)";

(2) in section 1005—

(A) in the first undesignated paragraph, by striking "Act,," and inserting "Act,"; and

(B) by inserting "or" at the end of the third undesignated paragraph;

(3) in section 1071, by striking "fine of under this title" and inserting "fine under this title";

(4) in section 1368(a), by inserting "to" after "serious bodily injury";

(5) in subsections (b)(1) and (c) of section 2252A, by striking "paragraphs" and inserting "paragraph"; and

(6) in section 2254(a)(3), by striking the comma before the period at the end.

(b) TITLE 28.—Title 28, United States Code, is amended—

(1) in section 509(3), by striking the second period;

(2) in section 526—

(A) in the heading, by striking "**AND**" before "**TRUSTEES**"; and

(B) in subsection (a)(1), by striking the second comma after "marshals";

(3) in section 529(b)(2), as hereinbefore added, by striking the matter between "services contract" and "made,";

(4) in section 534(a)(3), by inserting "and" after the semicolon;

(5) in the item relating to section 526 in the table of sections at the beginning of chapter 31, by striking "and" before "trustees";

(6) in the item relating to chapter 37 in the table of chapters at the beginning of part II, by inserting "Service" after "Marshals";

(7) in the item relating to section 532 in the table of sections at the beginning of chapter 33, by inserting "the" after "of"; and

(8) in the item relating to section 537 in the table of sections at the beginning of chapter 33, by striking "nature" and inserting "character".

SEC. 4004. REPEAL OF OUTMODED PROVISIONS.

(a) Section 14 of title 18, United States Code, and the item relating thereto in the table of sections at the beginning of chapter 1 of title 18, United States Code, are repealed.

(b) Section 1261 of such title is amended—

(1) by striking "(a) The Secretary" and inserting "The Secretary"; and

(2) by striking subsection (b).

(c) Section 1821 of such title is amended by striking ", the Canal Zone".

(d) Section 3183 of such title is amended by striking "or the Panama Canal Zone,".

(e) Section 3241 of such title is amended by striking "United States District Court for the Canal Zone and the".

28 USC 504 and note.

(f) Any section of any Act enacted on the antepenultimate day of November 2001, which section provides for any amendment to chapter 31 of title 28, United States Code, is hereby repealed.

SEC. 4005. AMENDMENTS RESULTING FROM PUBLIC LAW 107–56.

(a) MARGIN CORRECTIONS.—

(1) Section 2516(1) of title 18, United States Code, is amended by moving the left margin for subsection (q) 2 ems to the right.

(2) Section 2703(c)(1) of title 18, United States Code, is amended by moving the left margin of subparagraph (E) 2 ems to the left.

(3) Section 1030(a)(5) of title 18, United States Code, is amended by moving the left margin of subparagraph (B) 2 ems to the left.

Effective date.

(b) CORRECTION OF WRONGLY WORDED CLERICAL AMENDMENT.—Effective on the date of its enactment, section 223(c)(2) of Public Law 107–56 is amended to read as follows:

"(2) The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by adding at the end the following new item:

"2712. Civil actions against the United States.".

Effective date.
50 USC 1805.

(c) CORRECTION OF ERRONEOUS PLACEMENT OF AMENDMENT LANGUAGE.—Effective on the date of its enactment, section 225 of Public Law 107–56 is amended—

(1) by striking "after subsection (g)" and inserting "after subsection (h)"; and

(2) by redesignating the subsection added to section 105 of section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) as subsection (i).

(d) PUNCTUATION CORRECTIONS.—

(1) Section 1956(c)(6)(B) of title 18, United States Code, is amended by striking the period and inserting a semicolon.

(2) Effective on the date of its enactment, section 803(a) of Public Law 107–56 is amended by striking the close quotation mark and period that follows at the end of subsection (a) in the matter proposed to be inserted in title 18, United States Code, as a new section 2339.

Effective date. 18 USC 2339.

(3) Section 1030(c)(3)(B) of title 18, United States Code, is amended by inserting a comma after "(a)(4)".

(e) ELIMINATION OF DUPLICATE AMENDMENT.—Effective on the date of its enactment, section 805 of Public Law 107–56 is amended by striking subsection (b).

Effective date. 18 USC 1956.

(f) CORRECTION OF UNEXECUTABLE AMENDMENTS.—

(1) Effective on the date of its enactment, section 813(2) of Public Law 107–56 is amended by striking "semicolon" and inserting "period".

Effective date. 18 USC 1961.

(2) Effective on the date of its enactment, section 815 of Public Law 107–56 is amended by inserting "a" before "statutory authorization".

Effective date. 18 USC 2707 note.

(g) CORRECTION OF HEADING STYLE.—The heading for section 175b of title 18, United States Code, is amended to read as follows:

"§ 175b. Possession by restricted persons".

SEC. 4006. CROSS REFERENCE CORRECTION.

Section 2339C(a)(1) of title 18, United States Code, is amended by striking "described in subsection (c)" and inserting "described in subsection (b)".

TITLE V—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

SEC. 5001. PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS.

(a) STATE APPLICATIONS.—Section 503(a)(13)(A)(iii) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(13)(A)(iii)) is amended by striking "or the National Association of Medical Examiners," and inserting ", the National Association of Medical Examiners, or any other nonprofit, professional organization that may be recognized within the forensic science community as competent to award such accreditation,".

(b) FORENSIC SCIENCES IMPROVEMENT GRANTS.—Part BB of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797j et seq.) is amended—

(1) in section 2801, by inserting after "States" the following: " and units of local government";

42 USC 3797j.

(2) in section 2802—

42 USC 3797k.

(A) in the matter before paragraph (1), by inserting "or unit of local government" after "State";

(B) in paragraph (1), to read as follows:

"(1) a certification that the State or unit of local government has developed a plan for forensic science laboratories under a program described in section 2804(a), and a specific description of the manner in which the grant will be used to carry out that plan;";

(C) in paragraph (2), by inserting "or appropriate certifying bodies" before the semicolon; and

(D) in paragraph (3), by inserting "for a State or local plan" after "program";

42 USC 3797*l*.

(3) in section 2803(a)(2), by striking "to States with" and all that follows through the period and inserting "for competitive awards to States and units of local government. In making awards under this part, the Attorney General shall consider the average annual number of part 1 violent crimes reported by each State to the Federal Bureau of Investigation for the 3 most recent calendar years for which data is available and consider the existing resources and current needs of the potential grant recipient.";

42 USC 3797m.

(4) in section 2804—

(A) in subsection (a), by inserting "or unit of local government" after "A State"; and

(B) in subsection (c)(1), by inserting "(including grants received by units of local government within a State)" after "under this part"; and

42 USC 3797*o*.

(5) in section 2806(a)—

(A) in the matter before paragraph (1), by inserting "or unit of local government" after "each State"; and

(B) in paragraph (1), by inserting before the semicolon the following: ", which shall include a comparison of pre-grant and post-grant forensic science capabilities"

(C) in paragraph (2), by striking "and" at the end;

(D) by redesignating paragraph (3) as paragraph (4); and

(E) by inserting after paragraph (2) the following:

"(3) an identification of the number and type of cases currently accepted by the laboratory; and".

SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) such sums as may be necessary for the Center for Domestic Preparedness of the Department of Justice in Anniston, Alabama;

(2) such sums as may be necessary for the Texas Engineering Extension Service of Texas A&M University;

(3) such sums as may be necessary for the Energetic Materials Research and Test Center of the New Mexico Institute of Mining and Technology;

(4) such sums as may be necessary for the Academy of Counterterrorist Education at Louisiana State University;

(5) such sums as may be necessary for the National Exercise, Test, and Training Center of the Department of Energy, located at the Nevada test site;

(6) such sums as may be necessary for the National Center for the Study of Counter-Terrorism and Cyber-Crime at Norwich University; and

(7) such sums as may be necessary for the Northeast Counterdrug Training Center at Fort Indiantown Gap, Pennsylvania.

DIVISION C—IMPROVEMENTS TO CRIMINAL JUSTICE, CIVIL JUSTICE, IMMIGRATION, JUVENILE JUSTICE, AND INTELLECTUAL PROPERTY AND ANTITRUST LAWS

TITLE I—CRIMINAL JUSTICE, CIVIL JUSTICE, AND IMMIGRATION

Subtitle A—General Improvements

SEC. 11001. LAW ENFORCEMENT TRIBUTE ACT.

Law Enforcement Tribute Act. 42 USC 15208.

(a) SHORT TITLE.—This section may be cited as the "Law Enforcement Tribute Act".

(b) FINDINGS.—Congress finds the following:

(1) The well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement and public safety personnel.

(2) More than 700,000 law enforcement officers, both men and women, at great risk to their personal safety, serve their fellow citizens as guardians of peace.

(3) Nationwide, 51 law enforcement officers were killed in the line of duty in 2000, according to statistics released by the Federal Bureau of Investigation. This number is an increase of 9 from the 1999 total of 42.

(4) In 1999, 112 firefighters died while on duty, an increase of 21 deaths from the previous year.

(5) Every year, 1 in 9 peace officers is assaulted, 1 in 25 is injured, and 1 in 4,400 is killed in the line of duty.

(6) In addition, recent statistics indicate that 83 officers were accidentally killed in the performance of their duties in 2000, an increase of 18 from the 65 accidental deaths in 1999.

(7) A permanent tribute is a powerful means of honoring the men and women who have served our Nation with distinction. However, many law enforcement and public safety agencies lack the resources to honor their fallen colleagues.

(c) PROGRAM AUTHORIZED.—From amounts made available to carry out this section, the Attorney General may make grants to States, units of local government, and Indian tribes to carry out programs to honor, through permanent tributes, men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers.

(d) USES OF FUNDS.—Grants awarded under this section shall be distributed directly to the State, unit of local government, or Indian tribe, and shall be used for the purposes specified in subsection (c).

(e) $150,000 LIMITATION.—A grant under this section may not exceed $150,000 to any single recipient.

(f) MATCHING FUNDS.—

(1) The Federal portion of the costs of a program provided by a grant under this section may not exceed 50 percent.

(2) Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement or public safety functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

(g) APPLICATIONS.—To request a grant under this section, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

Deadline.

(h) ANNUAL REPORT TO CONGRESS.—Not later than November 30 of each year, the Attorney General shall submit a report to the Congress regarding the activities carried out under this section. Each such report shall include, for the preceding fiscal year, the number of grants funded under this section, the amount of funds provided under those grants, and the activities for which those funds were used.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2002 through 2006.

SEC. 11002. DISCLOSURE OF GRAND JURY MATTERS RELATING TO MONEY LAUNDERING OFFENSES.

Section 3322(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or 1344; or" and inserting "1344, 1956, or 1957;";

(2) in subparagraph (B), by inserting "or" after the semicolon; and

(3) by adding at the end the following:

"(C) any provision of subchapter II of chapter 53 of title 31, United States Code;".

SEC. 11003. GRANT PROGRAM FOR STATE AND LOCAL DOMESTIC PREPAREDNESS SUPPORT.

(a) TECHNICAL CORRECTIONS.—

42 USC 3714.

(1) OFFICE.—Section 1014(a) of the USA PATRIOT Act (Public Law 107–56) is amended by striking "Office of State and Local Domestic Preparedness Support" and inserting "Office for Domestic Preparedness".

(2) PERCENT.—Section 1014(c)(3) of the USA PATRIOT Act (Public Law 107–56) is amended by inserting "not less than" before "0.25 percent".

(b) ADDITIONAL USE OF GRANT AMOUNTS.—Section 1014(b) of the USA PATRIOT Act (Public Law 107–56) is amended by inserting at the end the following: "In addition, grants under this section may be used to construct, develop, expand, modify, operate, or improve facilities to provide training or assistance to State and local first responders.".

SEC. 11004. UNITED STATES SENTENCING COMMISSION ACCESS TO NCIC TERMINAL.

Section 534(a) of title 28, United States Code, is amended by striking paragraph (4) and inserting the following:

"(4) exchange such records and information with, and for the official use of, authorized officials of the Federal Government, including the United States Sentencing Commission, the States, cities, and penal and other institutions.".

SEC. 11005. DANGER PAY FOR FBI AGENTS.

Section 151 of the Foreign Relations Act, fiscal years 1990 and 1991 (5 U.S.C. 5928 note), is amended by inserting "or Federal Bureau of Investigation" after "Drug Enforcement Administration".

SEC. 11006. POLICE CORPS.

Subtitle A of title XX of the Violent Crime Control and Law Enforcement Act of 1994, the Police Corps Act (42 U.S.C. 14091 et seq.), is amended—

(1) in section 200106— 42 USC 14095.

(A) in subsection (a)(2)—

(i) in subparagraph (A), by striking "$7,500" and inserting "$10,000";

(ii) in subparagraph (B), by striking "$10,000" and inserting "$13,333"; and

(iii) in subparagraph (C), by striking "$30,000" and inserting "$40,000"; and

(B) in subsection (b)(2)—

(i) in subparagraph (A), by striking "$7,500" and inserting "$10,000";

(ii) in subparagraph (B), by striking "$10,000" and inserting "$13,333"; and

(iii) in subparagraph (C), by striking "$30,000" and inserting "$40,000";

(2) in section 200108, by striking "$250" and inserting "$400"; 42 USC 14097.

(3) in section 200110(2), by striking "no more than 10 percent" and inserting "except with permission of the Director, no more than 25 percent"; 42 USC 14099.

(4) by striking section 200111; and 42 USC 14100.

(5) in section 200112, by striking "fiscal year 2002" and inserting "each of fiscal years 2002 through 2005". 42 USC 14101.

SEC. 11007. RADIATION EXPOSURE COMPENSATION TECHNICAL AMENDMENTS.

(a) IN GENERAL.—The Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) in section 4(b)(1)(C), by inserting ", and that part of Arizona that is north of the Grand Canyon" after "Gila";

(2) in section 4(b)(2)—

(A) by striking "lung cancer (other than in situ lung cancer that is discovered during or after a post-mortem exam),"; and

(B) by striking "or liver (except if cirrhosis or hepatitis B is indicated)." and inserting "liver (except if cirrhosis or hepatitis B is indicated), or lung.";

(3) in section 5(a)(1)(A)(ii)(I), by inserting "or worked for at least 1 year during the period described under clause (i)" after "months of radiation";

(4) in section 5(a)(2)(A), by striking "an Atomic Energy Commission" and inserting "a";

(5) in section 5(b)(5), by striking "or lung cancer";

(6) in section 5(c)(1)(B)(i), by striking "or lung cancer";

(7) in section 5(c)(2)(B)(i), by striking "or lung cancer";

(8) in section 6(e)—

(A) by striking "The" and inserting "Except as otherwise authorized by law, the"; and

(B) by inserting ", mill, or while employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill" after "radiation in a uranium mine";

(9) in section 6(i), by striking the second sentence;

(10) in section 6(k), by adding at the end the following: "Not later than 180 days after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000, the Attorney General shall issue revised regulations to carry out this Act.";

(11) in section 7, by amending subsection (b) to read as follows:

"(b) CHOICE OF REMEDIES.—No individual may receive more than 1 payment under this Act."; and

(12) by adding at the end the following:

"SEC. 14. GAO REPORTS.

Deadline.

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000, and every 18 months thereafter, the General Accounting Office shall submit a report to Congress containing a detailed accounting of the administration of this Act by the Department of Justice.

"(b) CONTENTS.—Each report submitted under this section shall include an analysis of—

"(1) claims, awards, and administrative costs under this Act; and

"(2) the budget of the Department of Justice relating to this Act.".

(b) CONFORMING AMENDMENTS.—Section 3 of the Radiation Exposure Compensation Act Amendments of 2000 (Public Law 106–245) is amended by striking subsection (i).

42 USC 2210 note.

SEC. 11008. FEDERAL JUDICIARY PROTECTION ACT OF 2002.

Federal Judiciary Protection Act of 2002.
18 USC 111 note.

(a) SHORT TITLE.—This section may be cited as the "Federal Judiciary Protection Act of 2002".

(b) ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "three" and inserting "8"; and

(2) in subsection (b), by striking "ten" and inserting "20".

(c) INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.—Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking "five" and inserting "10"; and

(2) by striking "three" and inserting "6".

(d) MAILING THREATENING COMMUNICATIONS.—Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as redesignated by paragraph (1), by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both."; and

(3) in subsection (d), as redesignated by paragraph (1), by adding at the end the following: "If such a communication

is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.".

(e) AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.— 28 USC 994 note.

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(2) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in paragraph (1)—

(A) any expression of congressional intent regarding the appropriate penalties for the offense;

(B) the range of conduct covered by the offense;

(C) the existing sentences for the offense;

(D) the extent to which sentencing enhancements within the Federal sentencing guidelines and the authority of the court to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(E) the extent to which the Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(F) the extent to which the Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(G) the relationship of the Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(H) any other factors that the Commission considers to be appropriate.

SEC. 11009. JAMES GUELFF AND CHRIS McCURLEY BODY ARMOR ACT OF 2002.

James Guelff and Chris McCurley Body Armor Act of 2002. 42 USC 3796*ll*–3.

(a) SHORT TITLE.—This section may be cited as the "James Guelff and Chris McCurley Body Armor Act of 2002".

(b) FINDINGS.—Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 1,500 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

(c) DEFINITIONS.—In this section:

(1) BODY ARMOR.—The term "body armor" means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) LAW ENFORCEMENT AGENCY.—The term "law enforcement agency" means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) LAW ENFORCEMENT OFFICER.—The term "law enforcement officer" means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(d) AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18, United States Code) or drug trafficking crime (as defined in section 924(c) of title 18, United States Code) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.

(2) SENSE OF CONGRESS.—It is the sense of Congress that any sentencing enhancement under this subsection should be at least 2 levels.

(e) PROHIBITION OF PURCHASE, USE, OR POSSESSION OF BODY ARMOR BY VIOLENT FELONS.—

(1) DEFINITION OF BODY ARMOR.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(35) The term 'body armor' means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.".

(2) PROHIBITION.—

(A) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§ 931. Prohibition on purchase, ownership, or possession of body armor by violent felons

"(a) IN GENERAL.—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

"(1) a crime of violence (as defined in section 16); or

"(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

"(b) AFFIRMATIVE DEFENSE.—

"(1) IN GENERAL.—It shall be an affirmative defense under this section that—

"(A) the defendant obtained prior written certification from his or her employer that the defendant's purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

"(B) the use and possession by the defendant were limited to the course of such performance.

"(2) EMPLOYER.—In this subsection, the term 'employer' means any other individual employed by the defendant's business that supervises defendant's activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.".

(B) CLERICAL AMENDMENT.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"931. Prohibition on purchase, ownership, or possession of body armor by violent felons.".

(3) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

"(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both.".

(f) DONATION OF FEDERAL SURPLUS BODY ARMOR.—

(1) DEFINITIONS.—In this subsection, the terms "Federal agency" and "surplus property" have the meanings given such terms under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(2) DONATION OF BODY ARMOR.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the head of a Federal agency may donate body armor directly to any State or local law enforcement agency, if such body armor—

(A) is in serviceable condition;

(B) is surplus property; and

(C) meets or exceeds the requirements of National Institute of Justice Standard 0101.03 (as in effect on the date of enactment of this Act).

(3) NOTICE TO ADMINISTRATOR.—The head of a Federal agency who donates body armor under this subsection shall submit to the Administrator of General Services a written notice identifying the amount of body armor donated and each State or local law enforcement agency that received the body armor.

(4) DONATION BY CERTAIN OFFICERS.—

(A) DEPARTMENT OF JUSTICE.—In the administration of this subsection with respect to the Department of Justice, in addition to any other officer of the Department of Justice designated by the Attorney General, the following officers may act as the head of a Federal agency:

(i) The Administrator of the Drug Enforcement Administration.

(ii) The Director of the Federal Bureau of Investigation.

(iii) The Commissioner of the Immigration and Naturalization Service.

(iv) The Director of the United States Marshals Service.

(B) DEPARTMENT OF THE TREASURY.—In the administration of this subsection with respect to the Department of the Treasury, in addition to any other officer of the Department of the Treasury designated by the Secretary of the Treasury, the following officers may act as the head of a Federal agency:

(i) The Director of the Bureau of Alcohol, Tobacco, and Firearms.

(ii) The Commissioner of Customs.

(iii) The Director of the United States Secret Service.

(5) NO LIABILITY.—Notwithstanding any other provision of law, the United States shall not be liable for any harm occurring in connection with the use or misuse of any body armor donated under this subsection.

SEC. 11010. PERSONS AUTHORIZED TO SERVE SEARCH WARRANT.

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

"(g) PRESENCE OF OFFICER NOT REQUIRED.—Notwithstanding section 3105 of this title, the presence of an officer shall not be required for service or execution of a search warrant issued in accordance with this chapter requiring disclosure by a provider of electronic communications service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.".

SEC. 11011. STUDY ON REENTRY, MENTAL ILLNESS, AND PUBLIC SAFETY. 42 USC 3796ii note.

(a) STUDY.—The Attorney General shall commission a study of offenders, or a sampling of such offenders, with mental illness released from prison or jail in 2 or more jurisdictions, including at least 1 State or local and 1 Federal, to determine the extent to which participation in public benefit programs correlates with successful reentry and improved public safety.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives— Deadline.

(1) a report detailing the results of the study conducted under subsection (a) with findings that address—

(A) the number of offenders with mental illness released from the prison or jail who qualify for medicaid, SSI, or SSDI;

(B) the number of offenders with mental illness who qualify for medicaid, SSI, or SSDI benefits and who are enrolled in these programs upon release from prison or jail; and

(C) how enrollment in medicaid, SSI, or SSDI affects—

(i) rearrest;

(ii) violation of condition(s) of release;

(iii) reincarceration;

(iv) rehospitalization;

(v) the length of time upon release from prison or jail time to the first contact with a mental health or substance abuse service; and

(vi) the number of contacts with a mental health or substance abuse services within the first 90 days of release; and

(2) any recommendations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as necessary to conduct the study and issue the report required by this section.

SEC. 11012. TECHNICAL AMENDMENT TO OMNIBUS CRIME CONTROL ACT.

Section 802(b) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended in the first sentence by striking "U," and inserting "T,". 42 USC 3783.

SEC. 11013. DEBT COLLECTION IMPROVEMENT.

(a) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, or any other statute affecting the crediting of collections, the Attorney General may credit, as an offsetting collection, to the Department of Justice Working Capital Fund up to 3 percent of all amounts collected pursuant to civil debt collection litigation activities of the Department of Justice. Such amounts in the Working Capital Fund shall remain available until expended and shall be subject to the terms and conditions of that fund, and shall be used first, for paying the costs of processing and tracking civil and criminal debt-collection litigation, and, thereafter, for financial systems and for debt-collection-related personnel, administrative, and litigation expenses. 28 USC 527 note.

(b) CONFORMING AMENDMENT.—Section 108 of Public Law 103–121 is repealed. 28 USC 527 note.

SEC. 11014. SCAAP AUTHORIZATION.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking ", of which" and all that follows through "2000" and inserting "in fiscal years 2003 and 2004".

28 USC 519 note.

SEC. 11015. USE OF ANNUITY BROKERS IN STRUCTURED SETTLEMENTS.

Deadline.

(a) ESTABLISHMENT AND TRANSMISSION OF LIST OF APPROVED ANNUITY BROKERS.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall establish a list of annuity brokers who meet minimum qualifications for providing annuity brokerage services in connection with structured settlements entered by the United States. This list shall be updated upon request by any annuity broker that meets the minimum qualifications for inclusion on the list. The Attorney General shall transmit such list, and any updates to such list, to all United States Attorneys.

(b) AUTHORITY TO SELECT ANNUITY BROKER FOR STRUCTURED SETTLEMENTS.—In any structured settlement that is not negotiated exclusively through the Civil Division of the Department of Justice, the United States Attorney (or his designee) involved in any settlement negotiations shall have the exclusive authority to select an annuity broker from the list of such brokers established by the Attorney General, provided that all documents related to any settlement comply with Department of Justice requirements.

SEC. 11016. INS PROCESSING FEES.

The Immigration and Nationality Act is amended—

(1) in section 344(c) (8 U.S.C. 1455(c)), by striking "All" and inserting "Except as provided by section 286(q)(2) or any other law, all"; and

(2) in section 286(q)(2) (8 U.S.C. 1356(q)(2)), by inserting ", including receipts for services performed in processing forms I–94, I–94W, and I–68, and other similar applications processed at land border ports of entry," after "subsection".

18 USC 4202 note.

SEC. 11017. UNITED STATES PAROLE COMMISSION EXTENSION.

(a) EXTENSION OF THE PAROLE COMMISSION.—For purposes of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as such section relates to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to "fifteen years" or "fifteen-year period" shall be deemed to be a reference to "eighteen years" or "eighteen-year period", respectively.

Deadline.

(b) STUDY BY ATTORNEY GENERAL.—The Attorney General, not later than 60 days after the enactment of this Act, should establish a committee within the Department of Justice to evaluate the merits and feasibility of transferring the United States Parole Commission's functions regarding the supervised release of District of Columbia offenders to another entity or entities outside the Department of Justice. This committee should consult with the District of Columbia Superior Court and the District of Columbia Court Services and Offender Supervision Agency, and should report its findings and recommendations to the Attorney General. The Attorney General, in turn, should submit to Congress, not later than 18 months after the enactment of this Act, a long-term plan

Deadline.

for the most effective and cost-efficient assignment of responsibilities relating to the supervised release of District of Columbia offenders.

(c) SERVICE AS COMMISSIONER.—Notwithstanding subsection (a), the final clause of the fourth sentence of section 4202 of title 18, United States Code, which begins "except that", shall not apply to a person serving as a Commissioner of the United States Parole Commission when this Act takes effect.

SEC. 11018. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) INCREASE IN NUMERICAL LIMITATION ON WAIVERS REQUESTED BY STATES.—Section 214(l)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(B)) is amended by striking "20;" and inserting "30;".

(b) EXTENSION OF DEADLINE.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "2002." and inserting "2004.".

(c) TECHNICAL CORRECTION.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended by striking "214(k):" and inserting "214(l):".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if this Act were enacted on May 31, 2002. 8 USC 1182 note.

SEC. 11019. PRETRIAL DISCLOSURE OF EXPERT TESTIMONY RELATING TO DEFENDANT'S MENTAL CONDITION.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure that are embraced by an order entered by the Supreme Court of the United States on April 29, 2002, shall take effect on December 1, 2002, as otherwise provided by law, but with the amendments made in subsection (b). 28 USC 2074 note.

(b) PRETRIAL DISCLOSURE OF EXPERT TESTIMONY.—Rule 16 of the Federal Rules of Criminal Procedure is amended— 18 USC app.

(1) in subdivision (a)(1), by amending subparagraph (G) to read as follows:

"(G) EXPERT WITNESSES.—At the defendant's request, the government must give to the defendant a written summary of any testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial. If the government requests discovery under subdivision (b)(1)(C)(ii) and the defendant complies, the government must, at the defendant's request, give to the defendant a written summary of testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial on the issue of the defendant's mental condition. The summary provided under this subparagraph must describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications."; and

(2) in subdivision (b)(1), by amending subparagraph (C) to read as follows:

"(C) EXPERT WITNESSES.—The defendant must, at the government's request, give to the government a written summary of any testimony that the defendant intends to

use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial, if—

"(i) the defendant requests disclosure under subdivision (a)(1)(G) and the government complies; or

"(ii) the defendant has given notice under Rule 12.2(b) of an intent to present expert testimony on the defendant's mental condition.

This summary must describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications".

18 USC app.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on December 1, 2002.

Multiparty, Multiforum Trial Jurisdiction Act of 2002.
28 USC 1 note.

SEC. 11020. MULTIPARTY, MULTIFORUM TRIAL JURISDICTION ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the "Multiparty, Multiforum Trial Jurisdiction Act of 2002".

(b) MULTIPARTY, MULTIFORUM JURISDICTION OF DISTRICT COURTS.—

(1) BASIS OF JURISDICTION.—

(A) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1369. Multiparty, multiforum jurisdiction

"(a) IN GENERAL.—The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 75 natural persons have died in the accident at a discrete location, if—

"(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

"(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

"(3) substantial parts of the accident took place in different States.

"(b) LIMITATION OF JURISDICTION OF DISTRICT COURTS.—The district court shall abstain from hearing any civil action described in subsection (a) in which—

"(1) the substantial majority of all plaintiffs are citizens of a single State of which the primary defendants are also citizens; and

"(2) the claims asserted will be governed primarily by the laws of that State.

"(c) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

"(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

"(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is

deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

"(3) the term 'injury' means—

"(A) physical harm to a natural person; and

"(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

"(4) the term 'accident' means a sudden accident, or a natural event culminating in an accident, that results in death incurred at a discrete location by at least 75 natural persons; and

"(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(d) INTERVENING PARTIES.—In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

"(e) NOTIFICATION OF JUDICIAL PANEL ON MULTIDISTRICT LITIGATION.—A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.".

(B) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1369. Multiparty, multiforum jurisdiction.".

(2) VENUE.—Section 1391 of title 28, United States Code, is amended by adding at the end the following:

"(g) A civil action in which jurisdiction of the district court is based upon section 1369 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.".

(3) REMOVAL OF ACTIONS.—Section 1441 of title 28, United States Code, is amended—

(A) in subsection (e) by striking "(e) The court to which such civil action is removed" and inserting "(f) The court to which a civil action is removed under this section"; and

(B) by inserting after subsection (d) the following new subsection:

"(e)(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

"(A) the action could have been brought in a United States district court under section 1369 of this title; or

"(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1369 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1369 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.

"(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(j) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

"(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination shall not be subject to further review by appeal or otherwise.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) An action removed under this subsection shall be deemed to be an action under section 1369 and an action in which jurisdiction is based on section 1369 of this title for purposes of this section and sections 1407, 1697, and 1785 of this title.

"(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.".

(4) SERVICE OF PROCESS.—

(A) OTHER THAN SUBPOENAS.—(i) Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1697. Service in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(ii) The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

"1697. Service in multiparty, multiforum actions.".

(B) SERVICE OF SUBPOENAS.—(i) Chapter 117 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1785. Subpoenas in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(ii) The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following new item:

"1785. Subpoenas in multiparty, multiforum actions.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

28 USC 1369 note.

SEC. 11021. ADDITIONAL PLACE OF HOLDING COURT IN THE SOUTHERN DISTRICT OF OHIO.

Section 115(b)(2) of title 28, United States Code, is amended by inserting "St. Clairsville," after "Columbus,".

SEC. 11022. DIRECT SHIPMENT OF WINE.

27 USC 124.

(a) CONDITIONS FOR TRANSPORTING CERTAIN WINE.—During any period in which the Federal Aviation Administration has in effect restrictions on airline passengers to ensure safety, the direct shipment of wine shall be permitted from States where wine is purchased from a winery, to another State or the District of Columbia, if—

(1) the wine was purchased while the purchaser was physically present at the winery;

(2) the purchaser of the wine provided the winery verification of legal age to purchase alcohol;

(3) the shipping container in which the wine is shipped is marked to require an adult's signature upon delivery;

(4) the wine is for personal use only and not for resale; and

(5) the purchaser could have carried the wine lawfully into the State or the District of Columbia to which the wine is shipped.

(b) VIOLATIONS.—If any person fails to meet any of the conditions under subsection (a), the attorney general of any State may bring a civil action under the same terms as those set out in section 2 of the Act entitled "An Act divesting intoxicating liquors of their interstate character in certain cases", approved March 1, 1913 (commonly known as the "Webb-Kenyon Act") (27 U.S.C. 122a).

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, and at 2-year intervals thereafter, the Attorney General of the United States, in consultation with the Administrator of the Federal Aviation Administration, shall prepare and submit to the Committee on the Judiciary of the Senate and to the Committee on the Judiciary of the House of Representatives a report on the implementation of this section.

Deadline.

28 USC 532 note.

Deadline.

SEC. 11023. WEBSTER COMMISSION IMPLEMENTATION REPORT.

(a) IMPLEMENTATION PLAN.—Not later than 6 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a plan for implementation of the recommendations of the Commission for Review of FBI Security Programs, dated March 31, 2002, including the costs of such implementation.

(b) ANNUAL REPORTS.—On the date that is 1 year after the submission of the plan described in subsection (a), and for 2 years thereafter, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a report on the implementation of such plan.

(c) APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of this section, the term "appropriate Committees of Congress" means—

(1) the Committees on the Judiciary of the Senate and the House of Representatives;

(2) the Committees on Appropriations of the Senate and the House of Representatives;

(3) the Select Committee on Intelligence of the Senate; and

(4) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 11024. FBI POLICE.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§ 540C. FBI Police

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR.—The term "Director" means the Director of the Federal Bureau of Investigation.

"(2) FBI BUILDINGS AND GROUNDS.—

"(A) IN GENERAL.—The term "FBI buildings and grounds" means—

"(i) the whole or any part of any building or structure which is occupied under a lease or otherwise by the Federal Bureau of Investigation and is subject to supervision and control by the Federal Bureau of Investigation;

"(ii) the land upon which there is situated any building or structure which is occupied wholly by the Federal Bureau of Investigation; and

"(iii) any enclosed passageway connecting 2 or more buildings or structures occupied in whole or in part by the Federal Bureau of Investigation.

"(B) INCLUSION.—The term "FBI buildings and grounds" includes adjacent streets and sidewalks not to exceed 500 feet from such property.

"(3) FBI POLICE.—The term "FBI police" means the permanent police force established under subsection (b).

"(b) ESTABLISHMENT OF FBI POLICE; DUTIES.—

"(1) IN GENERAL.—Subject to the supervision of the Attorney General, the Director may establish a permanent police force, to be known as the FBI police.

"(2) DUTIES.—The FBI police shall perform such duties as the Director may prescribe in connection with the protection of persons and property within FBI buildings and grounds.

"(3) UNIFORMED REPRESENTATIVE.—The Director, or designated representative duly authorized by the Attorney General, may appoint uniformed representatives of the Federal Bureau of Investigation as FBI police for duty in connection with the policing of all FBI buildings and grounds.

"(4) AUTHORITY.—

"(A) IN GENERAL.—In accordance with regulations prescribed by the Director and approved by the Attorney General, the FBI police may—

"(i) police the FBI buildings and grounds for the purpose of protecting persons and property;

"(ii) in the performance of duties necessary for carrying out subparagraph (A), make arrests and otherwise enforce the laws of the United States, including the laws of the District of Columbia;

"(iii) carry firearms as may be required for the performance of duties;

"(iv) prevent breaches of the peace and suppress affrays and unlawful assemblies; and

"(v) hold the same powers as sheriffs and constables when policing FBI buildings and grounds.

"(B) EXCEPTION.—The authority and policing powers of FBI police under this paragraph shall not include the service of civil process.

"(5) PAY AND BENEFITS.—

"(A) IN GENERAL.—The rates of basic pay, salary schedule, pay provisions, and benefits for members of the FBI police shall be equivalent to the rates of basic pay, salary schedule, pay provisions, and benefits applicable to members of the United States Secret Service Uniformed Division.

"(B) APPLICATION.—Pay and benefits for the FBI police under subparagraph (A)—

"(i) shall be established by regulation;

"(ii) shall apply with respect to pay periods beginning after January 1, 2003; and

"(iii) shall not result in any decrease in the rates of pay or benefits of any individual.

"(c) AUTHORITY OF METROPOLITAN POLICE FORCE.—This section does not affect the authority of the Metropolitan Police Force of the District of Columbia with respect to FBI buildings and grounds.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 33 of title 28, United States Code, is amended by adding at the end the following new item:

"540C. FBI police.".

SEC. 11025. REPORT ON FBI INFORMATION MANAGEMENT AND TECHNOLOGY.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation, with appropriate comments from other components of the Department of Justice, shall submit to Congress a report on the information management and technology programs of the Federal

Deadline.

Bureau of Investigation including recommendations for any legislation that may be necessary to enhance the effectiveness of those programs.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall provide—

(1) an analysis and evaluation of whether authority for waiver of any provision of procurement law (including any regulation implementing such a law) is necessary to expeditiously and cost-effectively acquire information technology to meet the unique needs of the Federal Bureau of Investigation to improve its investigative operations in order to respond better to national law enforcement, intelligence, and counterintelligence requirements;

(2) the results of the studies and audits conducted by the Strategic Management Council and the Inspector General of the Department of Justice to evaluate the information management and technology programs of the Federal Bureau of Investigation, including systems, policies, procedures, practices, and operations; and

(3) a plan for improving the information management and technology programs of the Federal Bureau of Investigation.

(c) RESULTS.—The results provided under subsection (b)(2) shall include an evaluation of—

(1) information technology procedures and practices regarding procurement, training, and systems maintenance;

(2) record keeping policies, procedures, and practices of the Federal Bureau of Investigation, focusing particularly on how information is inputted, stored, managed, utilized, and shared within the Federal Bureau of Investigation;

(3) how information in a given database is related or compared to, or integrated with, information in other technology databases within the Federal Bureau of Investigation;

(4) the effectiveness of the existing information technology infrastructure of the Federal Bureau of Investigation in supporting and accomplishing the overall mission of the Federal Bureau of Investigation;

(5) the management of information technology projects of the Federal Bureau of Investigation, focusing on how the Federal Bureau of Investigation—

(A) selects its information technology projects;

(B) ensures that projects under development deliver benefits; and

(C) ensures that completed projects deliver the expected results; and

(6) the security and access control techniques for classified and sensitive but unclassified information systems in the Federal Bureau of Investigation.

(d) CONTENTS OF PLAN.—The plan provided under subsection (b)(3) shall include consideration of, among other things—

(1) to what extent appropriate key technology management positions in the Federal Bureau of Investigation should be filled by personnel with experience in the commercial sector;

(2) how access to the most sensitive information can be audited in such a manner that suspicious activity is subject to near contemporaneous security review;

(3) how critical information systems can employ a public key infrastructure to validate both users and recipients of messages or records;

(4) how security features can be tested to meet national information systems security standards;

(5) which employees in the Federal Bureau of Investigation should receive instruction in records and information management policies and procedures relevant to their positions and how frequently they should receive that instruction;

(6) whether and to what extent a reserve should be established for research and development to guide strategic information management and technology investment decisions;

(7) whether administrative requirements for software purchases under $2,000,000 are necessary and could be eliminated;

(8) whether the Federal Bureau of Investigation should contract with an expert technology partner to provide technical support for the information technology procurement for the Federal Bureau of Investigation;

(9) whether procedures should be implemented to permit procurement of products and services through contracts of other agencies, as necessary; and

(10) whether a systems integration and test center should be established, with the participation of field personnel, to test each series of information systems upgrades or application changes before their operational deployment to confirm that they meet proper requirements.

SEC. 11026. GAO REPORT ON CRIME STATISTICS REPORTING.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the issue of how statistics are reported and used by Federal law enforcement agencies. Deadline.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) identify the current regulations, procedures, internal policies, or other conditions that allow the investigation or arrest of an individual to be claimed or reported by more than 1 Federal or State agency charged with law enforcement responsibility;

(2) identify and examine the conditions that allow the investigation or arrest of an individual to be claimed or reported by the Offices of Inspectors General and any other Federal agency charged with law enforcement responsibility;

(3) examine the statistics reported by Federal law enforcement agencies, and document those instances in which more than 1 agency, bureau, or office claimed or reported the same investigation or arrest during the years 1998 through 2001;

(4) examine the issue of Federal agencies simultaneously claiming arrest credit for in-custody situations that have already occurred pursuant to a State or local agency arrest situation during the years 1998 through 2001;

(5) examine the issue of how such statistics are used for administrative and management purposes;

(6) set forth a comprehensive definition of the terms "investigation" and "arrest" as those terms apply to Federal agencies charged with law enforcement responsibilities; and

(7) include recommendations, that when implemented, would eliminate unwarranted and duplicative reporting of investigation and arrest statistics by all Federal agencies charged with law enforcement responsibilities.

(c) FEDERAL AGENCY COMPLIANCE.—Federal law enforcement agencies shall comply with requests made by the General Accounting Office for information that is necessary to assist in preparing the report required by this section.

Crime-Free Rural States Act of 2002.
42 USC 3711 note.

SEC. 11027. CRIME-FREE RURAL STATES GRANTS.

(a) SHORT TITLE.—This section may be cited as the "Crime-Free Rural States Act of 2002".

(b) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after part FF the following new part:

"PART GG—CRIME FREE RURAL STATE GRANTS

42 USC 3797y.

"SEC. 2985. GRANT AUTHORITY.

"The Attorney General shall award grants to rural State criminal justice agencies, Byrne agencies, or other agencies as designated by the Governor of that State and approved by the Attorney General, to develop rural States' capacity to assist local communities in the prevention and reduction of crime, violence, and substance abuse.

42 USC 3797y–1.

"SEC. 2986. USE OF FUNDS.

"(a) IN GENERAL.—A capacity building grant shall be used to develop a statewide strategic plan as described in section 2987 to prevent and reduce crime, violence, and substance abuse.

"(b) PERMISSIVE USE.—A rural State may also use its grant to provide training and technical assistance to communities and promote innovation in the development of policies, technologies, and programs to prevent and reduce crime.

"(c) DATA COLLECTION.—A rural State may use up to 5 percent of the grant to assist grant recipients in collecting statewide data related to the costs of crime, violence, and substance abuse for purposes of supporting the statewide strategic plan.

42 USC 3797y–2.

"SEC. 2987. STATEWIDE STRATEGIC PREVENTION PLAN.

"(a) IN GENERAL.—A statewide strategic prevention plan shall be used by the rural State to assist local communities, both directly and through existing State programs and services, in building comprehensive, strategic, and innovative approaches to reducing crime, violence, and substance abuse based on local conditions and needs.

"(b) GOALS.—The plan must contain statewide long-term goals and measurable annual objectives for reducing crime, violence, and substance abuse.

"(c) ACCOUNTABILITY.—The rural State shall be required to develop and report in its plan relevant performance targets and measures for the goals and objectives to track changes in crime, violence, and substance abuse.

"(d) CONSULTATION.—The rural State shall form a State crime free communities commission that includes representatives of State and local government, and community leaders who will provide advice and recommendations on relevant community goals and objectives, and performance targets and measures.

"SEC. 2988. REQUIREMENTS. 42 USC 3797y–3.

"(a) TRAINING AND TECHNICAL ASSISTANCE.—The rural State shall provide training and technical assistance, including through such groups as the National Crime Prevention Council, to assist local communities in developing Crime Prevention Plans that reflect statewide strategic goals and objectives, and performance targets and measures.

"(b) REPORTS.—The rural State shall provide a report on its statewide strategic plan to the Attorney General, including information about—

"(1) involvement of relevant State-level agencies to assist communities in the development and implementation of their Crime Prevention Plans;

"(2) support for local applications for Community Grants; and

"(3) community progress toward reducing crime, violence, and substance abuse.

"(c) CERTIFICATION.—Beginning in the third year of the program, States must certify that the local grantee's project funded under the community grant is generally consistent with statewide strategic goals and objectives, and performance targets and measures.

"SEC. 2989. AUTHORIZATION OF APPROPRIATIONS. 42 USC 3797y–4.

"There are authorized to be appropriated $10,000,000 to carry out this part for each of fiscal years 2003, 2004, and 2005.".

(c) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part FF the following:

"PART GG—CRIME FREE RURAL STATE GRANTS

"Sec. 2985. Grant authority.
"Sec. 2986. Use of funds.
"Sec. 2987. Statewide strategic prevention plan.
"Sec. 2988. Requirements.
"Sec. 2989. Authorization of appropriations.".

SEC. 11028. MOTOR VEHICLE FRANCHISE CONTRACT DISPUTE RESOLUTION PROCESS. 15 USC 1226.

(a) ELECTION OF ARBITRATION.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term "motor vehicle" has the meaning given such term in section 30102(6) of title 49 of the United States Code; and

(B) the term "motor vehicle franchise contract" means a contract under which a motor vehicle manufacturer, importer, or distributor sells motor vehicles to any other person for resale to an ultimate purchaser and authorizes such other person to repair and service the manufacturer's motor vehicles.

(2) CONSENT REQUIRED.—Notwithstanding any other provision of law, whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a controversy arising out of or relating to such contract, arbitration may be used to settle such controversy only if after such controversy arises all parties to such controversy consent in writing to use arbitration to settle such controversy.

(3) EXPLANATION REQUIRED.—Notwithstanding any other provision of law, whenever arbitration is elected to settle a dispute under a motor vehicle franchise contract, the arbitrator shall provide the parties to such contract with a written explanation of the factual and legal basis for the award.

(b) APPLICATION.—Subsection (a) shall apply to contracts entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this Act.

28 USC 95 note.

SEC. 11029. HOLDING COURT FOR THE SOUTHERN DISTRICT OF IOWA.

Notwithstanding any other provision of law, during the period beginning on January 1, 2003, through July 1, 2005, the United States District Court for the Southern District of Iowa may—

(1) with the consent of the parties in any case filed in the Eastern Division or the Davenport Division of the Southern District of Iowa, hold court on that case in Rock Island, Illinois; and

(2) summon jurors from the Southern District of Iowa to serve in any case described under paragraph (1).

Posthumous Citizenship Restoration Act of 2002.
8 USC 1101 note.

SEC. 11030. POSTHUMOUS CITIZENSHIP RESTORATION.

(a) SHORT TITLE.—This section may be cited as the "Posthumous Citizenship Restoration Act of 2002".

(b) DEADLINE EXTENSION.—Section 329A(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1440–1(c)(1)(A)) is amended by striking "this section," and inserting "the Posthumous Citizenship Restoration Act of 2002,".

SEC. 11030A. EXTENSION OF H–1B STATUS FOR ALIENS WITH LENGTHY ADJUDICATIONS.

(a) EXEMPTION FROM LIMITATION.—Section 106(a) of American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended to read as follows:

"(a) EXEMPTION FROM LIMITATION.—The limitation contained in section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act (8 U.S.C.1101(a)(15)(H)(i)(b)), if 365 days or more have elapsed since the filing of any of the following:

"(1) Any application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)), in a case in which certification is required or used by the alien to obtain status under section 203(b) of such Act (8 U.S.C. 1153(b)).

"(2) A petition described in section 204(b) of such Act (3 U. S.C. 1154(b)) to accord the alien a status under section 203(b) of such Act.".

(b) EXTENSION OF H–1B WORKER STATUS.—Section 106(b) of American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended to read as follows:

"(b) EXTENSION OF H–1B WORKER STATUS.—The Attorney General shall extend the stay of an alien who qualifies for an exemption under subsection (a) in one-year increments until such time as a final decision is made—

"(1) to deny the application described in subsection (a)(1), or, in a case in which such application is granted, to deny a petition described in subsection (a)(2) filed on behalf of the alien pursuant to such grant;

"(2) to deny the petition described in subsection (a)(2); or

"(3) to grant or deny the alien's application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence.".

SEC. 11030B. APPLICATION FOR NATURALIZATION BY ALTERNATIVE APPLICANT IF CITIZEN PARENT HAS DIED.

Section 322(a) of the Immigration and Nationality Act (8 U.S.C. 1433(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting "(or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian)" after "citizen of the United States"; and

(B) by striking "such parent" and inserting "such applicant";

(2) in paragraph (1), by inserting "(or, at the time of his or her death, was)" after "parent";

(3) in paragraph (2)—

(A) in subparagraph (A), by inserting "(or, at the time of his or her death, had)" after "has"; and

(B) in subparagraph (B), by inserting "(or, at the time of his or her death, had)" after "has" the first place such term appears;

(4) by amending paragraph (4), to read as follows:

"(4) The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).''; and

(5) by adding at the end the following:

"(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.".

Subtitle B—EB–5 Amendments

CHAPTER 1—IMMIGRATION BENEFITS

SEC. 11031. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN. 8 USC 1186b note.

(a) IN GENERAL.—In lieu of the provisions of section 216A(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)), subsection (c) shall apply in the case of an eligible alien described in subsection (b)(1).

(b) ELIGIBLE ALIENS DESCRIBED.—

(1) IN GENERAL.—An alien is an eligible alien described in this subsection if the alien—

(A) filed, under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), a petition to accord the alien a status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)) that was approved by the Attorney General after January 1, 1995, and before August 31, 1998;

(B) pursuant to such approval, obtained the status of an alien entrepreneur with permanent resident status on a conditional basis described in section 216A of such Act (8 U.S.C. 1186b); and

(C) timely filed, in accordance with section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) and before the date of the enactment of this Act, a petition requesting the removal of such conditional basis.

(2) REOPENING PETITIONS PREVIOUSLY DENIED.—

(A) IN GENERAL.—In the case of a petition described in paragraph (1)(C) that was denied under section 216A(c)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)(C)) before the date of the enactment of this Act, upon a motion to reopen such petition filed by the eligible alien not later than 60 days after such date, the Attorney General shall make determinations on such petition pursuant to subsection (c).

(B) PETITIONERS ABROAD.—In the case of such an eligible alien who is no longer physically present in the United States, the Attorney General shall establish a process under which the alien may be paroled into the United States if necessary in order to obtain the determinations under subsection (c), unless the Attorney General finds that—

(i) the alien is inadmissible or deportable on any ground; or

(ii) the petition described in paragraph (1)(C) was denied on the ground that it contains a material misrepresentation in the facts and information described in section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) and alleged in the petition with respect to a commercial enterprise.

(C) DEPORTATION OR REMOVAL PROCEEDINGS.—In the case of such an eligible alien who was placed in deportation or removal proceedings by reason of the denial of the petition described in paragraph (1)(C), a motion to reopen filed under subparagraph (A) shall be treated as a motion to reopen such proceedings. The Attorney General shall grant such motion notwithstanding any time and number limitations imposed by law on motions to reopen such proceedings, except that the scope of any proceeding reopened on this basis shall be limited to whether any order of deportation or removal should be vacated, and the alien granted the status of an alien lawfully admitted for permanent residence (unconditionally or on a conditional basis), by reason of the determinations made under subsection (c). An alien who is inadmissible or deportable on any ground shall not be granted such status, except that this prohibition shall not apply to an alien who has been paroled into the United States under subparagraph (B).

(c) DETERMINATIONS ON PETITIONS.—

(1) INITIAL DETERMINATION.—

(A) IN GENERAL.—With respect to each eligible alien described in subsection (b)(1), the Attorney General shall make a determination, not later than 180 days after the date of the enactment of this Act, whether— Deadline.

(i) the petition described in subsection (b)(1)(C) contains any material misrepresentation in the facts and information described in section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) and alleged in the petition with respect to a commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation);

(ii) subject to subparagraphs (B) and (C), such enterprise created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the eligible alien and the alien's spouse, sons, or daughters), and those jobs exist or existed on any of the dates described in subparagraph (D); and

(iii) on any of the dates described in subparagraph (D), the alien is in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)).

(B) INVESTMENT UNDER PILOT IMMIGRATION PROGRAM.—For purposes of subparagraph (A)(ii), an investment that satisfies the requirements of section 610(c) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note), as in effect on the date of the enactment of this Act, shall be deemed to satisfy the requirements of such subparagraph.

(C) EXCEPTION FOR TROUBLED BUSINESSES.—In the case of an eligible alien who has made a capital investment in a troubled business (as defined in 8 CFR 204.6(e), as in effect on the date of the enactment of this Act), in lieu of the determination under subparagraph (A)(ii), the Attorney General shall determine whether the number of employees of the business, as measured on any of the dates described in subparagraph (D), is at no less than the pre-investment level.

(D) DATES.—The dates described in this subparagraph the following:

(i) The date on which the petition described in subsection (b)(1)(C) is filed.

(ii) 6 months after the date described in clause (i).

(iii) The date on which the determination under subparagraph (A) or (C) is made.

(E) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General renders an affirmative determination with respect to clauses (ii) and (iii) of subparagraph (A), and if the Attorney General renders a negative determination with respect to clause (i)

of such subparagraph, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the alien's lawful admission for permanent residence.

(F) REQUIREMENTS RELATING TO ADVERSE DETERMINATIONS.—

(i) NOTICE.—If the Attorney General renders an adverse determination with respect to clause (i), (ii), or (iii) of subparagraph (A), the Attorney General shall so notify the alien involved. The notice shall be in writing and shall state the factual basis for any adverse determination. The Attorney General shall provide the alien with an opportunity to submit evidence to rebut any adverse determination. If the Attorney General reverses all adverse determinations pursuant to such rebuttal, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the alien's lawful admission for permanent residence.

(ii) CONTINUATION OF CONDITIONAL BASIS IF CERTAIN ADVERSE DETERMINATIONS.—If the Attorney General renders an adverse determination with respect to clause (ii) or (iii) of subparagraph (A), and the eligible alien's rebuttal does not cause the Attorney General to reverse such determination, the Attorney General shall continue the conditional basis of the alien's permanent resident status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) for a 2-year period.

(iii) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General renders an adverse determination with respect to subparagraph (A)(i), and the eligible alien's rebuttal does not cause the Attorney General to reverse such determination, the Attorney General shall so notify the alien involved and, subject to subsection (d), shall terminate the permanent resident status of the alien (and that of the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.—An alien may seek administrative review of an adverse determination made under subparagraph (A) by filing a petition for such review with the Board of Immigration Appeals. If the Board of Immigration Appeals denies the petition, the alien may seek judicial review. The procedures for judicial review under this clause shall be the same as the procedures for judicial review of a final order of removal under section 242(a)(1) of the Immigration and Nationality Act (8 U.S.C.

1252(a)(1)). During the period in which an administrative or judicial appeal under this clause is pending, the Attorney General shall continue the conditional basis of the alien's permanent resident status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(2) SECOND DETERMINATION.—

(A) AUTHORIZATION TO CONSIDER INVESTMENTS IN OTHER COMMERCIAL ENTERPRISES.—In determining under this paragraph whether to remove a conditional basis continued under paragraph (1)(F)(ii) with respect to an alien, the Attorney General shall consider any capital investment made by the alien in a commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation), in the United States, regardless of whether that investment was made before or after the determinations under paragraph (1) and regardless of whether the commercial enterprise is the same as that considered in the determinations under such paragraph, if facts and information with respect to the investment and the enterprise are included in the petition submitted under subparagraph (B).

(B) PETITION.—In order for a conditional basis continued under paragraph (1)(F)(ii) for an eligible alien (and the alien's spouse and children) to be removed, the alien must submit to the Attorney General, during the period described in subparagraph (C), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subparagraphs (A) and (B) of section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) with respect to any commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation) which the alien desires to have considered under this paragraph, regardless of whether such enterprise was created before or after the determinations made under paragraph (1).

(C) PERIOD FOR FILING PETITION.—

(i) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—Except as provided in clause (ii), the petition under subparagraph (B) must be filed during the 90-day period before the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in clause (i).

(D) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION.—

(i) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under paragraph (1)(F)(ii), if no petition is filed with respect to the alien in accordance with subparagraph (B), the Attorney General shall terminate the permanent resident status of the alien (and the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) HEARING IN REMOVAL PROCEEDING.—In any removal proceeding with respect to an alien whose permanent resident status is terminated under clause (i), the burden of proof shall be on the alien to establish compliance with subparagraph (B).

(E) DETERMINATIONS AFTER PETITION.—If a petition is filed by an eligible alien in accordance with subparagraph (B), the Attorney General shall make a determination, within 90 days of the date of such filing, whether—

(i) the petition contains any material misrepresentation in the facts and information alleged in the petition with respect to the commercial enterprises included in such petition;

(ii) all such enterprises, considered together, created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the eligible alien and the alien's spouse, sons, or daughters), and those jobs exist on the date on which the determination is made, except that—

(I) this clause shall apply only if the Attorney General made an adverse determination with respect to the eligible alien under paragraph (1)(A)(ii);

(II) the provisions of subparagraphs (B) and (C) of paragraph (1) shall apply to a determination under this clause in the same manner as they apply to a determination under paragraph (1)(A)(ii); and

(III) if the Attorney General determined under paragraph (1)(A)(ii) that any jobs satisfying the requirement of such paragraph were created, the number of those jobs shall be subtracted from the number of jobs otherwise needed to satisfy the requirement of this clause; and

(iii) considering all such enterprises together, on the date on which the determination is made, the eligible alien is in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)), except that—

(I) this clause shall apply only if the Attorney General made an adverse determination with

respect to the eligible alien under paragraph (1)(A)(iii); and

(II) if the Attorney General determined under paragraph (1)(A)(iii) that any capital amount was invested that could be credited towards compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)), such amount shall be subtracted from the amount of capital otherwise needed to satisfy the requirement of this clause.

(F) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General renders an affirmative determination with respect to clauses (ii) and (iii) of subparagraph (E), and if the Attorney General renders a negative determination with respect to clause (i) of such subparagraph, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(G) REQUIREMENTS RELATING TO ADVERSE DETERMINATIONS.—

(i) NOTICE.—If the Attorney General renders an adverse determination under subparagraph (E), the Attorney General shall so notify the alien involved. The notice shall be in writing and shall state the factual basis for any adverse determination. The Attorney General shall provide the alien with an opportunity to submit evidence to rebut any adverse determination. If the Attorney General reverses all adverse determinations pursuant to such rebuttal, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) TERMINATION IF ADVERSE DETERMINATION.—If the eligible alien's rebuttal does not cause the Attorney General to reverse each adverse determination under subparagraph (E), the Attorney General shall so notify the alien involved and, subject to subsection (d), shall terminate the permanent resident status of the alien (and that of the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(d) HEARING IN REMOVAL PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1)(F)(iii)

or (2)(G)(ii) of subsection (c) may request a review of such determination in a proceeding to remove the alien. In such proceeding, the burden of proof shall be on the Attorney General.

(e) CLARIFICATION WITH RESPECT TO CHILDREN.—In the case of an alien who obtained the status of an alien lawfully admitted for permanent residence on a conditional basis before the date of the enactment of this Act by virtue of being the child of an eligible alien described in subsection (b)(1), the alien shall be considered to be a child for purposes of this section regardless of any change in age or marital status after obtaining such status.

(f) DEFINITION OF FULL-TIME.—For purposes of this section, the term "full-time" means a position that requires at least 35 hours of service per week at any time, regardless of who fills the position.

8 USC 1186b note.

SEC. 11032. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.

(a) IN GENERAL.—With respect to each eligible alien described in subsection (b), the Attorney General or the Secretary of State shall approve the application described in subsection (b)(2) and grant the alien (and any spouse or child of the alien, if the spouse or child is eligible to receive a visa under section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d))) the status of an alien lawfully admitted for permanent residence on a conditional basis under section 216A of such Act (8 U.S.C. 1186b). Such application shall be approved not later than 180 days after the date of the enactment of this Act.

(b) ELIGIBLE ALIENS DESCRIBED.—An alien is an eligible alien described in this subsection if the alien—

(1) filed, under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), a petition to accord the alien a status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)) that was approved by the Attorney General after January 1, 1995, and before August 31, 1998;

(2) pursuant to such approval, timely filed before the date of the enactment of this Act an application for adjustment of status under section 245 of such Act (8 U.S.C. 1255) or an application for an immigrant visa under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)); and

(3) is not inadmissible or deportable on any ground.

(c) TREATMENT OF CERTAIN APPLICATIONS.—

(1) REVOCATION OF APPROVAL OF PETITIONS.—If the Attorney General revoked the approval of a petition described in subsection (b)(1), such revocation shall be disregarded for purposes of this section if it was based on a determination that the alien failed to satisfy section 203(b)(5)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)(A)(ii)).

(2) APPLICATIONS NO LONGER PENDING.—

(A) IN GENERAL.—If an application described in subsection (b)(2) is not pending on the date of the enactment of this Act, the Attorney General shall disregard the circumstances leading to such lack of pendency and treat it as reopened, if such lack of pendency is due to a determination that the alien—

(i) failed to satisfy section 203(b)(5)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)(A)(ii)); or

(ii) departed the United States without advance parole.

(B) APPLICANTS ABROAD.—In the case of an eligible alien who filed an application for adjustment of status described in subsection (b)(2), but who is no longer physically present in the United States, the Attorney General shall establish a process under which the alien may be paroled into the United States if necessary in order to obtain adjustment of status under this section.

(d) RECORDATION OF DATE; REDUCTION OF NUMBERS.—Upon the approval of an application under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence on a conditional basis as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1151(d) and 1153(b)(5)) for the fiscal year then current.

(e) REMOVAL OF CONDITIONAL BASIS.—

(1) PETITION.—In order for a conditional basis established under this section for an alien (and the alien's spouse and children) to be removed, the alien must satisfy the requirements of section 216A(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(1)), including the submission of a petition in accordance with subparagraph (A) of such section. Such petition may include the facts and information described in subparagraphs (A) and (B) of section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) with respect to any commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation) in the United States in which the alien has made a capital investment at any time.

(2) DETERMINATION.—In carrying out section 216A(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)) with respect to an alien described in paragraph (1), the Attorney General, in lieu of the determination described in such section 216A(c)(3), shall make a determination, within 90 days of the date of such filing, whether— Deadline.

(A) the petition described in paragraph (1) contains any material misrepresentation in the facts and information alleged in the petition with respect to the commercial enterprises included in the petition;

(B) subject to subparagraphs (B) and (C) of section 11031(c)(1), all such enterprises, considered together, created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the alien and the alien's spouse, sons, or daughters), and those jobs exist or existed on either of the dates described in paragraph (3); and

(C) considering the alien's investments in such enterprises on either of the dates described in paragraph (3), or on both such dates, the alien is or was in substantial compliance with the capital investment requirement

described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)).

(3) DATES.—The dates described in this paragraph are the following:

(A) The date on which the application described in subsection (b)(2) was filed.

(B) The date on which the determination under paragraph (2) is made.

(f) CLARIFICATION WITH RESPECT TO CHILDREN.—In the case of an alien who was a child on the date on which the application described in subsection (b)(2) was filed, the alien shall be considered to be a child for purposes of this section regardless of any change in age or marital status after such date.

8 USC 1186b note. Deadline.

SEC. 11033. REGULATIONS.

The Immigration and Naturalization Service shall promulgate regulations to implement this chapter not later than 120 days after the date of enactment of this Act. Until such regulations are promulgated, the Attorney General shall not deny a petition filed or pending under section 216A(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(1)(A)) that relates to an eligible alien described in section 11031, or on an application filed or pending under section 245 of such Act (8 U.S.C. 1255) that relates to an eligible alien described in section 11032. Until such regulations are promulgated, the Attorney General shall not initiate or proceed with removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) that relate to an eligible alien described in section 11031 or 11032.

8 USC 1186b note.

SEC. 11034. DEFINITIONS.

Except as otherwise provided, the terms used in this chapter shall have the meaning given such terms in section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)).

CHAPTER 2—AMENDMENTS TO OTHER LAWS

SEC. 11035. DEFINITION OF "FULL-TIME EMPLOYMENT".

Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by adding at the end the following:

"(D) FULL-TIME EMPLOYMENT DEFINED.—In this paragraph, the term 'full-time employment' means employment in a position that requires at least 35 hours of service per week at any time, regardless of who fills the position.".

SEC. 11036. ELIMINATING ENTERPRISE ESTABLISHMENT REQUIREMENT FOR ALIEN ENTREPRENEURS.

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT CREATION.—Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "enterprise—" and inserting "enterprise (including a limited partnership)—";

(B) by striking clause (i); and

(C) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(2) in subparagraph (B)(i), by striking "establish" and inserting "invest in".

(b) CONDITIONAL PERMANENT RESIDENT STATUS FOR ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.—Section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A) by striking "establishment of" and inserting "investment in"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) the alien did not invest, or was not actively in the process of investing, the requisite capital; or

"(ii) the alien was not sustaining the actions described in clause (i) throughout the period of the alien's residence in the United States; or";

(2) by amending subsection (d)(1) to read as follows:

"(1) CONTENTS OF PETITION.—Each petition under subsection (c)(1)(A) shall contain facts and information demonstrating that the alien—

"(A)(i) invested, or is actively in the process of investing, the requisite capital; and

"(ii) sustained the actions described in clause (i) throughout the period of the alien's residence in the United States; and

"(B) is otherwise conforming to the requirements of section 203(b)(5).";; and

(3) by adding at the end of subsection (f) the following:

"(3) The term 'commercial enterprise' includes a limited partnership.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to aliens having any of the following petitions pending on or after the date of the enactment of this Act: 8 USC 1153 note.

(1) A petition under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), with respect to status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).

(2) A petition under section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) to remove the conditional basis of an alien's permanent resident status.

SEC. 11037. AMENDMENTS TO PILOT IMMIGRATION PROGRAM FOR REGIONAL CENTERS TO PROMOTE ECONOMIC GROWTH.

(a) PURPOSE OF PROGRAM.—Section 610(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note), is amended—

(1) by inserting after "regional center in the United States" the following: ", designated by the Attorney General on the basis of a general proposal,";

(2) by striking "and increased domestic" and inserting "or increased domestic"; and

(3) by adding at the end the following:

"A regional center shall have jurisdiction over a limited geographic area, which shall be described in the proposal and consistent with the purpose of concentrating pooled investment in defined economic zones. The establishment of a regional center may be based on general predictions, contained in the proposal, concerning the kinds of commercial enterprises that will receive capital from aliens, the jobs that will be created directly or indirectly as a result

of such capital investments, and the other positive economic effects such capital investments will have.".

8 USC 1153 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) any proposal for a regional center pending before the Attorney General (whether for an initial decision or on appeal) on or after the date of the enactment of this Act; and

(2) any of the following petitions, if filed on or after the date of the enactment of this Act:

(A) A petition under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision)(or any predecessor provision), with respect to status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).

(B) A petition under section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) to remove the conditional basis of an alien's permanent resident status.

Judicial Improvements Act of 2002.

Subtitle C—Judicial Improvements Act of 2002

28 USC 1 note.

SEC. 11041. SHORT TITLE.

This subtitle may be cited as the "Judicial Improvements Act of 2002".

SEC. 11042. JUDICIAL DISCIPLINE PROCEDURES.

(a) IN GENERAL.—Part I of title 28, United States Code, is amended by inserting after chapter 15 the following new chapter:

"CHAPTER 16—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

"Sec.
"351. Complaints; judge defined.
"352. Review of complaint by chief judge.
"353. Special committees.
"354. Action by judicial council.
"355. Action by Judicial Conference.
"356. Subpoena power.
"357. Review of orders and actions.
"358. Rules.
"359. Restrictions.
"360. Disclosure of information.
"361. Reimbursement of expenses.
"362. Other provisions and rules not affected.
"363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit.
"364. Effect of felony conviction.

"§ 351. Complaints; judge defined

"(a) FILING OF COMPLAINT BY ANY PERSON.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

"(b) IDENTIFYING COMPLAINT BY CHIEF JUDGE.—In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

"(c) TRANSMITTAL OF COMPLAINT.—Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term 'chief judge'). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

"(d) DEFINITIONS.—In this chapter—

"(1) the term 'judge' means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

"(2) the term 'complainant' means the person filing a complaint under subsection (a) of this section.

"§ 352. Review of complaint by chief judge

"(a) EXPEDITIOUS REVIEW; LIMITED INQUIRY.—The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining—

"(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

"(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

"(b) ACTION BY CHIEF JUDGE FOLLOWING REVIEW.—After expeditiously reviewing a complaint under subsection (a), the chief judge, by written order stating his or her reasons, may—

"(1) dismiss the complaint—

"(A) if the chief judge finds the complaint to be—

"(i) not in conformity with section 351(a);

"(ii) directly related to the merits of a decision or procedural ruling; or

"(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

"(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

"(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.

The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

"(c) REVIEW OF ORDERS OF CHIEF JUDGE.—A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge's order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

"(d) REFERRAL OF PETITIONS FOR REVIEW TO PANELS OF THE JUDICIAL COUNCIL.—Each judicial council may, pursuant to rules prescribed under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

"§ 353. Special committees

"(a) APPOINTMENT.—If the chief judge does not enter an order under section 352(b), the chief judge shall promptly—

"(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

"(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

"(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

"(b) CHANGE IN STATUS OR DEATH OF JUDGES.—A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

Reports.

"(c) INVESTIGATION BY SPECIAL COMMITTEE.—Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

"§ 354. Action by judicial council

"(a) ACTIONS UPON RECEIPT OF REPORT.—

"(1) ACTIONS.—The judicial council of a circuit, upon receipt of a report filed under section 353(c)—

"(A) may conduct any additional investigation which it considers to be necessary;

"(B) may dismiss the complaint; and

"(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

"(2) DESCRIPTION OF POSSIBLE ACTIONS IF COMPLAINT NOT DISMISSED.—

"(A) IN GENERAL.—Action by the judicial council under paragraph (1)(C) may include—

"(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;

"(ii) censuring or reprimanding such judge by means of private communication; and

"(iii) censuring or reprimanding such judge by means of public announcement.

"(B) FOR ARTICLE III JUDGES.—If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include—

"(i) certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and

"(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

"(C) FOR MAGISTRATE JUDGES.—If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

"(3) LIMITATIONS ON JUDICIAL COUNCIL REGARDING REMOVALS.—

"(A) ARTICLE III JUDGES.—Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

"(B) MAGISTRATE AND BANKRUPTCY JUDGES.—Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

"(4) NOTICE OF ACTION TO JUDGE.—The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

"(b) REFERRAL TO JUDICIAL CONFERENCE.—

"(1) IN GENERAL.—In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

"(2) SPECIAL CIRCUMSTANCES.—In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge

appointed to hold office during good behavior may have engaged in conduct—

"(A) which might constitute one or more grounds for impeachment under article II of the Constitution, or

"(B) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

"(3) NOTICE TO COMPLAINANT AND JUDGE.—A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.

"§ 355. Action by Judicial Conference

"(a) IN GENERAL.—Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

"(b) IF IMPEACHMENT WARRANTED.—

"(1) IN GENERAL.—If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

"(2) IN CASE OF FELONY CONVICTION.—If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

"§ 356. Subpoena power

"(a) JUDICIAL COUNCILS AND SPECIAL COMMITTEES.—In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

"(b) JUDICIAL CONFERENCE AND STANDING COMMITTEES.—In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.

"§ 357. Review of orders and actions

"(a) REVIEW OF ACTION OF JUDICIAL COUNCIL.—A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

"(b) ACTION OF JUDICIAL CONFERENCE.—The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).

"(c) NO JUDICIAL REVIEW.—Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

"§ 358. Rules

"(a) IN GENERAL.—Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.

"(b) REQUIRED PROVISIONS.—Rules prescribed under subsection (a) shall contain provisions requiring that—

"(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;

"(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

"(3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

"(c) PROCEDURES.—Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter. Notice.

"§ 359. Restrictions

"(a) RESTRICTION ON INDIVIDUALS WHO ARE SUBJECT OF INVESTIGATION.—No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

"(b) AMICUS CURIAE.—No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

"§ 360. Disclosure of information

"(a) CONFIDENTIALITY OF PROCEEDINGS.—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—

"(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;

"(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

"(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

"(b) PUBLIC AVAILABILITY OF WRITTEN ORDERS.—Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.

"§ 361. Reimbursement of expenses

"Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge during the investigation which would not have been incurred but for the requirements of this chapter.

"§ 362. Other provisions and rules not affected

"Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

"§ 363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit

"The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such

court shall have the powers granted to a judicial council under this chapter.

"§ 364. Effect of felony conviction

"In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the following shall apply:

"(1) The judge shall not hear or decide cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.

"(2) Any service as such judge or judge of a court referred to in section 363, after the conviction is final and all time for filing appeals thereof has expired, shall not be included for purposes of determining years of service under section 371(c), 377, or 178 of this title or creditable service under subchapter III of chapter 83, or chapter 84, of title 5.".

(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by inserting after the item relating to chapter 15 the following new item:

"16. Complaints against judges and judicial discipline ..... 351".

SEC. 11043. TECHNICAL AMENDMENTS.

(a) RETIREMENT FOR DISABILITY.—(1) Section 372 of title 28, United States Code, is amended—

(A) in the section caption by striking "**; judicial discipline**"; and

(B) by striking subsection (c).

(2) The item relating to section 372 in the table of sections for chapter 17 of title 28, United States Code, is amended by striking "; judicial discipline".

(b) JUDICIAL CONFERENCE.—Section 331 of title 28, United States Code, is amended in the fourth undesignated paragraph by striking "section 372(c)" each place it appears and inserting "chapter 16".

(c) JUDICIAL COUNCILS.—Section 332 of title 28, United States Code, is amended—

(1) in subsection (d)(2)—

(A) by striking "section 372(c) of this title" and inserting "chapter 16 of this title"; and

(B) by striking "372(c)(4)" and inserting "353"; and

(2) by striking the second subsection designated as subsection (h).

(d) RECALL OF BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 375(d) of title 28, United States Code, is amended by striking "section 372(c)" and inserting "chapter 16".

(e) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 604 of title 28, United States Code, is amended—

(1) in subsection (a)(20)—

(A) in subparagraph (B), by striking "372(c)(11)" and inserting "358"; and

(B) in subparagraph (C), by striking "372(c)(15)" and inserting "360(b)"; and

(2) in subsection (h)—

(A) in paragraph (1), by striking "section 372" each place it appears and inserting "chapter 16"; and

(B) in paragraph (2), by striking "section 372(c)" and inserting "chapter 16".

(f) COURT OF APPEALS FOR VETERANS CLAIMS.—Section 7253(g) of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "section 372(c)" and inserting "chapter 16"; and

(B) by striking "such section" and inserting "such chapter";

(2) in paragraph (2)—

(A) in the first sentence, by striking "paragraphs (7) through (15) of section 372(c)" and inserting "sections 354(b) through 360"; and

(B) in the second sentence, by striking "paragraph (7) or (8) of section 372(c)" and inserting "section 354(b) or 355"; and

(3) in paragraph (3)(B), by striking "372(c)(16)" and inserting "361".

28 USC 351 note.

SEC. 11044. SEVERABILITY.

If any provision of this subtitle, an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Antitrust Modernization Commission Act of 2002.

Subtitle D—Antitrust Modernization Commission Act of 2002

15 USC 1 note.

SEC. 11051. SHORT TITLE.

This subtitle may be cited as the "Antitrust Modernization Commission Act of 2002".

SEC. 11052. ESTABLISHMENT.

There is established the Antitrust Modernization Commission (in this subtitle referred to as the "Commission").

SEC. 11053. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to examine whether the need exists to modernize the antitrust laws and to identify and study related issues;

(2) to solicit views of all parties concerned with the operation of the antitrust laws;

(3) to evaluate the advisability of proposals and current arrangements with respect to any issues so identified; and

(4) to prepare and to submit to Congress and the President a report in accordance with section 11058.

SEC. 11054. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed as follows:

President.

(1) Four members, no more than 2 of whom shall be of the same political party, shall be appointed by the President.

The President shall appoint members of the opposing party only on the recommendation of the leaders of Congress from that party.

(2) Two members shall be appointed by the majority leader of the Senate.

(3) Two members shall be appointed by the minority leader of the Senate.

(4) Two members shall be appointed by the Speaker of the House of Representatives.

(5) Two members shall be appointed by the minority leader of the House of Representatives.

(b) INELIGIBILITY FOR APPOINTMENT.—Members of Congress shall be ineligible for appointment to the Commission.

(c) TERM OF APPOINTMENT.—

(1) IN GENERAL.—Subject to paragraph (2), members of the Commission shall be appointed for the life of the Commission.

(2) EARLY TERMINATION OF APPOINTMENT.—If a member of the Commission who is appointed to the Commission as—

(A) an officer or employee of a government ceases to be an officer or employee of such government; or

(B) an individual who is not an officer or employee of a government becomes an officer or employee of a government;

then such member shall cease to be a member of the Commission on the expiration of the 90-day period beginning on the date such member ceases to be such officer or employee of such government, or becomes an officer or employee of a government, as the case may be.

(d) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(e) APPOINTMENT DEADLINE.—Initial appointments under subsection (a) shall be made not later than 60 days after the date of enactment of this Act.

(f) MEETINGS.—The Commission shall meet at the call of the chairperson. The first meeting of the Commission shall be held not later than 30 days after the date on which all members of the Commission are first appointed under subsection (a) or funds are appropriated to carry out this subtitle, whichever occurs later.

(g) VACANCY.—A vacancy on the Commission shall be filled in the same manner as the initial appointment is made.

(h) CONSULTATION BEFORE APPOINTMENT.—Before appointing members of the Commission, the President, the majority and minority leaders of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall consult with each other to ensure fair and equitable representation of various points of view in the Commission.

(i) CHAIRPERSON; VICE CHAIRPERSON.—The President shall select the chairperson of the Commission from among its appointed members. The leaders of Congress from the opposing party of the President shall select the vice chairperson of the Commission from among its remaining members. President.

SEC. 11055. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by a government

shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 United States Code, as in effect from time to time, for each day (including travel time) during which such member is engaged in the actual performance of duties of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of a government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Commission.

(b) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

SEC. 11056. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairperson of the Commission may, without regard to the provisions of chapter 51 of title 5 of the United States Code (relating to appointments in the competitive service), appoint and terminate an executive director and such other staff as are necessary to enable the Commission to perform its duties. The appointment of an executive director shall be subject to approval by the Commission.

(2) COMPENSATION.—The chairperson of the Commission may fix the compensation of the executive director and other staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code (relating to classification of positions and General Schedule pay rates), except that the rate of pay for the executive director and other staff may not exceed the rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5 United States Code, as in effect from time to time.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants in accordance with section 3109(b) of title 5, United States Code.

SEC. 11057. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission, or a member of the Commission if authorized by the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers to be appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or such member.

(b) OFFICIAL DATA.—The Commission may obtain directly from any executive agency (as defined in section 105 of title 5 of the United States Code) or court information necessary to enable it to carry out its duties under this subtitle. On the request of the chairperson of the Commission, and consistent with any other law, the head of an executive agency or of a Federal court shall provide such information to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. On request of the Commission, the head of an executive agency may make any of the facilities or services of such agency available to the Commission, on a reimbursable or nonreimbursable

basis, to assist the Commission in carrying out its duties under this subtitle.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or such member considers to be appropriate for the purpose of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in advance in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

SEC. 11058. REPORT.

Not later than 3 years after the first meeting of the Commission, the Commission shall submit to Congress and the President a report containing a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative or administrative action the Commission considers to be appropriate.

Deadline.

SEC. 11059. TERMINATION OF COMMISSION.

The Commission shall cease to exist 30 days after the date on which the report required by section 8 is submitted.

SEC. 11060. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $4,000,000 to carry out this subtitle.

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Offender Accountability

Consequences for Juvenile Offenders Act of 2002.

SEC. 12101. SHORT TITLE.

42 USC 3711 note.

This subtitle may be cited as the "Consequences for Juvenile Offenders Act of 2002".

SEC. 12102. JUVENILE OFFENDER ACCOUNTABILITY.

(a) GRANT PROGRAM.—Part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee et seq.) is amended to read as follows:

"PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

42 USC 3796ee.

"SEC. 1801. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Attorney General is authorized to provide grants to States, for use by States and units of local government, and in certain cases directly to specially qualified units.

"(b) AUTHORIZED ACTIVITIES.—Amounts paid to a State or a unit of local government under this part shall be used by the State or unit of local government for the purpose of strengthening the juvenile justice system, which includes—

"(1) developing, implementing, and administering graduated sanctions for juvenile offenders;

"(2) building, expanding, renovating, or operating temporary or permanent juvenile correction, detention, or community corrections facilities;

"(3) hiring juvenile court judges, probation officers, and court-appointed defenders and special advocates, and funding pretrial services (including mental health screening and assessment) for juvenile offenders, to promote the effective and expeditious administration of the juvenile justice system;

"(4) hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and case backlogs reduced;

"(5) providing funding to enable prosecutors to address drug, gang, and youth violence problems more effectively and for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

"(6) establishing and maintaining training programs for law enforcement and other court personnel with respect to preventing and controlling juvenile crime;

"(7) establishing juvenile gun courts for the prosecution and adjudication of juvenile firearms offenders;

"(8) establishing drug court programs for juvenile offenders that provide continuing judicial supervision over juvenile offenders with substance abuse problems and the integrated administration of other sanctions and services for such offenders;

"(9) establishing and maintaining a system of juvenile records designed to promote public safety;

"(10) establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice systems, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts;

"(11) establishing and maintaining accountability-based programs designed to reduce recidivism among juveniles who are referred by law enforcement personnel or agencies;

"(12) establishing and maintaining programs to conduct risk and need assessments of juvenile offenders that facilitate the effective early intervention and the provision of comprehensive services, including mental health screening and treatment and substance abuse testing and treatment to such offenders;

"(13) establishing and maintaining accountability-based programs that are designed to enhance school safety;

"(14) establishing and maintaining restorative justice programs;

"(15) establishing and maintaining programs to enable juvenile courts and juvenile probation officers to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism; or

"(16) hiring detention and corrections personnel, and establishing and maintaining training programs for such personnel to improve facility practices and programming.

"(c) DEFINITION.—In this section the term 'restorative justice program' means a program that emphasizes the moral accountability of an offender toward the victim and the affected community and may include community reparations boards, restitution (in the form of monetary payment or service to the victim or, where no victim can be identified, service to the affected community), and mediation between victim and offender.

"SEC. 1801A. TRIBAL GRANT PROGRAM AUTHORIZED. 42 USC 3796ee–1.

"(a) IN GENERAL.—From the amount reserved under section 1810(b), the Attorney General shall make grants to Indian tribes for programs to strengthen tribal juvenile justice systems and to hold tribal youth accountable.

"(b) ELIGIBILITY.—Indian tribes, as defined by section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a), or a consortia of such tribes, shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require. Only tribes that carry out tribal juvenile justice functions shall be eligible to receive a grant under this section.

"(c) AWARDS.—The Attorney General shall award grants under this section on a competitive basis.

"(d) GUIDELINES.—The Attorney General shall issue guidelines establishing application, use, and award criteria and processes consistent with the purposes and requirements of this Act.

"SEC. 1802. GRANT ELIGIBILITY. 42 USC 3796ee–2.

"(a) STATE ELIGIBILITY.—To be eligible to receive a grant under this part, a State shall submit to the Attorney General an application at such time, in such form, and containing such assurances and information as the Attorney General may require by guidelines, including—

"(1) information about—

"(A) the activities proposed to be carried out with such grant; and

"(B) the criteria by which the State proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

"(2) assurances that the State and any unit of local government to which the State provides funding under section 1803(b), has in effect (or shall have in effect, not later than 1 year after the date that the State submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the State submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (d).

"(b) LOCAL ELIGIBILITY.—

"(1) SUBGRANT ELIGIBILITY.—To be eligible to receive a subgrant, a unit of local government, other than a specially qualified unit, shall provide to the State—

"(A) information about—

"(i) the activities proposed to be carried out with such subgrant; and

"(ii) the criteria by which the unit proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

"(B) such assurances as the State shall require, that, to the maximum extent applicable, the unit of local government has in effect (or shall have in effect, not later than 1 year after the date that the unit submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the unit submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (d).

"(2) SPECIAL RULE.—The requirements of paragraph (1) shall apply to a specially qualified unit that receives funds from the Attorney General under section 1803(e), except that information that is otherwise required to be submitted to the State shall be submitted to the Attorney General.

"(c) ROLE OF COURTS.—In the development of the grant application, the States and units of local governments shall take into consideration the needs of the judicial branch in strengthening the juvenile justice system and specifically seek the advice of the chief of the highest court of the State and where appropriate, the chief judge of the local court, with respect to the application.

"(d) GRADUATED SANCTIONS.—A system of graduated sanctions, which may be discretionary as provided in subsection (e), shall ensure, at a minimum, that—

"(1) sanctions are imposed on a juvenile offender for each delinquent offense;

"(2) sanctions escalate in intensity with each subsequent, more serious delinquent offense;

"(3) there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and

"(4) appropriate consideration is given to public safety and victims of crime.

"(e) DISCRETIONARY USE OF SANCTIONS.—

"(1) VOLUNTARY PARTICIPATION.—A State or unit of local government may be eligible to receive a grant under this part if—

"(A) its system of graduated sanctions is discretionary; and

"(B) it demonstrates that it has promoted the use of a system of graduated sanctions by taking steps to encourage implementation of such a system by juvenile courts.

"(2) REPORTING REQUIREMENT IF GRADUATED SANCTIONS NOT USED.—

"(A) JUVENILE COURTS.—A State or unit of local government in which the imposition of graduated sanctions is discretionary shall require each juvenile court within its jurisdiction—

"(i) which has not implemented a system of graduated sanctions, to submit an annual report that

explains why such court did not implement graduated sanctions; and

"(ii) which has implemented a system of graduated sanctions but has not imposed graduated sanctions in all cases, to submit an annual report that explains why such court did not impose graduated sanctions in all cases.

"(B) UNITS OF LOCAL GOVERNMENT.—Each unit of local government, other than a specially qualified unit, that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the State each year.

"(C) STATES.—Each State and specially qualified unit that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the Attorney General each year. A State shall also collect and submit to the Attorney General the information collected under subparagraph (B).

"(f) DEFINITIONS.—In this section:

"(1) DISCRETIONARY.—The term 'discretionary' means that a system of graduated sanctions is not required to be imposed by each and every juvenile court in a State or unit of local government.

"(2) SANCTIONS.—The term 'sanctions' means tangible, proportional consequences that hold the juvenile offender accountable for the offense committed. A sanction may include counseling, restitution, community service, a fine, supervised probation, or confinement.

"SEC. 1803. ALLOCATION AND DISTRIBUTION OF FUNDS.

42 USC 3796ee–3.

"(a) STATE ALLOCATION.—

"(1) IN GENERAL.—In accordance with regulations promulgated pursuant to this part and except as provided in paragraph (3), the Attorney General shall allocate—

"(A) 0.50 percent for each State; and

"(B) of the total funds remaining after the allocation under subparagraph (A), to each State, an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of people under the age of 18 living in such State for the most recent calendar year in which such data is available bears to the population of people under the age of 18 of all the States for such fiscal year.

"(2) PROHIBITION.—No funds allocated to a State under this subsection or received by a State for distribution under subsection (b) may be distributed by the Attorney General or by the State involved for any program other than a program contained in an approved application.

"(b) LOCAL DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each State which receives funds under subsection (a)(1) in a fiscal year shall distribute among units of local government, for the purposes specified in section 1801, not less than 75 percent of such amounts received.

"(2) WAIVER.—If a State submits to the Attorney General an application for waiver that demonstrates and certifies to the Attorney General that—

"(A) the State's juvenile justice expenditures in the fiscal year preceding the date in which an application is submitted under this part (the 'State percentage') is more than 25 percent of the aggregate amount of juvenile justice expenditures by the State and its eligible units of local government; and

"(B) the State has consulted with as many units of local government in such State, or organizations representing such units, as practicable regarding the State's calculation of expenditures under subparagraph (A), the State's application for waiver under this paragraph, and the State's proposed uses of funds.

"(3) ALLOCATION.—In making the distribution under paragraph (1), the State shall allocate to such units of local government an amount which bears the same ratio to the aggregate amount of such funds as—

"(A) the sum of—

"(i) the product of—

"(I) three-quarters; multiplied by

"(II) the average juvenile justice expenditure for such unit of local government for the 3 most recent calendar years for which such data is available; plus

"(ii) the product of—

"(I) one-quarter; multiplied by

"(II) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, bears to—

"(B) the sum of the products determined under subparagraph (A) for all such units of local government in the State.

"(4) EXPENDITURES.—The allocation any unit of local government shall receive under paragraph (3) for a payment period shall not exceed 100 percent of juvenile justice expenditures of the unit for such payment period.

"(5) REALLOCATION.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (4) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

"(c) UNAVAILABILITY OF DATA FOR UNITS OF LOCAL GOVERNMENT.—If the State has reason to believe that the reported rate of part 1 violent crimes or juvenile justice expenditures for a unit of local government is insufficient or inaccurate, the State shall—

"(1) investigate the methodology used by the unit to determine the accuracy of the submitted data; and

"(2) if necessary, use the best available comparable data regarding the number of violent crimes or juvenile justice expenditures for the relevant years for the unit of local government.

"(d) LOCAL GOVERNMENT WITH ALLOCATIONS LESS THAN $10,000.—If under this section a unit of local government is allocated less than $10,000 for a payment period, the amount allotted

shall be expended by the State on services to units of local government whose allotment is less than such amount in a manner consistent with this part.

"(e) DIRECT GRANTS TO SPECIALLY QUALIFIED UNITS.—

"(1) IN GENERAL.—If a State does not qualify or apply for funds reserved for allocation under subsection (a) by the application deadline established by the Attorney General, the Attorney General shall reserve not more than 75 percent of the allocation that the State would have received under subsection (a) for such fiscal year to provide grants to specially qualified units which meet the requirements for funding under section 1802.

"(2) AWARD BASIS.—In addition to the qualification requirements for direct grants for specially qualified units the Attorney General may use the average amount allocated by the States to units of local government as a basis for awarding grants under this section.

"SEC. 1804. GUIDELINES.

42 USC 3796ee–4.

"(a) IN GENERAL.—The Attorney General shall issue guidelines establishing procedures under which a State or specifically qualified unit of local government that receives funds under section 1803 is required to provide notice to the Attorney General regarding the proposed use of funds made available under this part.

"(b) ADVISORY BOARD.—

"(1) IN GENERAL.—The guidelines referred to in subsection (a) shall include a requirement that such eligible State or unit of local government establish and convene an advisory board to recommend a coordinated enforcement plan for the use of such funds.

"(2) MEMBERSHIP.—The board shall include representation from, if appropriate—

"(A) the State or local police department;

"(B) the local sheriff's department;

"(C) the State or local prosecutor's office;

"(D) the State or local juvenile court;

"(E) the State or local probation office;

"(F) the State or local educational agency;

"(G) a State or local social service agency;

"(H) a nonprofit, nongovernmental victim advocacy organization; and

"(I) a nonprofit, religious, or community group.

"SEC. 1805. PAYMENT REQUIREMENTS.

42 USC 3796ee–5. Deadlines.

"(a) TIMING OF PAYMENTS.—The Attorney General shall pay to each State or specifically qualified unit of local government that receives funds under section 1803 that has submitted an application under this part the amount awarded to such State or unit of local government not later than the later of—

"(1) the date that is 180 days after the date that the amount is available; or

"(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by subsection (c).

"(b) REPAYMENT OF UNEXPENDED AMOUNTS.—

"(1) REPAYMENT REQUIRED.—From amounts awarded under this part, a State or specially qualified unit shall repay to the Attorney General, before the expiration of the 36-month

period beginning on the date of the award, any amount that is not expended by such State or unit.

"(2) EXTENSION.—The Attorney General may adopt policies and procedures providing for a one-time extension, by not more than 12 months, of the period referred to in paragraph (1).

"(3) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

"(4) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States and specially qualified units.

"(c) ADMINISTRATIVE COSTS.—A State or unit of local government that receives funds under this part may use not more than 5 percent of such funds to pay for administrative costs.

"(d) NONSUPPLANTING REQUIREMENT.—Funds made available under this part to States and units of local government shall not be used to supplant State or local funds as the case may be, but shall be used to increase the amount of funds that would, in the absence of funds made available under this part, be made available from State or local sources, as the case may be.

"(e) MATCHING FUNDS.—

"(1) IN GENERAL.—The Federal share of a grant received under this part may not exceed 90 percent of the total program costs.

"(2) CONSTRUCTION OF FACILITIES.—Notwithstanding paragraph (1), with respect to the cost of constructing juvenile detention or correctional facilities, the Federal share of a grant received under this part may not exceed 50 percent of approved cost.

42 USC 3796ee–6.

"SEC. 1806. UTILIZATION OF PRIVATE SECTOR.

"Funds or a portion of funds allocated under this part may be used by a State or unit of local government that receives a grant under this part to contract with private, nonprofit entities, or community-based organizations to carry out the purposes specified under section 1801(b).

42 USC 3796ee–7.

"SEC. 1807. ADMINISTRATIVE PROVISIONS.

"(a) IN GENERAL.—A State or specially qualified unit that receives funds under this part shall—

"(1) establish a trust fund in which the government will deposit all payments received under this part;

"(2) use amounts in the trust fund (including interest) during the period specified in section 1805(b)(1) and any extension of that period under section 1805(b)(2);

"(3) designate an official of the State or specially qualified unit to submit reports as the Attorney General reasonably requires, in addition to the annual reports required under this part; and

"(4) spend the funds only for the purpose of strengthening the juvenile justice system.

"(b) TITLE I PROVISIONS.—Except as otherwise provided, the administrative provisions of part H shall apply to this part and for purposes of this section any reference in such provisions to title I shall be deemed to include a reference to this part.

"SEC. 1808. ASSESSMENT REPORTS. 42 USC 3796ee–8.

"(a) REPORTS TO ATTORNEY GENERAL.—

"(1) IN GENERAL.—Except as provided in paragraph (4), for each fiscal year for which a grant or subgrant is awarded under this part, each State or specially qualified unit of local government that receives such a grant shall submit to the Attorney General a grant report, and each unit of local government that receives such a subgrant shall submit to the State a subgrant report, at such time and in such manner as the Attorney General may reasonably require.

"(2) GRANT REPORT.—Each grant report required by paragraph (1) shall include—

"(A) a summary of the activities carried out with such grant;

"(B) if such activities included any subgrant, a summary of the activities carried out with each such subgrant; and

"(C) an assessment of the effectiveness of such activities on achieving the purposes of this part.

"(3) SUBGRANT REPORT.—Each subgrant report required by paragraph (1) shall include—

"(A) a summary of the activities carried out with such subgrant; and

"(B) an assessment of the effectiveness of such activities on achieving the purposes of this part.

"(4) WAIVERS.—The Attorney General may waive the requirement of an assessment in paragraph (2)(C) for a State or specially qualified unit of local government, or in paragraph (3)(B) for a unit of local government, if the Attorney General determines that—

"(A) the nature of the activities are such that assessing their effectiveness would not be practical or insightful;

"(B) the amount of the grant or subgrant is such that carrying out the assessment would not be an effective use of those amounts; or

"(C) the resources available to the State or unit are such that carrying out the assessment would pose a financial hardship on the State or unit.

"(b) REPORTS TO CONGRESS.—Not later than 120 days after the last day of each fiscal year for which 1 or more grants are awarded under this part, the Attorney General shall submit to Congress a report, which shall include— Deadline.

"(1) a summary of the information provided under subsection (a);

"(2) an assessment by the Attorney General of the grant program carried out under this part; and

"(3) such other information as the Attorney General considers appropriate.

"SEC. 1809. DEFINITIONS. 42 USC 3796ee–9.

"In this part:

"(1) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes;

"(B) any law enforcement district or judicial enforcement district that—

"(i) is established under applicable State law; and

"(ii) has the authority, in a manner independent of other State entities, to establish a budget and raise revenues; and

"(C) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

"(2) SPECIALLY QUALIFIED UNIT.—The term 'specially qualified unit' means a unit of local government which may receive funds under this part only in accordance with section 1803(e).

"(3) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that—

"(A) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands (the 'partial States') shall collectively be considered as 1 State; and

"(B) for purposes of section 1803(a), the amount allocated to a partial State shall bear the same proportion to the amount collectively allocated to the partial States as the population of the partial State bears to the collective population of the partial States.

"(4) JUVENILE.—The term 'juvenile' means an individual who is 17 years of age or younger.

"(5) JUVENILE JUSTICE EXPENDITURES.—The term 'juvenile justice expenditures' means expenditures in connection with the juvenile justice system, including expenditures in connection with such system to carry out—

"(A) activities specified in section 1801(b); and

"(B) other activities associated with prosecutorial and judicial services and corrections as reported to the Bureau of the Census for the fiscal year preceding the fiscal year for which a determination is made under this part.

"(6) PART 1 VIOLENT CRIMES.—The term 'part 1 violent crimes' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

42 USC 3796ee–10.

"SEC. 1810. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $350,000,000 for each of fiscal years 2002 through 2005.

"(b) OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.—

"(1) IN GENERAL.—Of the amount authorized to be appropriated under section 261 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.), there shall be available to the Attorney General, for each of the fiscal years 2002 through 2004 (as applicable), to remain available until expended—

"(A) not more than 2 percent of that amount, for research, evaluation, and demonstration consistent with this part;

"(B) not more than 2 percent of that amount, for training and technical assistance; and

"(C) not more than 1 percent, for administrative costs to carry out the purposes of this part.

"(2) OVERSIGHT PLAN.—The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients.

"(c) TRIBAL SET-ASIDE.—Of the amounts appropriated under subsection (a), 2 percent shall be made available for programs that receive grants under section 1801A.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first fiscal year that begins after the date of enactment of this Act.

42 USC 3796ee note.

(c) TRANSITION OF JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANTS PROGRAM.—For each grant made from amounts made available for the Juvenile Accountability Incentive Block Grants program (as described under the heading "VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE" in the Department of Justice Appropriations Act, 2000 (as enacted by Public Law 106–113; 113 Stat. 1537–14)), the grant award shall remain available to the grant recipient for not more than 36 months after the date of receipt of the grant.

Subtitle B—Juvenile Justice and Delinquency Prevention Act of 2002

Juvenile Justice and Delinquency Prevention Act of 2002.

SEC. 12201. SHORT TITLE.

42 USC 5601 note.

This subtitle may be cited as the "Juvenile Justice and Delinquency Prevention Act of 2002".

SEC. 12202. FINDINGS.

Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended to read as follows:

"FINDINGS

"SEC. 101. (a) The Congress finds the following:

"(1) Although the juvenile violent crime arrest rate in 1999 was the lowest in the decade, there remains a consensus that the number of crimes and the rate of offending by juveniles nationwide is still too high.

"(2) According to the Office of Juvenile Justice and Delinquency Prevention, allowing 1 youth to leave school for a life of crime and of drug abuse costs society $1,700,000 to $2,300,000 annually.

"(3) One in every 6 individuals (16.2 percent) arrested for committing violent crime in 1999 was less than 18 years of age. In 1999, juveniles accounted for 9 percent of murder arrests, 17 percent of forcible rape arrests, 25 percent of robbery arrest, 14 percent of aggravated assault arrests, and 24 percent of weapons arrests.

"(4) More than ½ of juvenile murder victims are killed with firearms. Of the nearly 1,800 murder victims less than 18 years of age, 17 percent of the victims less than 13 years of age were murdered with a firearm, and 81 percent of the victims 13 years of age or older were killed with a firearm.

"(5) Juveniles accounted for 13 percent of all drug abuse violation arrests in 1999. Between 1990 and 1999, juvenile arrests for drug abuse violations rose 132 percent.

"(6) Over the last 3 decades, youth gang problems have increased nationwide. In the 1970's, 19 States reported youth gang problems. By the late 1990's, all 50 States and the District of Columbia reported gang problems. For the same period, the number of cities reporting youth gang problems grew 843 percent, and the number of counties reporting gang problems increased more than 1,000 percent.

"(7) According to a national crime survey of individuals 12 years of age or older during 1999, those 12 to 19 years old are victims of violent crime at higher rates than individuals in all other age groups. Only 30.8 percent of these violent victimizations were reported by youth to police in 1999.

"(8) One-fifth of juveniles 16 years of age who had been arrested were first arrested before attaining 12 years of age. Juveniles who are known to the juvenile justice system before attaining 13 years of age are responsible for a disproportionate share of serious crimes and violence.

"(9) The increase in the arrest rates for girls and young juvenile offenders has changed the composition of violent offenders entering the juvenile justice system.

"(10) These problems should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

"(A) quality prevention programs that—

"(i) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether or not juveniles have been the victims of family violence (including child abuse and neglect); and

"(ii) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and

"(B) programs that assist in holding juveniles accountable for their actions and in developing the competencies necessary to become responsible and productive members of their communities, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts.

"(11) Coordinated juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter can help prevent juveniles from becoming delinquent and help delinquent youth return to a productive life.

"(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts and which provide opportunities for competency development. Without true reform, the juvenile justice system will not be able to overcome the challenges it will face in the coming years when the number of juveniles is expected to increase by 18 percent between 2000 and 2030.".

SEC. 12203. PURPOSE.

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

"PURPOSES

"SEC. 102. The purposes of this title and title II are—

"(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

"(2) to assist State and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; and

"(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency.".

SEC. 12204. 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 striking "to help prevent juvenile delinquency" and inserting "designed to reduce known risk factors for juvenile delinquent behavior, provides activities that build on protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior",

(2) in paragraph (4) by inserting "title I of" before "the Omnibus" each place it appears,

(3) in paragraph (7) by striking "the Trust Territory of the Pacific Islands,",

(4) in paragraph (12)(B) by striking ", of any nonoffender,",

(5) in paragraph (13)(B) by striking ", any nonoffender,",

(6) in paragraph (14) by inserting "drug trafficking," after "assault,",

(7) in paragraph (16)—

(A) in subparagraph (A) by adding "and" at the end, and

(B) by striking subparagraph (C),

(8) in paragraph (22)—

(A) by redesignating subparagraphs (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and

(B) by striking "and" at the end,

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

(10) by adding at the end the following:

"(24) the term 'graduated sanctions' means an accountability-based, graduated series of sanctions (including incentives, treatment, and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system;

"(25) the term 'contact' means the degree of interaction allowed between juvenile offenders in a secure custody status and incarcerated adults under section 31.303(d)(1)(i) of title

28, Code of Federal Regulations, as in effect on December 10, 1996;

"(26) the term 'adult inmate' means an individual who—

"(A) has reached the age of full criminal responsibility under applicable State law; and

"(B) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense;

"(27) the term 'violent crime' means—

"(A) murder or nonnegligent manslaughter, forcible rape, or robbery, or

"(B) aggravated assault committed with the use of a firearm;

"(28) the term 'collocated facilities' means facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds; and

"(29) the term 'related complex of buildings' means 2 or more buildings that share—

"(A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or

"(B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996.".

SEC. 12205. CONCENTRATION OF FEDERAL EFFORT.

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

(1) in subsection (b)—

(A) in paragraph (3) by striking "and of the prospective" and all that follows through "administered",

(B) in paragraph (5) by striking "parts C and D" each place it appears and inserting "parts D and E", and

(C) by amending paragraph (7) to read as follows:

"(7) not later than 1 year after the date of the enactment of this paragraph, issue model standards for providing mental health care to incarcerated juveniles.",

(2) in subsection (c) by striking "and reports" and all that follows through "this part", and inserting "as may be appropriate to prevent the duplication of efforts, and to coordinate activities, related to the prevention of juvenile delinquency",

(3) by amending subsection (d) to read as follows:

"(d) The Administrator shall have the sole authority to delegate any of the functions of the Administrator under this Act.";

(4) by striking subsection (i), and

(5) by redesignating subsection (h) as subsection (f).

SEC. 12206. COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

Section 206(c)(2)(B) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)(2)(B)) is amended by striking "Education and Labor" and inserting "Education and the Workforce".

SEC. 12207. ANNUAL REPORT.

Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617) is amended by striking paragraphs (4) and (5), and inserting the following:

"(4) An evaluation of the programs funded under this title and their effectiveness in reducing the incidence of juvenile delinquency, particularly violent crime, committed by juveniles.".

SEC. 12208. ALLOCATION.

Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking "(other than parts D and E)",

(II) by striking "amount, up to $400,000," and inserting "amount up to $400,000",

(III) by striking "1992" the 1st place it appears and inserting "2000,",

(IV) by striking "1992" the last place it appears and inserting "2000",

(V) by striking "the Trust Territory of the Pacific Islands,", and

(VI) by striking "amount, up to $100,000," and inserting "amount up to $100,000",

(ii) in subparagraph (B)—

(I) by striking "(other than part D)",

(II) by striking "$400,000" and inserting "$600,000",

(III) by striking "or such greater amount, up to $600,000" and all that follows through "section 299(a) (1) and (3)",

(IV) by striking "the Trust Territory of the Pacific Islands,",

(V) by striking "amount, up to $100,000," and inserting "amount up to $100,000", and

(VI) by striking "1992" and inserting "2000,",

(B) in paragraph (3)—

(i) by striking "allot" and inserting "allocate", and

(ii) by striking "1992" each place it appears and inserting "2000", and

(2) in subsection (b) by striking "the Trust Territory of the Pacific Islands,".

SEC. 12209. 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) in the 2d sentence by striking "and challenge" and all that follows through "part E", and inserting ", projects, and activities",

(B) in paragraph (3)—

(i) by striking ", which—" and inserting "that—",

(ii) in subparagraph (A)(i) by striking "or the administration of juvenile justice" and inserting ", the administration of juvenile justice, or the reduction of juvenile delinquency", and

(iii) in subparagraph (D)—

(I) in clause (i) by inserting "and" at the end, and

(II) in clause (ii) by striking "paragraphs" and all that follows through "part E", and inserting "paragraphs (11), (12), and (13)",

(C) in paragraph (5)—

(i) in the matter preceding subparagraph (A) by striking ", other than" and inserting "reduced by the percentage (if any) specified by the State under the authority of paragraph (25) and excluding", and

(ii) in subparagraph (C) by striking "paragraphs (12)(A), (13), and (14)" and inserting "paragraphs (11), (12), and (13)",

(D) by striking paragraph (6),

(E) in paragraph (7) by inserting ", including in rural areas" before the semicolon at the end,

(F) in paragraph (8)—

(i) in subparagraph (A)—

(I) by striking "for (i)" and all that follows through "relevant jurisdiction", and inserting "for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State", and

(II) by striking "of the jurisdiction; (ii)" and all that follows through the semicolon at the end, and inserting "of the State; and",

(ii) by amending subparagraph (B) to read as follows:

"(B) contain—

"(i) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

"(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

"(iii) a plan for providing needed mental health services to juveniles in the juvenile justice system, including information on how such plan is being implemented and how such services will be targeted to those juveniles in such system who are in greatest need of such services;", and

(iii) by striking subparagraphs (C) and (D),

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

"(9) provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;",

(H) in paragraph (10)—

(i) in subparagraph (A)—

(I) by striking ", specifically" and inserting "including",

(II) by striking clause (i), and

(III) redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively,

(ii) by amending subparagraph (D) to read as follows:

"(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and

to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;",

(iii) in subparagraph (E)—

(I) by redesignating clause (ii) as clause (iii), and

(II) by striking "juveniles, provided" and all that follows through "provides; and", and inserting the following:

"juveniles—

"(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;

"(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and",

(iv) by amending subparagraph (F) to read as follows:

"(F) expanding the use of probation officers—

"(i) particularly for the purpose of permitting non-violent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

"(ii) to ensure that juveniles follow the terms of their probation;",

(v) by amending subparagraph (G) to read as follows:

"(G) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officials, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;",

(vii) in subparagraph (H) by striking "handicapped youth" and inserting "juveniles with disabilities",

(viii) by striking subparagraph (K),

(ix) in subparagraph (L)—

(I) in clause (iv) by adding "and" at the end,

(II) in clause (v) by striking "and" at the end, and

(III) by striking clause (vi),

(x) in subparagraph (M) by striking "boot camps",

(xi) by amending subparagraph (N) to read as follows:

"(N) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families so that such juveniles may be retained in their homes;",

(xii) in subparagraph (O)—

(I) in striking "cultural" and inserting "other", and

(II) by striking the period at the end and inserting a semicolon,

(xiii) by redesignating subparagraphs (L), (M), (N), and (O) as subparagraphs (K), (L), (M), and (N), respectively; and

(xiv) by adding at the end the following:

"(O) programs designed to prevent and to reduce hate crimes committed by juveniles;

"(P) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

"(Q) community-based programs that provide follow-up post-placement services to adjudicated juveniles, to promote successful reintegration into the community;

"(R) projects designed to develop and implement programs to protect the rights of juveniles affected by the juvenile justice system; and

"(S) programs designed to provide mental health services for incarcerated juveniles suspected to be in need of such services, including assessment, development of individualized treatment plans, and discharge plans.",

(I) by amending paragraph (12) to read as follows:

"(12) shall, in accordance with rules issued by the Administrator, provide that—

"(A) juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult, excluding—

"(i) juveniles who are charged with or who have committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar State law;

"(ii) juveniles who are charged with or who have committed a violation of a valid court order; and

"(iii) juveniles who are held in accordance with the Interstate Compact on Juveniles as enacted by the State;

shall not be placed in secure detention facilities or secure correctional facilities; and

"(B) juveniles—

"(i) who are not charged with any offense; and

"(ii) who are—

"(I) aliens; or

"(II) alleged to be dependent, neglected, or abused;

shall not be placed in secure detention facilities or secure correctional facilities;",

(J) by amending paragraph (13) to read as follows:

"(13) provide that—

"(A) juveniles alleged to be or found to be delinquent or juveniles within the purview of paragraph (11) will not be detained or confined in any institution in which they have contact with adult inmates; and

"(B) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adult inmates, including in collocated facilities, have been trained and certified to work with juveniles;",

(K) by amending paragraph (14) to read as follows: "(14) provide that no juvenile will be detained or confined in any jail or lockup for adults except—

"(A) juveniles who are accused of nonstatus offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

"(i) for processing or release;

"(ii) while awaiting transfer to a juvenile facility; or

"(iii) in which period such juveniles make a court appearance;

and only if such juveniles do not have contact with adult inmates and only if there is in effect in the State a policy that requires individuals who work with both such juveniles and adult inmates in collocated facilities have been trained and certified to work with juveniles;

"(B) juveniles who are accused of nonstatus offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained in a jail or lockup—

"(i) in which—

"(I) such juveniles do not have contact with adult inmates; and

"(II) there is in effect in the State a policy that requires individuals who work with both such juveniles and adults inmates in collocated facilities have been trained and certified to work with juveniles; and

"(ii) that—

"(I) is located outside a metropolitan statistical area (as defined by the Office of Management and Budget) and has no existing acceptable alternative placement available;

"(II) is located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable; or

"(III) is located where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;";

(L) in paragraph (15)—

(i) by striking "paragraph (12)(A), paragraph (13), and paragraph (14)" and inserting "paragraphs (11), (12), and (13)", and

(ii) by striking "paragraph (12)(A) and paragraph (13)" and inserting "paragraphs (11) and (12)",

(M) in paragraph (16) by striking "mentally, emotionally, or physically handicapping conditions" and inserting "disability",

(N) by amending paragraph (19) to read as follows:

"(19) provide assurances that—

"(A) any assistance provided under this Act will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any currently employed employee;

"(B) activities assisted under this Act will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

"(C) no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization involved;",

(O) by amending paragraph (22) to read as follows:

"(22) provide that the State agency designated under paragraph (1) will—

"(A) to the extent practicable give priority in funding to programs and activities that are based on rigorous, systematic, and objective research that is scientifically based;

"(B) from time to time, but not less than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, that it considers necessary; and

"(C) not expend funds to carry out a program if the recipient of funds who carried out such program during the preceding 2-year period fails to demonstrate, before the expiration of such 2-year period, that such program achieved substantial success in achieving the goals specified in the application submitted by such recipient to the State agency;",

(P) by amending paragraph (23) to read as follows:

"(23) address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system;",

(Q) by amending paragraph (24) to read as follows:

"(24) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—

"(A) an appropriate public agency shall be promptly notified that such juvenile is held in custody for violating such order;

Deadline.

"(B) not later than 24 hours during which such juvenile is so held, an authorized representative of such agency shall interview, in person, such juvenile; and

Deadline.

"(C) not later than 48 hours during which such juvenile is so held—

"(i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such juvenile; and

"(ii) such court shall conduct a hearing to determine—

"(I) whether there is reasonable cause to believe that such juvenile violated such order; and

"(II) the appropriate placement of such juvenile pending disposition of the violation alleged;",

(R) in paragraph (25)—

(i) by striking "1992" and inserting "2000", and

(ii) by striking the period at the end and inserting a semicolon,

(S) by redesignating paragraphs (7) through (25) as paragraphs (6) through (24), respectively, and

(T) by adding at the end the following:

"(25) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 222 (other than funds made available to the State advisory group under section 222(d)) that the State will reserve for expenditure by the State to provide incentive grants to units of general local government that reduce the caseload of probation officers within such units;

"(26) provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court;

"(27) establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders; and

"(28) provide assurances that juvenile offenders whose placement is funded through section 472 of the Social Security Act (42 U.S.C. 672) receive the protections specified in section 471 of such Act (42 U.S.C. 671), including a case plan and case plan review as defined in section 475 of such Act (42 U.S.C. 675).",

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

"(c) If a State fails to comply with any of the applicable requirements of paragraphs (11), (12), (13), and (22) of subsection (a) in any fiscal year beginning after September 30, 2001, then—

"(1) subject to paragraph (2), the amount allocated to such State under section 222 for the subsequent fiscal year shall be reduced by not less than 20 percent for each such paragraph with respect to which the failure occurs, and

"(2) the State shall be ineligible to receive any allocation under such section for such fiscal year unless—

"(A) the State agrees to expend 50 percent of the amount allocated to the State for such fiscal year to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

"(B) the Administrator determines that the State—

"(i) has achieved substantial compliance with such applicable requirements with respect to which the State was not in compliance; and

"(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with such applicable requirements within a reasonable time.",

(3) in subsection (d)—

(A) by striking "allotment" and inserting "allocation", and

(B) by striking "subsection (a) (12)(A), (13), (14) and (23)" each place it appears and inserting "paragraphs (11), (12), (13), and (22) of subsection (a)", and

(4) by adding at the end the following:

"(e) Notwithstanding any other provision of law, the Administrator shall establish appropriate administrative and supervisory board membership requirements for a State agency designated under subsection (a)(1) and permit the State advisory group appointed under subsection (a)(3) to operate as the supervisory board for such agency, at the discretion of the chief executive officer of the State.

"(f) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Administrator shall provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under subsection (a)(3) to assist such organization to carry out the functions specified in paragraph (2).

"(2) ASSISTANCE.—To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

"(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;

"(B) disseminating information, data, standards, advanced techniques, and program models;

"(C) reviewing Federal policies regarding juvenile justice and delinquency prevention;

"(D) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

"(E) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.".

SEC. 12210. JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

42 USC 5651 *et seq.*
42 USC 5667g–5667g–5.

(1) by striking parts C, D, E, F, G, and H,

(2) by striking the 1st part I,

(3) by redesignating the 2d part I as part F, and

(4) by inserting after part B the following:

"PART C—JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM

42 USC 5651.

"SEC. 241. AUTHORITY TO MAKE GRANTS.

"(a) GRANTS TO ELIGIBLE STATES.—The Administrator may make grants to eligible States, from funds allocated under section 242, for the purpose of providing financial assistance to eligible

entities to carry out projects designed to prevent juvenile delinquency, including—

"(1) projects that provide treatment (including treatment for mental health problems) to juvenile offenders, and juveniles who are at risk of becoming juvenile offenders, who are victims of child abuse or neglect or who have experienced violence in their homes, at school, or in the community, and to their families, in order to reduce the likelihood that such juveniles will commit violations of law;

"(2) educational projects or supportive services for delinquent or other juveniles—

"(A) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations in educational settings;

"(B) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency;

"(C) to assist in identifying learning difficulties (including learning disabilities);

"(D) to prevent unwarranted and arbitrary suspensions and expulsions;

"(E) to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

"(F) which assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other juveniles with disabilities;

"(G) which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies; or

"(H) to provide services to juveniles with serious mental and emotional disturbances (SED) in need of mental health services;

"(3) projects which expand the use of probation officers—

"(A) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

"(B) to ensure that juveniles follow the terms of their probation;

"(4) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officers, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;

"(5) community-based projects and services (including literacy and social service programs) which work with juvenile offenders and juveniles who are at risk of becoming juvenile offenders, including those from families with limited English-

speaking proficiency, their parents, their siblings, and other family members during and after incarceration of the juvenile offenders, in order to strengthen families, to allow juvenile offenders to be retained in their homes, and to prevent the involvement of other juvenile family members in delinquent activities;

"(6) projects designed to provide for the treatment (including mental health services) of juveniles for dependence on or abuse of alcohol, drugs, or other harmful substances;

"(7) projects which leverage funds to provide scholarships for postsecondary education and training for low-income juveniles who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;

"(8) projects which provide for an initial intake screening of each juvenile taken into custody—

"(A) to determine the likelihood that such juvenile will commit a subsequent offense; and

"(B) to provide appropriate interventions (including mental health services) to prevent such juvenile from committing subsequent offenses;

"(9) projects (including school- or community-based projects) that are designed to prevent, and reduce the rate of, the participation of juveniles in gangs that commit crimes (particularly violent crimes), that unlawfully use firearms and other weapons, or that unlawfully traffic in drugs and that involve, to the extent practicable, families and other community members (including law enforcement personnel and members of the business community) in the activities conducted under such projects;

"(10) comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies (including collaboration on appropriate prenatal care for pregnant juvenile offenders), private nonprofit agencies, and public recreation agencies offering services to juveniles;

"(11) to develop, implement, and support, in conjunction with public and private agencies, organizations, and businesses, projects for the employment of juveniles and referral to job training programs (including referral to Federal job training programs);

"(12) delinquency prevention activities which involve youth clubs, sports, recreation and parks, peer counseling and teaching, the arts, leadership development, community service, volunteer service, before- and after-school programs, violence prevention activities, mediation skills training, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment;

"(13) to establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing treatment plans for juvenile offenders;

"(14) programs that encourage social competencies, problem-solving skills, and communication skills, youth leadership, and civic involvement;

"(15) programs that focus on the needs of young girls at-risk of delinquency or status offenses;

"(16) projects which provide for—

"(A) an assessment by a qualified mental health professional of incarcerated juveniles who are suspected to be in need of mental health services;

"(B) the development of an individualized treatment plan for those incarcerated juveniles determined to be in need of such services;

"(C) the inclusion of a discharge plan for incarcerated juveniles receiving mental health services that addresses aftercare services; and

"(D) all juveniles receiving psychotropic medications to be under the care of a licensed mental health professional;

"(17) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

"(18) programs related to the establishment and maintenance of a school violence hotline, based on a public-private partnership, that students and parents can use to report suspicious, violent, or threatening behavior to local school and law enforcement authorities;

"(19) programs (excluding programs to purchase guns from juveniles) designed to reduce the unlawful acquisition and illegal use of guns by juveniles, including partnerships between law enforcement agencies, health professionals, school officials, firearms manufacturers, consumer groups, faith-based groups and community organizations;

"(20) programs designed to prevent animal cruelty by juveniles and to counsel juveniles who commit animal cruelty offenses, including partnerships among law enforcement agencies, animal control officers, social services agencies, and school officials;

"(21) programs that provide suicide prevention services for incarcerated juveniles and for juveniles leaving the incarceration system;

"(22) programs to establish partnerships between State educational agencies and local educational agencies for the design and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness;

"(23) programs that foster strong character development in at-risk juveniles and juveniles in the juvenile justice system;

"(24) local programs that provide for immediate psychological evaluation and follow-up treatment (including evaluation and treatment during a mandatory holding period for not less than 24 hours) for juveniles who bring a gun on school grounds without permission from appropriate school authorities; and

"(25) other activities that are likely to prevent juvenile delinquency.

"(b) GRANTS TO ELIGIBLE INDIAN TRIBES.—The Administrator may make grants to eligible Indian tribes from funds allocated

under section 242(b), to carry out projects of the kinds described in subsection (a).

42 USC 5652.

"SEC. 242. ALLOCATION.

"(a) ALLOCATION AMONG ELIGIBLE STATES.—Subject to subsection (b), funds appropriated to carry out this part shall be allocated among eligible States proportionately based on the population that is less than 18 years of age in the eligible States.

"(b) ALLOCATION AMONG INDIAN TRIBES COLLECTIVELY.—Before allocating funds under subsection (a) among eligible States, the Administrator shall allocate among eligible Indian tribes as determined under section 246(a), an aggregate amount equal to the amount such tribes would be allocated under subsection (a), and without regard to this subsection, if such tribes were treated collectively as an eligible State.

42 USC 5653.

"SEC. 243. ELIGIBILITY OF STATES.

"(a) APPLICATION.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application that contains the following:

"(1) An assurance that the State will use—

"(A) not more than 5 percent of such grant, in the aggregate, for—

"(i) the costs incurred by the State to carry out this part; and

"(ii) to evaluate, and provide technical assistance relating to, projects and activities carried out with funds provided under this part; and

"(B) the remainder of such grant to make grants under section 244.

"(2) An assurance that, and a detailed description of how, such grant will supplement, and not supplant State and local efforts to prevent juvenile delinquency.

"(3) An assurance that such application was prepared after consultation with and participation by the State advisory group, community-based organizations, and organizations in the local juvenile justice system, that carry out programs, projects, or activities to prevent juvenile delinquency.

"(4) An assurance that the State advisory group will be afforded the opportunity to review and comment on all grant applications submitted to the State agency.

"(5) An assurance that each eligible entity described in section 244 that receives an initial grant under section 244 to carry out a project or activity shall also receive an assurance from the State that such entity will receive from the State, for the subsequent fiscal year to carry out such project or activity, a grant under such section in an amount that is proportional, based on such initial grant and on the amount of the grant received under section 241 by the State for such subsequent fiscal year, but that does not exceed the amount specified for such subsequent fiscal year in such application as approved by the State.

"(6) Such other information and assurances as the Administrator may reasonably require by rule.

"(b) APPROVAL OF APPLICATIONS.—

"(1) APPROVAL REQUIRED.—Subject to paragraph (2), the Administrator shall approve an application, and amendments

to such application submitted in subsequent fiscal years, that satisfy the requirements of subsection (a).

"(2) LIMITATION.—The Administrator may not approve such application (including amendments to such application) for a fiscal year unless—

"(A)(i) the State submitted a plan under section 223 for such fiscal year; and

"(ii) such plan is approved by the Administrator for such fiscal year; or

"(B) the Administrator waives the application of subparagraph (A) to such State for such fiscal year, after finding good cause for such a waiver.

"SEC. 244. GRANTS FOR LOCAL PROJECTS. 42 USC 5654.

"(a) GRANTS BY STATES.—Using a grant received under section 241, a State may make grants to eligible entities whose applications are received by the State, and reviewed by the State advisory group, to carry out projects and activities described in section 241.

"(b) SPECIAL CONSIDERATION.—For purposes of making grants under subsection (a), the State shall give special consideration to eligible entities that—

"(1) propose to carry out such projects in geographical areas in which there is—

"(A) a disproportionately high level of serious crime committed by juveniles; or

"(B) a recent rapid increase in the number of nonstatus offenses committed by juveniles;

"(2)(A) agreed to carry out such projects or activities that are multidisciplinary and involve more than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles; or

"(B) represent communities that have a comprehensive plan designed to identify at-risk juveniles and to prevent or reduce the rate of juvenile delinquency, and that involve other entities operated by individuals who have a demonstrated history of involvement in activities designed to prevent juvenile delinquency; and

"(3) the amount of resources (in cash or in kind) such entities will provide to carry out such projects and activities.

"SEC. 245. ELIGIBILITY OF ENTITIES. 42 USC 5655.

"(a) ELIGIBILITY.—Except as provided in subsection (b), to be eligible to receive a grant under section 244, a unit of general purpose local government, acting jointly with not fewer than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles, shall submit to the State an application that contains the following:

"(1) An assurance that such applicant will use such grant, and each such grant received for the subsequent fiscal year, to carry out throughout a 2-year period a project or activity described in reasonable detail, and of a kind described in one or more of paragraphs (1) through (25) of section 241(a) as specified in, such application.

"(2) A statement of the particular goals such project or activity is designed to achieve, and the methods such entity will use to achieve, and assess the achievement of, each of such goals.

"(3) A statement identifying the research (if any) such entity relied on in preparing such application.

"(b) LIMITATION.—If an eligible entity that receives a grant under section 244 to carry out a project or activity for a 2-year period, and receives technical assistance from the State or the Administrator after requesting such technical assistance (if any), fails to demonstrate, before the expiration of such 2-year period, that such project or such activity has achieved substantial success in achieving the goals specified in the application submitted by such entity to receive such grants, then such entity shall not be eligible to receive any subsequent grant under such section to continue to carry out such project or activity.

42 USC 5656.

"SEC. 246. GRANTS TO INDIAN TRIBES.

"(a) ELIGIBILITY.—

"(1) APPLICATION.—To be eligible to receive a grant under section 241(b), an Indian tribe shall submit to the Administrator an application in accordance with this section, in such form and containing such information as the Administrator may require by rule.

"(2) PLANS.—Such application shall include a plan for conducting programs, projects, and activities described in section 241(a), which plan shall—

"(A) provide evidence that the applicant Indian tribe performs law enforcement functions (as determined by the Secretary of the Interior);

"(B) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be addressed by activities conducted with funds provided by the grant for which such application is submitted, by the Indian tribe in the geographical area under the jurisdiction of the Indian tribe;

"(C) provide for fiscal control and accounting procedures that—

"(i) are necessary to ensure the prudent use, proper disbursement, and accounting of grants received by applicants under this section; and

"(ii) are consistent with the requirement specified in subparagraph (B); and

"(D) comply with the requirements specified in section 223(a) (excluding any requirement relating to consultation with a State advisory group) and with the requirements specified in section 222(c); and

"(E) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably require by rule to ensure the effectiveness of the projects for which grants are made under section 241(b).

"(b) FACTORS FOR CONSIDERATION.—For the purpose of selecting eligible applicants to receive grants under section 241(b), the Administrator shall consider—

"(1) the resources that are available to each applicant Indian tribe that will assist, and be coordinated with, the overall juvenile justice system of the Indian tribe; and

"(2) with respect to each such applicant—

"(A) the juvenile population; and

"(B) the population and the entities that will be served by projects proposed to be carried out with the grant for which the application is submitted.

"(c) GRANT PROCESS.—

"(1) SELECTION OF GRANT RECIPIENTS.—

"(A) SELECTION REQUIREMENTS.—Except as provided in paragraph (2), the Administrator shall—

"(i) make grants under this section on a competitive basis; and

"(ii) specify in writing to each applicant selected to receive a grant under this section, the terms and conditions on which such grant is made to such applicant.

"(B) PERIOD OF GRANT.—A grant made under this section shall be available for expenditure during a 2–year period.

"(2) EXCEPTION.—If—

"(A) in the 2-year period for which a grant made under this section shall be expended, the recipient of such grant applies to receive a subsequent grant under this section; and

"(B) the Administrator determines that such recipient performed during the year preceding the 2–year period for which such recipient applies to receive such subsequent grant satisfactorily and in accordance with the terms and conditions applicable to the grant received;

then the Administrator may waive the application of the competition-based requirement specified in paragraph (1)(A)(i) and may allow the applicant to incorporate by reference in the current application the text of the plan contained in the recipient's most recent application previously approved under this section.

"(3) AUTHORITY TO MODIFY APPLICATION PROCESS FOR SUBSEQUENT GRANTS.—The Administrator may modify by rule the operation of subsection (a) with respect to the submission and contents of applications for subsequent grants described in paragraph (2).

"(d) REPORTING REQUIREMENT.—Each Indian tribe that receives a grant under this section shall be subject to the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(e) MATCHING REQUIREMENT.—(1) Funds appropriated for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this section.

"(2) Paragraph (1) shall not apply with respect to funds appropriated before the date of the enactment of the Juvenile Justice and Delinquency Prevention Act of 2002.

"(3) If the Administrator determines that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.".

SEC. 12211. RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING.

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 C, as added by section 12510, the following:

"PART D—RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING

42 USC 5661.

"SEC. 251. RESEARCH AND EVALUATION; STATISTICAL ANALYSES; INFORMATION DISSEMINATION.

"(a) RESEARCH AND EVALUATION.—(1) The Administrator may—

"(A) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

"(B) conduct research or evaluation in juvenile justice matters, for the purpose of providing research and evaluation relating to—

"(i) the prevention, reduction, and control of juvenile delinquency and serious crime committed by juveniles;

"(ii) the link between juvenile delinquency and the incarceration of members of the families of juveniles;

"(iii) successful efforts to prevent first-time minor offenders from committing subsequent involvement in serious crime;

"(iv) successful efforts to prevent recidivism;

"(v) the juvenile justice system;

"(vi) juvenile violence;

"(vii) appropriate mental health services for juveniles and youth at risk of participating in delinquent activities;

"(viii) reducing the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups;

"(ix) evaluating services, treatment, and aftercare placement of juveniles who were under the care of the State child protection system before their placement in the juvenile justice system;

"(x) determining—

"(I) the frequency, seriousness, and incidence of drug use by youth in schools and communities in the States using, if appropriate, data submitted by the States pursuant to this subparagraph and subsection (b); and

"(II) the frequency, degree of harm, and morbidity of violent incidents, particularly firearm-related injuries and fatalities, by youth in schools and communities in the States, including information with respect to—

"(aa) the relationship between victims and perpetrators;

"(bb) demographic characteristics of victims and perpetrators; and

"(cc) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation; and

"(xi) other purposes consistent with the purposes of this title and title I.

"(2) The Administrator shall ensure that an equitable amount of funds available to carry out paragraph (1)(B) is used for research and evaluation relating to the prevention of juvenile delinquency.

"(3) Nothing in this subsection shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies, or in data-collection efforts, carried out under paragraph (1)(B)(x).

"(4) Not later than 1 year after the date of enactment of this paragraph,the Administrator shall conduct a study with respect to juveniles who, prior to placement in the juvenile justice system, were under the care or custody of the State child welfare system, and to juveniles who are unable to return to their family after completing their disposition in the juvenile justice system and who remain wards of the State. Such study shall include—

"(A) the number of juveniles in each category;

"(B) the extent to which State juvenile justice systems and child welfare systems are coordinating services and treatment for such juveniles;

"(C) the Federal and local sources of funds used for placements and post-placement services;

"(D) barriers faced by State in providing services to these juveniles;

"(E) the types of post-placement services used;

"(F) the frequency of case plans and case plan reviews; and

"(G) the extent to which case plans identify and address permanency and placement barriers and treatment plans.

"(b) STATISTICAL ANALYSES.—The Administrator may—

"(1) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

"(2) undertake statistical work in juvenile justice matters, for the purpose of providing for the collection, analysis, and dissemination of statistical data and information relating to juvenile delinquency and serious crimes committed by juveniles, to the juvenile justice system, to juvenile violence, and to other purposes consistent with the purposes of this title and title I.

"(c) GRANT AUTHORITY AND COMPETITIVE SELECTION PROCESS.—The Administrator may make grants and enter into contracts with public or private agencies, organizations, or individuals and shall use a competitive process, established by rule by the Administrator, to carry out subsections (a) and (b).

"(d) IMPLEMENTATION OF AGREEMENTS.—A Federal agency that makes an agreement under subsections (a)(1)(B) and (b)(2) with the Administrator may carry out such agreement directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

"(e) INFORMATION DISSEMINATION.—The Administrator may—

"(1) review reports and data relating to the juvenile justice system in the United States and in foreign nations (as appropriate), collect data and information from studies and research into all aspects of juvenile delinquency (including the causes, prevention, and treatment of juvenile delinquency) and serious crimes committed by juveniles;

"(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, publication, and dissemination of information relating to juvenile delinquency, including State and local prevention and treatment programs, plans, resources, and training and technical assistance programs; and

"(3) make grants and contracts with public and private agencies, institutions, and organizations, for the purpose of disseminating information to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, the courts, corrections, schools, and related services, in the establishment, implementation, and operation of projects and activities for which financial assistance is provided under this title.

42 USC 5662.

"SEC. 252. TRAINING AND TECHNICAL ASSISTANCE.

"(a) TRAINING.—The Administrator may—

"(1) develop and carry out projects for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102; and

"(2) make grants to and contracts with public and private agencies, institutions, and organizations for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102.

"(b) TECHNICAL ASSISTANCE.—The Administrator may—

"(1) develop and implement projects for the purpose of providing technical assistance to representatives and personnel of public and private agencies and organizations, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title; and

"(2) make grants to and contracts with public and private agencies, institutions, and organizations, for the purpose of providing technical assistance to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title.

"(c) TRAINING AND TECHNICAL ASSISTANCE TO MENTAL HEALTH PROFESSIONALS AND LAW ENFORCEMENT PERSONNEL.—The Administrator shall provide training and technical assistance to mental health professionals and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials, and correctional officers) to address or to promote the development, testing, or demonstration of promising or innovative models (including model juvenile and family courts), programs, or delivery systems that address the needs of juveniles who are

alleged or adjudicated delinquent and who, as a result of such status, are placed in secure detention or confinement or in non-secure residential placements.".

SEC. 12212. DEMONSTRATION PROJECTS.

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 D, as added by section 12511, the following:

"PART E—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

"SEC. 261. GRANTS AND PROJECTS. 42 USC 5665.

"(a) AUTHORITY TO MAKE GRANTS.—The Administrator may make grants to and contracts with States, units of general local government, Indian tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency. The Administrator shall ensure that, to the extent reasonable and practicable, such grants are made to achieve an equitable geographical distribution of such projects throughout the United States.

"(b) USE OF GRANTS.—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which such grant is made.

"SEC. 262. GRANTS FOR TECHNICAL ASSISTANCE. 42 USC 5666.

"The Administrator may make grants to and contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 261.

"SEC. 263. ELIGIBILITY. 42 USC 5667.

"To be eligible to receive a grant made under this part, a public or private agency, Indian tribal government, organization, institution, individual, or combination thereof shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may reasonably require by rule.

"SEC. 264. REPORTS. 42 USC 5668.

"Recipients of grants made under this part shall submit to the Administrator such reports as may be reasonably requested by the Administrator to describe progress achieved in carrying out the projects for which such grants are made.".

SEC. 12213. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) by striking subsection (e), and

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

"(a) AUTHORIZATION OF APPROPRIATIONS FOR TITLE II (EXCLUDING PARTS C AND E).—(1) There are authorized to be appropriated to carry out this title such sums as may be appropriate for fiscal years 2003, 2004, 2005, 2006, and 2007.

"(2) Of such sums as are appropriated for a fiscal year to carry out this title (other than parts C and E)—

"(A) not more than 5 percent shall be available to carry out part A;

"(B) not less than 80 percent shall be available to carry out part B; and

"(C) not more than 15 percent shall be available to carry out part D.

"(b) AUTHORIZATION OF APPROPRIATIONS FOR PART C.—There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.

"(c) AUTHORIZATION OF APPROPRIATIONS FOR PART E.—There are authorized to be appropriated to carry out part E, and authorized to remain available until expended, such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.".

SEC. 12214. ADMINISTRATIVE AUTHORITY.

Section 299A of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended—

(1) in subsection (d) by striking "as are consistent with the purpose of this Act" and inserting "only to the extent necessary to ensure that there is compliance with the specific requirements of this title or to respond to requests for clarification and guidance relating to such compliance", and

(2) by adding at the end the following:

"(e) If a State requires by law compliance with the requirements described in paragraphs (11), (12), and (13) of section 223(a), then for the period such law is in effect in such State such State shall be rebuttably presumed to satisfy such requirements.".

SEC. 12215. USE OF FUNDS.

Section 299C(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5674(c)) is amended to read as follows:

"(c) No funds may be paid under this title to a residential program (excluding a program in a private residence) unless—

"(1) there is in effect in the State in which such placement or care is provided, a requirement that the provider of such placement or such care may be licensed only after satisfying, at a minimum, explicit standards of discipline that prohibit neglect, and physical and mental abuse, as defined by State law;

"(2) such provider is licensed as described in paragraph (1) by the State in which such placement or care is provided; and

"(3) in a case involving a provider located in a State that is different from the State where the order for placement originates, the chief administrative officer of the public agency or the officer of the court placing the juvenile certifies that such provider—

"(A) satisfies the originating State's explicit licensing standards of discipline that prohibit neglect, physical and mental abuse, and standards for education and health care as defined by that State's law; and

"(B) otherwise complies with the Interstate Compact on the Placement of Children as entered into by such other State.".

SEC. 12216. LIMITATIONS ON USE OF FUNDS.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510, is amended adding at the end the following:

"SEC. 299F. LIMITATIONS ON USE OF FUNDS. 42 USC 5677.

"None of the funds made available to carry out this title may be used to advocate for, or support, the unsecured release of juveniles who are charged with a violent crime.".

SEC. 12217. RULES OF CONSTRUCTION.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by section 12516, is amended adding at the end the following:

"SEC. 299G. RULES OF CONSTRUCTION. 42 USC 5678.

"Nothing in this title or title I shall be construed—

"(1) to prevent financial assistance from being awarded through grants under this title to any otherwise eligible organization; or

"(2) to modify or affect any Federal or State law relating to collective bargaining rights of employees.".

SEC. 12218. LEASING SURPLUS FEDERAL PROPERTY.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516 and 12517, is amended adding at the end the following:

"SEC. 299H. LEASING SURPLUS FEDERAL PROPERTY. 42 USC 5679.

"The Administrator may receive surplus Federal property (including facilities) and may lease such property to States and units of general local government for use in or as facilities for juvenile offenders, or for use in or as facilities for delinquency prevention and treatment activities.".

SEC. 12219. ISSUANCE OF RULES.

Part F of title II or the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516, 12517, and 12518, is amended adding at the end the following:

"SEC. 299I. ISSUANCE OF RULES. 42 USC 5680.

"The Administrator shall issue rules to carry out this title, including rules that establish procedures and methods for making grants and contracts, and distributing funds available, to carry out this title.".

SEC. 12220. CONTENT OF MATERIALS.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516, 12517, 12518, and 12519, is amended by adding at the end the following:

42 USC 5681.

"SEC. 299J. CONTENT OF MATERIALS.

"Materials produced, procured, or distributed both using funds appropriated to carry out this Act and for the purpose of preventing hate crimes that result in acts of physical violence, shall not recommend or require any action that abridges or infringes upon the constitutionally protected rights of free speech, religion, or equal protection of juveniles or of their parents or legal guardians.".

SEC. 12221. TECHNICAL AND CONFORMING AMENDMENTS.

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

42 USC 5612.

(1) in section 202(b) by striking "prescribed for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376",

42 USC 5631.

(2) in section 221(b)(2) by striking the last sentence,

42 USC 5675.

(3) in section 299D by striking subsection (d), and

(4) by striking title IV, as originally enacted by Public Law 93–415 (88 Stat. 1132–1143).

(b) CONFORMING AMENDMENTS.—(1) The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended—

42 USC 13002.

(A) in section 214(b)(1) by striking "262, 293, and 296 of subpart II of title II" and inserting "299B and 299E",

42 USC 13003.

(B) in section 214A(c)(1) by striking "262, 293, and 296 of subpart II of title II" and inserting "299B and 299E",

42 USC 13013.

(C) in section 217(c)(1) by striking "sections 262, 293, and 296 of subpart II of title II" and inserting "sections 299B and 299E", and

42 USC 13023.

(D) in section 223(c) by striking "section 262, 293, and 296" and inserting "sections 262, 299B, and 299E".

(2) Section 404(a)(5)(E) of the Missing Children's Assistance Act (42 U.S.C. 5773) is amended by striking "section 313" and inserting "section 331".

SEC. 12222. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

(a) AMENDMENT.—Title V of the of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781–5785), as added by Public Law 102–586, is amended to read as follows:

Incentive Grants for Local Delinquency Prevention Programs Act of 2002.

"TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

42 USC 5601 note.

"SEC. 501. SHORT TITLE.

"This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act of 2002'.

42 USC 5781 note.

"SEC. 502. DEFINITION.

"In this title, the term 'State advisory group' means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

42 USC 5782.

"SEC. 503. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

"The Administrator shall—

"(1) issue such rules as are necessary or appropriate to carry out this title;

"(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

"(3) provide adequate staff and resources necessary to properly carry out this title; and

"(4) not later than 180 days after the end of each fiscal year, submit a report to the chairman of the Committee on Education and the Workforce of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate— Deadline.

"(A) describing activities and accomplishments of grant activities funded under this title;

"(B) describing procedures followed to disseminate grant activity products and research findings;

"(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

"(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

"SEC. 504. GRANTS FOR DELINQUENCY PREVENTION PROGRAMS. 42 USC 5783.

"(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to juveniles and their families of—

"(1) alcohol and substance abuse prevention services;

"(2) tutoring and remedial education, especially in reading and mathematics;

"(3) child and adolescent health and mental health services;

"(4) recreation services;

"(5) leadership and youth development activities;

"(6) the teaching that people are and should be held accountable for their actions;

"(7) assistance in the development of job training skills; and

"(8) other data-driven evidence based prevention programs.

"(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—

"(1) the unit is in compliance with the requirements of part B of title II;

"(2) the unit has submitted to the State advisory group a minimum 3-year comprehensive plan outlining the unit's local front end plans for investment for delinquency prevention and early intervention activities;

"(3) the unit has included in its application to the Administrator for formula grant funds a summary of the minimum 3-year comprehensive plan described in paragraph (2);

"(4) pursuant to its minimum 3-year comprehensive plan, the unit has appointed a local policy board of not fewer than

15 and not more than 21 members, with balanced representation of public agencies and private nonprofit organizations serving juveniles, their families, and business and industry;

"(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services to at-risk juveniles and their families, including such programs as nutrition, energy assistance, and housing;

"(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

"(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

"(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

"(1) plans for service and agency coordination and collaboration including the colocation of services;

"(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities;

"(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention;

"(4) coordinating and collaborating with programs established in local communities for delinquency prevention under part C of this subtitle; and

"(5) developing data-driven prevention plans, employing evidence-based prevention strategies, and conducting program evaluations to determine impact and effectiveness.

42 USC 5784.

"SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2004, 2005, 2006, 2007, and 2008.".

42 USC 5781 note.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall take effect on October 1, 2002, and shall not apply with respect to grants made before such date.

42 USC 5601 note.

SEC. 12223. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

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

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to fiscal years beginning after September 30, 2002.

Subtitle C—Juvenile Disposition Hearing

SEC. 12301. JUVENILE DISPOSITION HEARING.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence—

(i) by striking "enter an order of restitution pursuant to section 3556,"; and

(ii) by inserting after "official detention" the following: "which may include a term of juvenile delinquent supervision to follow detention"; and

(B) by inserting after the second sentence the following: "In addition, the court may enter an order of restitution pursuant to section 3556.";

(2) in subsection (b)—

(A) by striking the last sentence; and

(B) by adding at the end the following:

"The provisions dealing with probation set forth in sections 3563 and 3564 are applicable to an order placing a juvenile on probation. If the juvenile violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a dispositional hearing and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to section 994 of title 28, revoke the term of probation and order a term of official detention. The term of official detention authorized upon revocation of probation shall not exceed the terms authorized in section 5037(c)(2) (A) and (B). The application of sections 5037(c)(2) (A) and (B) shall be determined based upon the age of the juvenile at the time of the disposition of the revocation proceeding. If a juvenile is over the age of 21 years old at the time of the revocation proceeding, the mandatory revocation provisions of section 3565(b) are applicable. A disposition of a juvenile who is over the age of 21 years shall be in accordance with the provisions of section 5037(c)(2), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of official detention may continue beyond the juvenile's 26th birthday, and in any other case, no term of official detention may continue beyond the juvenile's 24th birthday. A term of official detention may include a term of juvenile delinquent supervision.";

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking "or";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or";

(4) in subsection (c)(2)(A), by striking "five years; or" and inserting: "the lesser of—

"(i) five years; or

"(ii) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or";

(5) in subsection (c)(2)(B)—

(A) in clause (i), by striking "or";

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise

similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or";

(6) by redesignating subsection (d) as subsection (e); and

(7) by inserting after subsection (c) the following:

"(d)(1) The court, in ordering a term of official detention, may include the requirement that the juvenile be placed on a term of juvenile delinquent supervision after official detention.

"(2) The term of juvenile delinquent supervision that may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(A) in the case of a juvenile who is less than 18 years old, a term that extends beyond the date when the juvenile becomes 21 years old; or

"(B) in the case of a juvenile who is between 18 and 21 years old, a term that extends beyond the maximum term of official detention set forth in section 5037(c)(2) (A) and (B), less the term of official detention ordered.

"(3) The provisions dealing with probation set forth in sections 3563 and 3564 are applicable to an order placing a juvenile on juvenile delinquent supervision.

"(4) The court may modify, reduce, or enlarge the conditions of juvenile delinquent supervision at any time prior to the expiration or termination of the term of supervision after a dispositional hearing and after consideration of the provisions of section 3563 regarding the initial setting of the conditions of probation.

"(5) If the juvenile violates a condition of juvenile delinquent supervision at any time prior to the expiration or termination of the term of supervision, the court may, after a dispositional hearing and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to section 994 of title 18, revoke the term of supervision and order a term of official detention. The term of official detention which is authorized upon revocation of juvenile delinquent supervision shall not exceed the term authorized in section 5037(c)(2) (A) and (B), less any term of official detention previously ordered. The application of sections 5037(c)(2) (A) and (B) shall be determined based upon the age of the juvenile at the time of the disposition of the revocation proceeding. If a juvenile is over the age of 21 years old at the time of the revocation proceeding, the mandatory revocation provisions of section 3565(b) are applicable. A disposition of a juvenile who is over the age of 21 years old shall be in accordance with the provisions of section 5037(c)(2), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of official detention may continue beyond the juvenile's 26th birthday, and in any other case, no term of official detention may continue beyond the juvenile's 24th birthday.

"(6) When a term of juvenile delinquent supervision is revoked and the juvenile is committed to official detention, the court may include a requirement that the juvenile be placed on a term of juvenile delinquent supervision. Any term of juvenile delinquent supervision ordered following revocation for a juvenile who is over the age of 21 years old at the time of the revocation proceeding shall be in accordance with the provisions of section 5037(d)(1), except that in the case of a juvenile who if convicted as an adult

would be convicted of a Class A, B, or C felony, no term of juvenile delinquent supervision may continue beyond the juvenile's 26th birthday, and in any other case, no term of juvenile delinquent supervision may continue beyond the juvenile's 24th birthday.".

TITLE III—INTELLECTUAL PROPERTY

Subtitle A—Patent and Trademark Office Authorization

Patent and Trademark Office Authorization Act of 2002.

SEC. 13101. SHORT TITLE.

This subtitle may be cited as the "Patent and Trademark Office Authorization Act of 2002".

SEC. 13102. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE. 35 USC 42 note.

(a) IN GENERAL.—There are authorized to be appropriated to the United States Patent and Trademark Office for salaries and necessary expenses for each of the fiscal years 2003 through 2008 an amount equal to the fees estimated by the Secretary of Commerce to be collected in each such fiscal year, respectively, under—

(1) title 35, United States Code; and

(2) the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946).

(b) ESTIMATES.—Not later than February 15, of each fiscal year, the Undersecretary of Commerce for Intellectual Property and the Director of the Patent and Trademark Office (in this subtitle referred to as the Director) shall submit an estimate of all fees referred to under subsection (a) to be collected in the next fiscal year to the chairman and ranking member of— Deadline.

(1) the Committees on Appropriations and Judiciary of the Senate; and

(2) the Committees on Appropriations and Judiciary of the House of Representatives.

SEC. 13103. ELECTRONIC FILING AND PROCESSING OF PATENT AND TRADEMARK APPLICATIONS. 35 USC 2 note.

(a) ELECTRONIC FILING AND PROCESSING.—The Director shall, beginning not later than 90 days after the date of enactment of this Act, and during the 3-year period thereafter, develop an electronic system for the filing and processing of patent and trademark applications, that— Deadline.

(1) is user friendly; and

(2) includes the necessary infrastructure—

(A) to allow examiners and applicants to send all communications electronically; and

(B) to allow the Office to process, maintain, and search electronically the contents and history of each application.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized under section 13102, there is authorized to be appropriated to carry out subsection (a) of this section not more than $50,000,000

for each of fiscal years 2003, 2004, and 2005. Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 13104. STRATEGIC PLAN.

(a) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—The Director shall, in close consultation with the Patent Public Advisory Committee and the Trademark Public Advisory Committee, develop a strategic plan that sets forth the goals and methods by which the United States Patent and Trademark Office will, during the 5-year period beginning on January 1, 2003—

(A) enhance patent and trademark quality;

(B) reduce patent and trademark pendency; and

(C) develop and implement an effective electronic system for use by the Patent and Trademark Office and the public for all aspects of the patent and trademark processes, including, in addition to the elements set forth in section 13103, searching, examining, communicating, publishing, and making publicly available, patents and trademark registrations.

(2) CONTENTS AND CONSULTATION.—The strategic plan shall include milestones and objective and meaningful criteria for evaluating the progress and successful achievement of the plan. The Director shall consult with the Public Advisory Committees with respect to the development of each aspect of the strategic plan.

Deadline.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 4 months after the date of enactment of this Act, the Director shall submit the plan developed under subsection (a) to the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 13105. DETERMINATION OF SUBSTANTIAL NEW QUESTION OF PATENTABILITY IN REEXAMINATION PROCEEDINGS.

(a) IN GENERAL.—Sections 303(a) and 312(a) of title 35, United States Code, are each amended by adding at the end the following: "The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.".

35 USC 303 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any determination of the Director of the United States Patent and Trademark Office that is made under section 303(a) or 312(a) of title 35, United States Code, on or after the date of enactment of this Act.

SEC. 13106. APPEALS IN INTER PARTES REEXAMINATION PROCEEDINGS.

(a) APPEALS BY THIRD-PARTY REQUESTER IN PROCEEDINGS.—Section 315(b) of title 35, United States Code, is amended to read as follows:

"(b) THIRD-PARTY REQUESTER.—A third-party requester—

"(1) may appeal under the provisions of section 134, and may appeal under the provisions of sections 141 through 144, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; and

"(2) may, subject to subsection (c), be a party to any appeal taken by the patent owner under the provisions of section 134 or sections 141 through 144.".

(b) APPEAL TO BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134(c) of title 35, United States Code, is amended by striking the last sentence.

(c) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended in the third sentence by inserting ", or a third-party requester in an inter partes reexamination proceeding, who is" after "patent owner".

(d) EFFECTIVE DATE.—The amendments made by this section apply with respect to any reexamination proceeding commenced on or after the date of enactment of this Act. 35 USC 134 note.

Subtitle B—Intellectual Property and High Technology Technical Amendments

Intellectual Property and High Technology Technical Amendments Act of 2002. 35 USC 1 note.

SEC. 13201. SHORT TITLE.

This subtitle may be cited as the "Intellectual Property and High Technology Technical Amendments Act of 2002".

SEC. 13202. CLARIFICATION OF REEXAMINATION PROCEDURE ACT OF 1999; TECHNICAL AMENDMENTS.

(a) OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.—Title 35, United States Code, is amended as follows:

(1) Section 311 is amended—

(A) in subsection (a), by striking "person" and inserting "third-party requester"; and

(B) in subsection (c), by striking "Unless the requesting person is the owner of the patent, the" and inserting "The".

(2) Section 312 is amended—

(A) in subsection (a), by striking the second sentence; and

(B) in subsection (b), by striking ", if any".

(3) Section 314(b)(1) is amended—

(A) by striking "(1) This" and all that follows through "(2)" and inserting "(1)";

(B) by striking "the third-party requester shall receive a copy" and inserting "the Office shall send to the third-party requester a copy"; and

(C) by redesignating paragraph (3) as paragraph (2).

(4) Section 315(c) is amended by striking "United States Code,".

(5) Section 317 is amended—

(A) in subsection (a), by striking "patent owner nor the third-party requester, if any, nor privies of either" and inserting "third-party requester nor its privies"; and

(B) in subsection (b), by striking "United States Code,".

(b) CONFORMING AMENDMENTS.—

(1) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Subsections (a), (b), and (c) of section 134 of title 35, United States Code, are each amended by striking "administrative patent judge" each place it appears and inserting "primary examiner".

(2) PROCEEDING ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to

read as follows: "In an ex parte case or any reexamination case, the Director shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Director and the parties in the appeal.".

(c) CLERICAL AMENDMENTS.—

(1) Section 4604(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended by striking "Part 3" and inserting "Part III".

35 USC 311–318.

(2) Section 4604(b) of that Act is amended by striking "title 25" and inserting "title 35".

Applicability.
35 USC 134 note.

(d) EFFECTIVE DATE.—The amendments made by section 4605 (b), (c), and (e) of the Intellectual Property and Communications Omnibus Reform Act, as enacted by section 1000(a)(9) of Public Law 106–113, shall apply to any reexamination filed in the United States Patent and Trademark Office on or after the date of enactment of Public Law 106–113.

SEC. 13203. PATENT AND TRADEMARK EFFICIENCY ACT AMENDMENTS.

(a) DEPUTY COMMISSIONER.—

(1) Section 17(b) of the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946") (15 U.S.C. 1067(b)), is amended by inserting "the Deputy Commissioner," after "Commissioner,".

(2) Section 6(a) of title 35, United States Code, is amended by inserting "the Deputy Commissioner," after "Commissioner,".

(b) PUBLIC ADVISORY COMMITTEES.—Section 5 of title 35, United States Code, is amended—

(1) in subsection (i), by inserting ", privileged," after "personnel"; and

(2) by adding at the end the following new subsection: "(j) INAPPLICABILITY OF PATENT PROHIBITION.—Section 4 shall not apply to voting members of the Advisory Committees.".

(c) MISCELLANEOUS.—Section 153 of title 35, United States Code, is amended by striking "and attested by an officer of the Patent and Trademark Office designated by the Director,".

SEC. 13204. DOMESTIC PUBLICATION OF FOREIGN FILED PATENT APPLICATIONS ACT OF 1999 AMENDMENTS.

Section 154(d)(4)(A) of title 35, United States Code, as in effect on November 29, 2000, is amended—

(1) by striking "on which the Patent and Trademark Office receives a copy of the" and inserting "of"; and

(2) by striking "international application" the last place it appears and inserting "publication".

SEC. 13205. DOMESTIC PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD.

Subtitle E of title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

35 USC 102.

(1) Section 4505 is amended to read as follows:

"SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

"Section 102(e) of title 35, United States Code, is amended to read as follows:

"'(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or'.".

(2) Section 4507 is amended—

(A) in paragraph (1), by striking "Section 11" and inserting "Section 10"; 35 USC 10.

(B) in paragraph (2), by striking "Section 12" and inserting "Section 11". 35 USC 11.

(C) in paragraph (3), by striking "Section 13" and inserting "Section 12"; 35 USC 12.

(D) in paragraph (4), by striking "12 and 13" and inserting "11 and 12";

(E) in section 374 of title 35, United States Code, as amended by paragraph (10), by striking "confer the same rights and shall have the same effect under this title as an application for patent published" and inserting "be deemed a publication"; and 35 USC 374.

(F) by adding at the end the following:

"(12) The item relating to section 374 in the table of contents for chapter 37 of title 35, United States Code, is amended to read as follows:

"'374. Publication of international application.'".

(3) Section 4508 is amended to read as follows: 35 USC 10 note.

"SEC. 4508. EFFECTIVE DATE.

"Except as otherwise provided in this section, sections 4502 through 4504 and 4506 through 4507, and the amendments made by such sections, shall be effective as of November 29, 2000, and shall apply only to applications (including international applications designating the United States) filed on or after that date. The amendments made by section 4504 shall additionally apply to any pending application filed before November 29, 2000, if such pending application is published pursuant to a request of the applicant under such procedures as may be established by the Director. Except as otherwise provided in this section, the amendments made by section 4505 shall be effective as of November 29, 2000 and shall apply to all patents and all applications for patents pending on or filed after November 29, 2000. Patents resulting from an international application filed before November 29, 2000 and applications published pursuant to section 122(b) or Article 21(2) of the treaty defined in section 351(a) resulting from an international application filed before November 29, 2000 shall not be effective as prior art as of the filing date of the international application; however, such patents shall be effective as prior art in accordance with section 102(e) in effect on November 28, 2000.".

SEC. 13206. MISCELLANEOUS CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—The following provisions of title 35, United States Code, are amended:

(1) Section 2(b) is amended in paragraphs (2)(B) and (4)(B), by striking ", United States Code".

(2) Section 3 is amended—

(A) in subsection (a)(2)(B), by striking "United States Code,";

(B) in subsection (b)(2)—

(i) in the first sentence of subparagraph (A), by striking ", United States Code";

(ii) in the first sentence of subparagraph (B)—

(I) by striking "United States Code,"; and

(II) by striking ", United States Code";

(iii) in the second sentence of subparagraph (B)—

(I) by striking "United States Code,"; and

(II) by striking ", United States Code." and inserting a period;

(iv) in the last sentence of subparagraph (B), by striking ", United States Code"; and

(v) in subparagraph (C), by striking ", United States Code"; and

(C) in subsection (c)—

(i) in the subsection caption, by striking ", UNITED STATES CODE"; and

(ii) by striking "United States Code,".

(3) Section 5 is amended in subsections (e) and (g), by striking ", United States Code" each place it appears.

(4) The table of chapters for part I is amended in the item relating to chapter 3, by striking "**before**" and inserting "**Before**".

(5) The item relating to section 21 in the table of contents for chapter 2 is amended to read as follows:

"21. Filing date and day for taking action.".

(6) The item relating to chapter 12 in the table of chapters for part II is amended to read as follows:

"12. Examination of Application ..... 131".

(7) The item relating to section 116 in the table of contents for chapter 11 is amended to read as follows:

"116. Inventors.".

(8) Section 154(b)(4) is amended by striking ", United States Code,".

(9) Section 156 is amended—

(A) in subsection (b)(3)(B), by striking "paragraphs" and inserting "paragraph";

(B) in subsection (d)(2)(B)(i), by striking "below the office" and inserting "below the Office"; and

(C) in subsection (g)(6)(B)(iii), by striking "submittted" and inserting "submitted".

(10) The item relating to section 183 in the table of contents for chapter 17 is amended by striking "of" and inserting "to".

(11) Section 185 is amended by striking the second period at the end of the section.

(12) Section 201(a) is amended—

(A) by striking "United States Code,"; and

(B) by striking "5, United States Code." and inserting "5.".

(13) Section 202 is amended—

(A) in subsection (b)(4), by striking "last paragraph of section 203(2)" and inserting "section 203(b)"; and

(B) in subsection (c)—

(i) in paragraph (4), by striking "rights;" and inserting "rights,"; and

(ii) in paragraph (5), by striking "of the United States Code".

(14) Section 203 is amended—

(A) in paragraph (2)—

(i) by striking "(2)" and inserting "(b)";

(ii) by striking the quotation marks and comma before "as appropriate"; and

(iii) by striking "paragraphs (a) and (c)" and inserting "paragraphs (1) and (3) of subsection (a)"; and

(B) in the first paragraph—

(i) by striking "(a)", "(b)", "(c)", and "(d)" and inserting "(1)", "(2)", "(3)", and "(4)", respectively; and

(ii) by striking "(1." and inserting "(a)".

(15) Section 209 is amended in subsections (d)(2) and (f), by striking "of the United States Code".

(16) Section 210 is amended—

(A) in subsection (a)—

(i) in paragraph (11), by striking "5901" and inserting "5908"; and

(ii) in paragraph (20) by striking "178(j)" and inserting "178j"; and

(B) in subsection (c)—

(i) by striking "paragraph 202(c)(4)" and inserting "section 202(c)(4)"; and

(ii) by striking "title.." and inserting "title.".

(17) The item relating to chapter 29 in the table of chapters for part III is amended by inserting a comma after "**Patent**".

(18) The item relating to section 256 in the table of contents for chapter 25 is amended to read as follows:

"256. Correction of named inventor.".

(19) Section 294 is amended—

(A) in subsection (b), by striking "United States Code,"; and

(B) in subsection (c), in the second sentence by striking "court to" and inserting "court of".

(20) Section 371(d) is amended by adding at the end a period.

(21) Paragraphs (1), (2), and (3) of section 376(a) are each amended by striking the semicolon and inserting a period.

(b) OTHER AMENDMENTS.—

(1) Section 4732(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999 is amended—

(A) in paragraph (9)(A)(ii), by inserting "in subsection (b)," after "(ii)"; and 35 USC 303.

35 USC 7 *et seq.*

(B) in paragraph (10)(A), by inserting after "title 35, United States Code," the following: "other than sections 1 through 6 (as amended by chapter 1 of this subtitle),".

35 USC 119.

(2) Section 4802(1) of that Act is amended by inserting "to" before "citizens".

(3) Section 4804 of that Act is amended—

35 USC 10.

(A) in subsection (b), by striking "11(a)" and inserting "10(a)"; and

35 USC 12.

(B) in subsection (c), by striking "13" and inserting "12".

35 USC 382.

(4) Section 4402(b)(1) of that Act is amended by striking "in the fourth paragraph".

SEC. 13207. TECHNICAL CORRECTIONS IN TRADEMARK LAW.

(a) AWARD OF DAMAGES.—Section 35(a) of the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946") (15 U.S.C. 1117(a)), is amended by striking "a violation under section 43(a), (c), or (d)," and inserting "a violation under section 43(a) or (d),".

(b) ADDITIONAL TECHNICAL AMENDMENTS.—The Trademark Act of 1946 is further amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended in the first sentence by striking "specifying the date of the applicant's first use" and all that follows through the end of the sentence and inserting "specifying the date of the applicant's first use of the mark in commerce and those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce.".

(2) Section 1(e) (15 U.S.C. 1051(e)) is amended to read as follows:

"(e) If the applicant is not domiciled in the United States the applicant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.".

(3) Section 8(f) (15 U.S.C. 1058(f)) is amended to read as follows:

"(f) If the registrant is not domiciled in the United States, the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name

and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.".

(4) Section 9(c) (15 U.S.C. 1059(c)) is amended to read as follows:

"(c) If the registrant is not domiciled in the United States the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.".

(5) Subsections (a) and (b) of section 10 (15 U.S.C. 1060(a) and (b)) are amended to read as follows:

"(a)(1) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

"(2) In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted.

"(3) Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office, the record shall be prima facie evidence of execution.

"(4) An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office within 3 months after the date of the assignment or prior to the subsequent purchase.

"(5) The United States Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Director.

"(b) An assignee not domiciled in the United States may designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served

upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the assignee does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served upon the Director.".

(6) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking the second comma after "numeral".

(7) Section 33(b)(8) (15 U.S.C. 1115(b)(8)) is amended by aligning the text with paragraph (7).

(8) Section 34(d)(1)(A) (15 U.S.C. 1116(d)(1)(A)) is amended by striking "section 110" and all that follows through "(36 U.S.C. 380)" and inserting "section 220506 of title 36, United States Code,".

(9) Section 34(d)(1)(B)(ii) (15 U.S.C. 1116(d)(1)(B)(ii)) is amended by striking "section 110" and all that follows through "(36 U.S.C. 380)" and inserting "section 220506 of title 36, United States Code".

(10) Section 34(d)(11) is amended by striking "6621 of the Internal Revenue Code of 1954" and inserting "6621(a)(2) of the Internal Revenue Code of 1986".

(11) Section 35(b) (15 U.S.C. 1117(b)) is amended—

(A) by striking "section 110" and all that follows through "(36 U.S.C. 380)" and inserting "section 220506 of title 36, United States Code,"; and

(B) by striking "6621 of the Internal Revenue Code of 1954" and inserting "6621(a)(2) of the Internal Revenue Code of 1986".

(12) Section 44(e) (15 U.S.C. 1126(e)) is amended by striking "a certification" and inserting "a true copy, a photocopy, a certification,".

SEC. 13208. PATENT AND TRADEMARK FEE CLERICAL AMENDMENT.

The Patent and Trademark Fee Fairness Act of 1999 (113 Stat. 1537–546 et seq.), as enacted by section 1000(a)(9) of Public Law 106–113, is amended in section 4203, by striking "111(a)" and inserting "1113(a)".

15 USC 1113 note.

SEC. 13209. COPYRIGHT RELATED CORRECTIONS TO 1999 OMNIBUS REFORM ACT.

Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

17 USC 119.

(1) Section 1007 is amended—

(A) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (2)(A)"; and

(B) in paragraph (3), by striking "1005(e)" and inserting "1005(d)".

17 USC 119.

(2) Section 1006(b) is amended by striking "119(b)(1)(B)(iii)" and inserting "119(b)(1)(B)(ii)".

(3)(A) Section 1006(a) is amended—

(i) in paragraph (1), by adding "and" after the semicolon;

(ii) by striking paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2).

(B) Section 1011(b)(2)(A) is amended to read as follows:

"(A) in paragraph (1), by striking 'primary transmission made by a superstation and embodying a performance or display of a work' and inserting 'performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed';".

SEC. 13210. AMENDMENTS TO TITLE 17, UNITED STATES CODE.

Title 17, United States Code, is amended as follows:

(1) Section 119(a)(6) is amended by striking "of performance" and inserting "of a performance".

(2)(A) The section heading for section 122 is amended by striking "**rights; secondary**" and inserting "**rights: Secondary**".

(B) The item relating to section 122 in the table of contents for chapter 1 is amended to read as follows:

"122. Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.".

(3)(A) The section heading for section 121 is amended by striking "**reproduction**" and inserting "**Reproduction**".

(B) The item relating to section 121 in the table of contents for chapter 1 is amended by striking "reproduction" and inserting "Reproduction".

(4)(A) Section 106 is amended by striking "107 through 121" and inserting "107 through 122".

(B) Section 501(a) is amended by striking "106 through 121" and inserting "106 through 122".

(C) Section 511(a) is amended by striking "106 through 121" and inserting "106 through 122".

(5) Section 101 is amended—

(A) by moving the definition of "computer program" so that it appears after the definition of "compilation"; and

(B) by moving the definition of "registration" so that it appears after the definition of "publicly".

(6) Section 110(4)(B) is amended in the matter preceding clause (i) by striking "conditions;" and inserting "conditions:".

(7) Section 118(b)(1) is amended in the second sentence by striking "to it".

(8) Section 119(b)(1)(A) is amended—

(A) by striking "transmitted" and inserting "retransmitted"; and

(B) by striking "transmissions" and inserting "retransmissions".

(9) Section 203(a)(2) is amended—

(A) in subparagraph (A)—

(i) by striking "(A) the" and inserting "(A) The"; and

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

(B) in subparagraph (B)—

(i) by striking "(B) the" and inserting "(B) The"; and

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

(C) in subparagraph (C), by striking "(C) the" and inserting "(C) The".

(10) Section 304(c)(2) is amended—

(A) in subparagraph (A)—

(i) by striking "(A) the" and inserting "(A) The"; and

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

(B) in subparagraph (B)—

(i) by striking "(B) the" and inserting "(B) The"; and

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

(C) in subparagraph (C), by striking "(C) the" and inserting "(C) The".

(11) The item relating to section 903 in the table of contents for chapter 9 is amended by striking "licensure" and inserting "licensing".

SEC. 13211. OTHER COPYRIGHT RELATED TECHNICAL AMENDMENTS.

(a) AMENDMENT TO TITLE 18.—Section 2319(e)(2) of title 18, United States Code, is amended by striking "107 through 120" and inserting "107 through 122".

15 USC 290e.

(b) STANDARD REFERENCE DATA.—(1) Section 105(f) of Public Law 94–553 is amended by striking "section 290(e) of title 15" and inserting "section 6 of the Standard Reference Data Act (15 U.S.C. 290e)".

(2) Section 6(a) of the Standard Reference Data Act (15 U.S.C. 290e) is amended by striking "Notwithstanding" and all that follows through "United States Code," and inserting "Notwithstanding the limitations under section 105 of title 17, United States Code,".

Technology, Education, and Copyright Harmonization Act of 2002.

Subtitle C—Educational Use Copyright Exemption

SEC. 13301. EDUCATIONAL USE COPYRIGHT EXEMPTION.

17 USC 101 note.

(a) SHORT TITLE.—This subtitle may be cited as the "Technology, Education, and Copyright Harmonization Act of 2002".

(b) EXEMPTION OF CERTAIN PERFORMANCES AND DISPLAYS FOR EDUCATIONAL USES.—Section 110 of title 17, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) except with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or a performance or display that is given by means of a copy or phonorecord that is not lawfully made and acquired under this title, and the transmitting government body or accredited nonprofit educational institution knew or had reason to believe was not lawfully made and acquired, the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission, if—

"(A) the performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution;

"(B) the performance or display is directly related and of material assistance to the teaching content of the transmission;

"(C) the transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—

"(i) students officially enrolled in the course for which the transmission is made; or

"(ii) officers or employees of governmental bodies as a part of their official duties or employment; and

"(D) the transmitting body or institution—

"(i) institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and

"(ii) in the case of digital transmissions—

"(I) applies technological measures that reasonably prevent—

"(aa) retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and

"(bb) unauthorized further dissemination of the work in accessible form by such recipients to others; and

"(II) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination;"; and

(2) by adding at the end the following:

"In paragraph (2), the term 'mediated instructional activities' with respect to the performance or display of a work by digital transmission under this section refers to activities that use such work as an integral part of the class experience, controlled by or under the actual supervision of the instructor and analogous to the type of performance or display that would take place in a live classroom setting. The term does not refer to activities that use, in 1 or more class sessions of a single course, such works as textbooks, course packs, or other material in any media, copies or phonorecords of which are typically purchased or acquired by the students in higher education for their independent use and retention or are typically purchased or acquired for elementary and secondary students for their possession and independent use.

"For purposes of paragraph (2), accreditation—

"(A) with respect to an institution providing post-secondary education, shall be as determined by a regional

or national accrediting agency recognized by the Council on Higher Education Accreditation or the United States Department of Education; and

"(B) with respect to an institution providing elementary or secondary education, shall be as recognized by the applicable state certification or licensing procedures.

"For purposes of paragraph (2), no governmental body or accredited nonprofit educational institution shall be liable for infringement by reason of the transient or temporary storage of material carried out through the automatic technical process of a digital transmission of the performance or display of that material as authorized under paragraph (2). No such material stored on the system or network controlled or operated by the transmitting body or institution under this paragraph shall be maintained on such system or network in a manner ordinarily accessible to anyone other than anticipated recipients. No such copy shall be maintained on the system or network in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary to facilitate the transmissions for which it was made.".

(c) EPHEMERAL RECORDINGS.—

(1) IN GENERAL.—Section 112 of title 17, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

"(f)(1) Notwithstanding the provisions of section 106, and without limiting the application of subsection (b), it is not an infringement of copyright for a governmental body or other nonprofit educational institution entitled under section 110(2) to transmit a performance or display to make copies or phonorecords of a work that is in digital form and, solely to the extent permitted in paragraph (2), of a work that is in analog form, embodying the performance or display to be used for making transmissions authorized under section 110(2), if—

"(A) such copies or phonorecords are retained and used solely by the body or institution that made them, and no further copies or phonorecords are reproduced from them, except as authorized under section 110(2); and

"(B) such copies or phonorecords are used solely for transmissions authorized under section 110(2).

"(2) This subsection does not authorize the conversion of print or other analog versions of works into digital formats, except that such conversion is permitted hereunder, only with respect to the amount of such works authorized to be performed or displayed under section 110(2), if—

"(A) no digital version of the work is available to the institution; or

"(B) the digital version of the work that is available to the institution is subject to technological protection measures that prevent its use for section 110(2).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 802(c) of title 17, United States Code, is amended in the third sentence by striking "section 112(f)" and inserting "section 112(g)".

(d) PATENT AND TRADEMARK OFFICE REPORT.—

Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and after a period for public comment,

the Undersecretary of Commerce for Intellectual Property, after consultation with the Register of Copyrights, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing technological protection systems that have been implemented, are available for implementation, or are proposed to be developed to protect digitized copyrighted works and prevent infringement, including upgradeable and self-repairing systems, and systems that have been developed, are being developed, or are proposed to be developed in private voluntary industry-led entities through an open broad based consensus process. The report submitted to the Committees shall not include any recommendations, comparisons, or comparative assessments of any commercially available products that may be mentioned in the report.

(2) LIMITATIONS.—The report under this subsection—

(A) is intended solely to provide information to Congress; and

(B) shall not be construed to affect in any way, either directly or by implication, any provision of title 17, United States Code, including the requirements of clause (ii) of section 110(2)(D) of that title (as added by this subtitle), or the interpretation or application of such provisions, including evaluation of the compliance with that clause by any governmental body or nonprofit educational institution.

Subtitle D—Madrid Protocol Implementation

Madrid Protocol Implementation Act.

SEC. 13401. SHORT TITLE.

15 USC 1051 note.

This subtitle may be cited as the "Madrid Protocol Implementation Act".

SEC. 13402. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946") is amended by adding after section 51 the following:

"TITLE XII—THE MADRID PROTOCOL

"SEC. 60. DEFINITIONS.

15 USC 1141.

"In this title:

"(1) BASIC APPLICATION.—The term 'basic application' means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(2) BASIC REGISTRATION.—The term 'basic registration' means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis

for an application for the international registration of that mark.

"(3) CONTRACTING PARTY.—The term 'Contracting Party' means any country or inter-governmental organization that is a party to the Madrid Protocol.

"(4) DATE OF RECORDAL.—The term 'date of recordal' means the date on which a request for extension of protection, filed after an international registration is granted, is recorded on the International Register.

"(5) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term 'declaration of bona fide intention to use the mark in commerce' means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

"(A) the applicant or holder has a bona fide intention to use the mark in commerce;

"(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce; and

"(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, mistake, or deception.

"(6) EXTENSION OF PROTECTION.—The term 'extension of protection' means the protection resulting from an international registration that extends to the United States at the request of the holder of the international registration, in accordance with the Madrid Protocol.

"(7) HOLDER OF AN INTERNATIONAL REGISTRATION.—A 'holder' of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

"(8) INTERNATIONAL APPLICATION.—The term 'international application' means an application for international registration that is filed under the Madrid Protocol.

"(9) INTERNATIONAL BUREAU.—The term 'International Bureau' means the International Bureau of the World Intellectual Property Organization.

"(10) INTERNATIONAL REGISTER.—The term 'International Register' means the official collection of data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded.

"(11) INTERNATIONAL REGISTRATION.—The term 'international registration' means the registration of a mark granted under the Madrid Protocol.

"(12) INTERNATIONAL REGISTRATION DATE.—The term 'international registration date' means the date assigned to the international registration by the International Bureau.

"(13) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

"(14) NOTIFICATION OF REFUSAL.—The term 'notification of refusal' means the notice sent by the United States Patent and Trademark Office to the International Bureau declaring that an extension of protection cannot be granted.

"(15) OFFICE OF A CONTRACTING PARTY.—The term 'Office of a Contracting Party' means—

"(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks; or

"(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

"(16) OFFICE OF ORIGIN.—The term 'office of origin' means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

"(17) OPPOSITION PERIOD.—The term 'opposition period' means the time allowed for filing an opposition in the United States Patent and Trademark Office, including any extension of time granted under section 13.

"SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS. 15 USC 1141a.

"(a) IN GENERAL.—The owner of a basic application pending before the United States Patent and Trademark Office, or the owner of a basic registration granted by the United States Patent and Trademark Office may file an international application by submitting to the United States Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Director.

"(b) QUALIFIED OWNERS.—A qualified owner, under subsection (a), shall—

"(1) be a national of the United States;

"(2) be domiciled in the United States; or

"(3) have a real and effective industrial or commercial establishment in the United States.

"SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION. 15 USC 1141b.

"(a) CERTIFICATION PROCEDURE.—Upon the filing of an application for international registration and payment of the prescribed fees, the Director shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification.

"(b) TRANSMITTAL.—Upon examination and certification of the international application, the Director shall transmit the international application to the International Bureau.

"SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION. 15 USC 1141c.

"With respect to an international application transmitted to the International Bureau under section 62, the Director shall notify the International Bureau whenever the basic application or basic

registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of the goods and services listed in the international registration—

"(1) within 5 years after the international registration date; or

"(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

15 USC 1141d.

"SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

"The holder of an international registration that is based upon a basic application filed with the United States Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

"(1) directly with the International Bureau; or

"(2) with the United States Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Director.

15 USC 1141e.

"SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

"(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

"(b) IF THE UNITED STATES IS OFFICE OF ORIGIN.—Where the United States Patent and Trademark Office is the office of origin for a trademark application or registration, any international registration based on such application or registration cannot be used to obtain the benefits of the Madrid Protocol in the United States.

15 USC 1141f.

"SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

"(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the United States Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

"(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

"(1) The international registration date, if the request for extension of protection was filed in the international application.

"(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

"(3) The date of priority claimed pursuant to section 67.

"SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES. 15 USC 1141g.

"The holder of an international registration with a request for an extension of protection to the United States shall be entitled to claim a date of priority based on a right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

"(1) the request for extension of protection contains a claim of priority; and

"(2) the date of international registration or the date of the recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention for the Protection of Industrial Property).

"SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL. 15 USC 1141h.

"(a) EXAMINATION AND OPPOSITION.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Director shall cause the mark to be published in the Official Gazette of the United States Patent and Trademark Office.

"(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13.

"(3) Extension of protection shall not be refused on the ground that the mark has not been used in commerce.

"(4) Extension of protection shall be refused to any mark not registrable on the Principal Register.

"(b) NOTIFICATION OF REFUSAL.—If, a request for extension of protection is refused under subsection (a), the Director shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

"(c) NOTICE TO INTERNATIONAL BUREAU.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Director shall transmit to the International Bureau any of the following that applies to such request:

"(A) A notification of refusal based on an examination of the request for extension of protection.

"(B) A notification of refusal based on the filing of an opposition to the request.

"(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

"(2) If the Director has sent a notification of the possibility of opposition under paragraph (1)(C), the Director shall, if

applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

"(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Director after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

"(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Director shall issue a certificate of extension of protection pursuant to the request.

"(d) DESIGNATION OF AGENT FOR SERVICE OF PROCESS.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served. Such notices or process may be served upon the person designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation filed. If the person designated cannot be found at the address given in the last designation, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States for service of notices or process in proceedings affecting the mark, the notice or process may be served on the Director.

15 USC 1141i.

"SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

"(a) ISSUANCE OF EXTENSION OF PROTECTION.—Unless a request for extension of protection is refused under section 68, the Director shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the United States Patent and Trademark Office.

"(b) EFFECT OF EXTENSION OF PROTECTION.—From the date on which a certificate of extension of protection is issued under subsection (a)—

"(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register; and

"(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

15 USC 1141j.

"SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

"(a) EFFECT OF CANCELLATION OF INTERNATIONAL REGISTRATION.—If the International Bureau notifies the United States Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Director shall cancel

any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

"(b) EFFECT OF FAILURE TO RENEW INTERNATIONAL REGISTRATION.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

"(c) TRANSFORMATION OF AN EXTENSION OF PROTECTION INTO A UNITED STATES APPLICATION.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

Deadline.

"SEC. 71. AFFIDAVITS AND FEES.

15 USC 1141k.

"(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Director—

"(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Director, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; and

"(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Director, and at the end of each 10-year period thereafter, unless—

"(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the United States Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; or

"(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and the surcharge prescribed by the Director.

Deadline.

"(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

"(c) NOTIFICATION.—The Director shall notify the holder of the international registration who files 1 of the affidavits of the Director's acceptance or refusal thereof and, in case of a refusal, the reasons therefor.

"(d) SERVICE OF NOTICE OR PROCESS.—The holder of the international registration of the mark may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person designated cannot be found at the address given in the last designation, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States for service of notices or process in proceedings affecting the mark, the notice or process may be served on the Director.

15 USC 1141*l*.

"SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

"An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

15 USC 1141m.

"SEC. 73. INCONTESTABILITY.

"The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Director issues the certificate of the extension of protection under section 69, except as provided in section 74.

15 USC 1141n.

"SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

"When a United States registration and a subsequently issued certificate of extension of protection to the United States are owned by the same person, identify the same mark, and list the same goods or services, the extension of protection shall have the same rights that accrued to the registration prior to issuance of the certificate of extension of protection.".

15 USC 1141 note.

SEC. 13403. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date on which the Madrid Protocol (as defined in section 60 of the Trademark Act of 1946) enters into force with respect to the United States; or

(2) the date occurring 1 year after the date of enactment of this Act.

TITLE IV—ANTITRUST TECHNICAL CORRECTIONS ACT OF 2002

Antitrust Technical Corrections Act of 2002.

SEC. 14101. SHORT TITLE.

15 USC 1 note.

This title may be cited as the "Antitrust Technical Corrections Act of 2002".

SEC. 14102. AMENDMENTS.

(a) PANAMA CANAL ACT.—Section 11 of the Panama Canal Act (37 Stat. 566; 15 U.S.C. 31) is amended by striking the undesignated paragraph that begins "No vessel permitted".

(b) SHERMAN ACT.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended—

(1) by inserting "(a)" after "SEC. 3."; and

(2) by adding at the end the following:

"(b) Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in any Territory of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia, and any State or States or foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.".

(c) WILSON TARIFF ACT.—

(1) TECHNICAL AMENDMENT.—The Wilson Tariff Act (28 Stat. 509; 15 U.S.C. 8 et seq.) is amended—

(A) by striking section 77; and

15 USC 15 note.

(B) in section 78—

15 USC 8 note.

(i) by striking "76, and 77" and inserting "and 76"; and

(ii) by redesignating such section as section 77.

(2) CONFORMING AMENDMENTS TO OTHER LAWS.—

(A) CLAYTON ACT.—Subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) is amended by striking "seventy-seven" and inserting "seventy-six".

(B) FEDERAL TRADE COMMISSION ACT.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by striking "77" and inserting "76".

(C) PACKERS AND STOCKYARDS ACT, 1921.—Section 405(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 225(a)) is amended by striking "77" and inserting "76".

(D) ATOMIC ENERGY ACT OF 1954.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by striking "seventy-seven" and inserting "seventy-six".

(E) DEEP SEABED HARD MINERAL RESOURCES ACT.—Section 103(d)(7) of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1413(d)(7)) is amended by striking "77" and inserting "76".

(d) CLAYTON ACT.—The first section 27 of the Clayton Act (15 U.S.C. 27) is redesignated as section 28 and is transferred so as to appear at the end of such Act.

(e) YEAR 2000 INFORMATION AND READINESS DISCLOSURE ACT.—Section 5(a)(2) of the Year 2000 Information and Readiness Disclosure Act (Public Law 105–271) is amended by inserting a period after "failure".

15 USC 1 note.

(f) ACT OF MARCH 3, 1913.—The Act of March 3, 1913 (chapter 114, 37 Stat. 731; 15 U.S.C. 30) is repealed.

49 USC 41309 note.

(g) REPEAL.—Section 116 of the Act of November 19, 2001 is repealed.

15 USC 3 note.

SEC. 14103. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

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

(b) APPLICATION TO CASES.—(1) Section 14102(f) shall apply to cases pending on or after the date of the enactment of this Act.

(2) The amendments made by subsections (a), (b), and (c) of section 14102 shall apply only with respect to cases commenced on or after the date of enactment of this Act.

Approved November 2, 2002.

LEGISLATIVE HISTORY—H.R. 2215 (S. 1319):

HOUSE REPORTS: Nos. 107–125 (Comm. on the Judiciary) and 107–685 (Comm. of Conference).

SENATE REPORTS: No. 107–96 accompanying S. 1319 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 147 (2001): July 23, considered and passed House.
Dec. 20, considered and passed Senate, amended.

Vol. 148 (2002): Sept. 26, House agreed to conference report.
Oct. 1, 3, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):
Nov. 2, Presidential statement.