

103^D CONGRESS
1ST SESSION

H. R. 2899

To require each State to undertake a comprehensive examination of the State's criminal sentencing practices and to adopt a sentencing system consistent with that review and to help fund additional space in State prison programs as needed.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1993

Mr. ROYCE introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require each State to undertake a comprehensive examination of the State's criminal sentencing practices and to adopt a sentencing system consistent with that review and to help fund additional space in State prison programs as needed.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Violent and Repeat
5 Offender Accountability Act of 1993".

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds that—

1 (1) it is the responsibility of the Federal Gov-
2 ernment to provide States help in certain areas, in-
3 cluding efforts to reduce violent crime;

4 (2) Federal legislation relating to criminal jus-
5 tice, including the Racketeer Influenced and Corrupt
6 Organizations Act (“RICO”) and the Federal Sen-
7 tencing Guidelines, has been very effective in dealing
8 with crimes to which the legislation applies;

9 (3) the responsibility for protecting citizens
10 against most violent crimes and for punishing most
11 violent criminal offenders is primarily a matter of
12 State and local governance;

13 (4) violent crimes nationwide have risen dra-
14 matically and constitute a national priority of the
15 highest order;

16 (5) the persistence and increasing incidence of
17 violent crime, despite the efforts of State and local
18 governments, has resulted in a vastly increased Fed-
19 eral role in this area, and there is pressure for even
20 greater Federal involvement in criminal matters tra-
21 ditionally handled by State and local governments;

22 (6) the Federal courts especially have become
23 overburdened with criminal matters more properly
24 handled by State and local governments;

1 (7) a major impetus for this increased Federal
2 role in combating violent crime is the lack of effec-
3 tive tools with which State and local governments
4 can prosecute violent criminal offenders;

5 (8) a more uniform, proportionate, and appro-
6 priately punitive system of sentencing for violent
7 criminal offenders would serve both to reduce the in-
8 cidence of violent crime and to reduce the need for
9 direct Federal involvement in criminal matters tradi-
10 tionally handled by State and local governments;

11 (9) a more appropriate and effective role for the
12 Federal Government in the struggle against most
13 violent crime is to encourage each State to take the
14 steps necessary to reduce crime in such State which
15 would also reduce the national crime rate;

16 (10) the United States Sentencing Guidelines
17 have proven to be an effective means of achieving,
18 at the Federal level, a more uniform, proportionate,
19 and appropriately punitive criminal sentencing sys-
20 tem; and

21 (11) each State should be required to analyze
22 its criminal sentencing system and to consider
23 whether the adoption of a revised sentencing system
24 would enable it to combat violent crime more effec-
25 tively.

1 (b) PURPOSES.—The purposes of this Act are—

2 (1) to require each State to undertake a com-
3 prehensive examination of the State’s criminal sen-
4 tencing scheme and to create a sentencing system
5 which more effectively governs the sentencing of vio-
6 lent offenders; and

7 (2) to provide funds to States that comply with
8 the requirements of section 5(b) to implement nec-
9 essary changes to the State criminal sentencing sys-
10 tem, including increasing the capacity of State cor-
11 rectional facilities if necessary.

12 **SEC. 3. DEFINITION.**

13 For the purpose of this Act, the term “State” means
14 any State of the United States.

15 **SEC. 4. STATE SENTENCING REVIEWS.**

16 (a) IN GENERAL.—Each State, in order to be eligible
17 for funds under this Act, must conduct a systematic re-
18 view of its criminal sentencing laws and practices.

19 (b) STATE SENTENCING REVIEWS.—Not later than
20 one year after the date of enactment of this Act, the gov-
21 ernment of each State shall submit to the Attorney Gen-
22 eral a report detailing the results of the State’s review of
23 its criminal sentencing system. The report also shall in-
24 clude the following:

1 (1) An analysis of the State statutory criminal
2 sentencing scheme, including information regarding
3 murder (all degrees), arson, burglary, assault, rob-
4 bery, kidnapping, extortion, rape, and child molesta-
5 tion. This analysis should include—

6 (A) the minimum and maximum sentence
7 available for each offense;

8 (B) the basis for distinguishing between
9 different degrees of the same offense;

10 (C) whether factors in addition to the ac-
11 tual crime (such as criminal history, victim im-
12 pact, or use of a weapon) should be considered
13 by the sentencing authority; and

14 (D) whether probation or some other non-
15 custodial alternatives to incarceration are a sen-
16 tencing option.

17 (2) An analysis of the sentences actually im-
18 posed by State court judges for the crimes listed in
19 paragraph (1).

20 (3) An analysis of the time which has actually
21 been served for the conviction of crimes listed in
22 paragraph (1).

23 (4) An analysis of the practices and procedures
24 of the State relating to probation, parole, and other
25 alternatives to incarceration, with particular empha-

1 sis on crimes which have been committed by con-
2 victed criminals while on parole or probation or oth-
3 erwise not incarcerated.

4 (5) An analysis of whether the State sentencing
5 system permits or requires the sentencing authority
6 to order convicted criminals to pay restitution to the
7 victim, the victim's family, or the State, and the per-
8 centage of restitution orders which are actually col-
9 lected.

10 (6) An analysis of whether and under what cir-
11 cumstances State law permits the pretrial detention
12 without bond of dangerous offenders.

13 (7) An analysis of whether and under what cir-
14 cumstances State law gives victims the right to be
15 informed, present, and heard at all critical stages of
16 a case from arrest through parole.

17 (8) An analysis of whether and how State law
18 establishes post conviction relief procedures which
19 limit repetitive challenges by convicted offenders.

20 (9) An analysis of State law regarding the ap-
21 plication of adult sentencing laws to juvenile offend-
22 ers charged with the crimes listed in section 4(b)(1)
23 of this Act.

24 (10) An analysis of the State prison capacity
25 and whether court orders limit, or otherwise impact

1 such capacity and whether a lack of capacity im-
2 pacts sentencing or release decisions at the judicial
3 or administrative level.

4 **SEC. 5. STATE SENTENCING SYSTEMS.**

5 (a) IN GENERAL.—Each State, in order to comply
6 with this Act, must submit for approval a plan to the At-
7 torney General that evaluates the criminal sentencing sys-
8 tem and, if necessary, creates a sentencing system which
9 complies with the requirements of subsection (b).

10 (b) STATE SENTENCING SYSTEM.—In addition to re-
11 sponding to the reporting requirement of section 4(b) of
12 this Act, the State, in a subsequent report to the Attorney
13 General, shall describe in detail any changes in the State’s
14 criminal sentencing system designed to meet the require-
15 ments of this Act. The elements of a sentencing system
16 that the States must have in order to be in compliance
17 with this Act shall include at least the following:

18 (1) State constitutional or statutory authority
19 for pretrial detention of dangerous criminals.

20 (2) Mandatory minimum prison sentences,
21 which do not allow probation or suspension of sen-
22 tence, for violent offenders or repeat offenders
23 who—

24 (A) intentionally or knowingly inflict seri-
25 ous physical injury;

1 (B) use or exhibit deadly weapons in the
2 commission of the crimes listed in section
3 4(b)(1) of this Act.

4 (C) commit violent or sexual offenses
5 against children; and

6 (D) commit sexual assault.

7 (3) Mandatory life sentence with no release for
8 third or subsequent conviction of violent crime.

9 (4) Truth in sentencing provisions which re-
10 strict parole, good-time credit release for violent of-
11 fenders, or other forms of early release to not more
12 than a total reduction of 15 percent of the sentence
13 imposed.

14 (5) State constitutional or statutory provisions
15 which guarantee to victims the right to be informed,
16 present, and heard at all critical stages of the crimi-
17 nal case, and provisions to ensure the collection,
18 tracking, and enforcement of restitution from the of-
19 fender in all cases involving economic loss to the vic-
20 tim.

21 **SEC. 6. FUNDING AND COMPLIANCE.**

22 (a) FUNDING.—There shall be available to carry out
23 the purposes of this Act, for fiscal year 1994, \$1,000,000;
24 for fiscal year 1995, \$1,500,000; for fiscal year 1996,
25 \$2,000,000; for fiscal year 1997, \$2,500,000; and for fis-

1 cal year 1998, \$3,000,000; from amounts appropriated for
2 foreign operations during such fiscal years (specifically
3 from the amounts allocated for the Multilateral Develop-
4 ment Banks, the International Development Association,
5 the Agency for International Development, Public Law
6 83-480, and the Export-Import Development Bank) and
7 from amounts appropriated from Federal land purchases
8 and from amounts appropriated for trade promotion ac-
9 tivities and travel and tourism activities.

10 (b) FEDERAL SHARE.—The Federal share of a grant
11 made under this Act may not exceed 50 percent of the
12 total costs of the projects which receive funds under this
13 Act.

14 (c) COMPLIANCE.—Beginning 3 years after the date
15 of enactment of this Act, the Attorney General shall elimi-
16 nate funding to a State that does not comply with the
17 requirements of this Act.

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