

104TH CONGRESS
1ST SESSION

S. 390

To improve the ability of the United States to respond to the international terrorist threat.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10 (legislative day, JANUARY 30), 1995

Mr. BIDEN (for himself, Mr. SPECTER, Mr. KOHL, Mr. KERREY, and Mr. D'AMATO) (by request) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To improve the ability of the United States to respond to the international terrorist threat.

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 Omnibus
5 Counterterrorism Act of 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The following is the table of contents for this Act:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings and purposes.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

- Sec. 101. Acts of terrorism transcending national boundaries.
- Sec. 102. Conspiracy to harm people or property overseas.
- Sec. 103. Clarification and extension of criminal jurisdiction over certain terrorism offense overseas.

TITLE II—IMMIGRATION LAW IMPROVEMENTS

- Sec. 201. Alien terrorist removal procedures.
- Sec. 202. Changes to the Immigration and Nationality Act to facilitate removal of alien terrorists.
- Sec. 203. Access to certain confidential INS files through court order.

TITLE III—CONTROLS OVER TERRORIST FUND-RAISING

- Sec. 301. Terrorist fund-raising prohibited.

TITLE IV—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

- Sec. 401. Short title.
- Sec. 402. Findings and purposes.
- Sec. 403. Definitions.
- Sec. 404. Requirement of detection agents for plastic explosives.
- Sec. 405. Criminal sanctions.
- Sec. 406. Exceptions.
- Sec. 407. Investigative authority.
- Sec. 408. Effective date.

TITLE V—NUCLEAR MATERIALS

- Sec. 501. Expansion of nuclear materials prohibitions.

TITLE VI—PROCEDURAL AND TECHNICAL CORRECTIONS AND IMPROVEMENTS

- Sec. 601. Correction to material support provision.
- Sec. 602. Expansion of weapons of mass destruction statute.
- Sec. 603. Addition of terrorist offenses to the RICO statute.
- Sec. 604. Addition of terrorist offenses to the money laundering statute.
- Sec. 605. Authorization for interception of communications in certain terrorism related offenses.
- Sec. 606. Clarification of maritime violence jurisdiction.
- Sec. 607. Expansion of Federal jurisdiction over bomb threats.
- Sec. 608. Increased penalty for explosives conspiracies.
- Sec. 609. Amendment to include assaults, murder, and threats against former Federal officials on account of the performance of their official duties.
- Sec. 610. Addition of conspiracy to terrorism offenses.

TITLE VII—ANTITERRORISM ASSISTANCE

- Sec. 701. Findings.
- Sec. 702. Antiterrorism assistance amendments.

1 SEC. 3. FINDINGS AND PURPOSES.

- 2 (a) The Congress finds and declares:**

1 (1) International terrorism remains a serious
2 and deadly problem which threatens the interests of
3 the United States both overseas and within its terri-
4 tory. States or organizations that practice terrorism
5 or actively support it should not be allowed to do so
6 without serious consequence.

7 (2) International terrorism directed against
8 United States interests must be confronted by the
9 appropriate use of the full array of tools available to
10 the President, including diplomatic, military, eco-
11 nomic and prosecutive actions.

12 (3) The Nation's security interests are seriously
13 impacted by terrorist attacks carried out overseas
14 against United States Government facilities, officials
15 and other American citizens present in foreign coun-
16 tries.

17 (4) United States foreign policy interests are
18 profoundly affected by terrorist acts overseas espe-
19 cially those directed against friendly foreign govern-
20 ments and their people and those intended to under-
21 mine the peaceful resolution of disputes in the Mid-
22 dle East and other troubled regions.

23 (5) Since the Iranian Revolution of 1979, the
24 defeat of the Soviet Union in Afghanistan, the peace
25 initiative in the Middle East, and the fall of com-

1 munism throughout Eastern Europe and the former
2 Soviet Union, international terrorism has become a
3 more complex problem, with new alliances emerging
4 among terrorist organizations.

5 (6) Violent crime is a pervasive international
6 problem and is exacerbated by the free international
7 movement of drugs, firearms, explosives and individ-
8 uals dedicated to performing acts of international
9 terrorism who travel using false or fraudulent docu-
10 mentation.

11 (7) While international terrorists move freely
12 from country to country, ordinary citizens and for-
13 eign visitors often fear to travel to or through cer-
14 tain parts of the world due to concern about terror-
15 ist violence.

16 (8) In addition to the destruction of property
17 and devastation to human life, the occurrence of an
18 international terrorist event results in a decline of
19 tourism and affects the marketplace, thereby having
20 an adverse impact on interstate and foreign com-
21 merce and economies of friendly nations.

22 (9) International terrorists, violating the sov-
23 ereignty of foreign countries, attack dissidents and
24 former colleagues living in foreign countries, includ-
25 ing the United States.

1 (10) International terrorists, both inside and
2 outside the United States, carefully plan attacks and
3 carry them out in foreign countries against innocent
4 victims.

5 (11) There are increasing intelligence indica-
6 tions of networking between different international
7 terrorist organizations leading to their increased co-
8 operation and sharing of information and resources
9 in areas of common interest.

10 (12) In response, increased international coordi-
11 nation of legal and enforcement issues is required,
12 pursuant, for example, to the numerous multilateral
13 conventions in force providing universal prosecutive
14 jurisdiction over persons involved in a variety of ter-
15 rorist acts, including hostage taking, murder of an
16 internationally protected person, and aircraft piracy
17 and sabotage.

18 (13) Until recently, United States asylum proc-
19 essing procedures have been complicated and often
20 duplicative, providing a powerful incentive for indi-
21 viduals, including terrorists, without a genuine
22 claim, to apply for asylum and remain in the United
23 States.

24 (14) The United States Constitution grants
25 Congress the power to establish a uniform rule of

1 naturalization and to make all laws necessary and
2 proper thereto.

3 (15) Part of that power authorizes the Con-
4 gress to establish laws directly applicable to alien
5 conduct within the United States that harms the
6 foreign relations, domestic tranquility or national se-
7 curity of the United States.

8 (16) While the vast majority of aliens justify
9 the trust placed in them by United States immigra-
10 tion policies, an dangerous few utilized access to the
11 United States to carry out their terrorist activity to
12 the detriment of this Nation's national security and
13 foreign policy interests. Accordingly, international
14 terrorist organizations have been able to create sig-
15 nificant infrastructures and cells in the United
16 States among aliens who are in this country either
17 temporarily or as permanent resident aliens.

18 (17) International terrorist organizations, act-
19 ing through affiliated groups and/or individuals,
20 have been raising significant funds within the Unit-
21 ed States, often through misrepresentation of their
22 purposes or subtle forms of extortion, or using the
23 United States as a conduit for transferring funds
24 among countries.

1 (18) The provision of funds to organizations
2 that engage in terrorism serves to facilitate their
3 terrorist activities regardless of whether the funds,
4 in whole or in part, are intended or claimed to be
5 used for non-violent purposes.

6 (19) Certain foreign governments and inter-
7 national terrorist organizations have directed their
8 members or sympathizers residing in the United
9 States to take measures in support of terrorist acts,
10 either within or outside the United States.

11 (20) Present Federal law does not adequately
12 reach all terrorist activity likely to be engaged in by
13 aliens within the United States.

14 (21) Law enforcement officials have been hin-
15 dered in using current immigration law to deport
16 alien terrorists because the law fails to provide pro-
17 cedures to protect classified intelligence sources and
18 information. Moreover, a few high ranking members
19 of terrorist organizations have been naturalized as
20 United States citizens because denial of such natu-
21 ralizations would have necessitated public disclosure
22 of highly classified sources and methods. Further-
23 more, deportation hearings frequently extend over
24 several years, thus hampering the expeditious re-
25 moval of aliens engaging in terrorist activity.

1 (22) Present immigration law is inadequate to
2 protect the United States from terrorist attacks by
3 certain aliens. New procedures are needed to permit
4 expeditious removal of alien terrorists from the Unit-
5 ed States, thereby reducing the threat that such
6 aliens pose to the national security and other vital
7 interests of the United States.

8 (23) International terrorist organizations that
9 have infrastructure support within the United States
10 are believed to have been responsible for—

11 (A) conspiring in 1982 to bomb the Turk-
12 ish Honorary Consulate in Philadelphia, Penn-
13 sylvania;

14 (B) bombing the Marine barracks in Leb-
15 anon in 1983;

16 (C) holding Americans hostage in Lebanon
17 from 1984–1991;

18 (D) hijacking in 1984 Kuwait Airlines
19 Flight 221 during which two American employ-
20 ees of the Agency for International Develop-
21 ment were murdered;

22 (E) hijacking in 1985 TWA Flight 847
23 during which a United States Navy diver was
24 murdered;

1 (F) murdering in 1985 an American tour-
2 ist aboard the Achille Lauro cruise liner;

3 (G) hijacking in 1985 Egypt Air Flight
4 648 during which one American and one Israeli
5 were killed;

6 (H) murdering in 1985 four members of
7 the United States Marine Corps in El Salvador;

8 (I) attacking in December 1985 the Rome
9 and Vienna airports resulting in the death of a
10 young American girl;

11 (J) hijacking in 1986 Pan Am Flight 73 in
12 Karachi, Pakistan, in which 44 Americans were
13 held hostage and two were killed;

14 (K) conspiring in 1986 in New York City
15 to bomb an Air India aircraft;

16 (L) bombing in April 1988 the USO club
17 in Naples, Italy, killing one American service-
18 woman and injuring four American servicemen;

19 (M) attacking in 1988 the Greek cruise
20 ship "City of Poros";

21 (N) bombing in 1988 Pan Am Flight 103
22 resulting in 270 deaths;

23 (O) bombing in 1989 UTA Flight 772 re-
24 sulting in 171 deaths, including seven Ameri-
25 cans;

1 (P) murdering in 1989 a United States
2 Marine Corps officer assigned to the United
3 Nations Truce Supervisory Organization in
4 Lebanon;

5 (Q) downing in January 1991 a United
6 States military helicopter in El Salvador caus-
7 ing the death of a United States military crew-
8 man as a result of the crash and subsequently
9 murdering its two surviving United States mili-
10 tary crewmen;

11 (R) bombing in February 1992 the United
12 States Ambassador's residence in Lima, Peru;

13 (S) bombing in February 1993 a cafe in
14 Cairo, Egypt, which wounded two United States
15 citizens;

16 (T) bombing in February 1993 the World
17 Trade Center in New York City, resulting in six
18 deaths;

19 (U) conspiring in the New York City area
20 in 1993 to destroy several government buildings
21 and tunnels;

22 (V) wounding in October 1994 two United
23 States citizens on a crowded street in Jerusa-
24 lem, Israel;

1 (W) kidnapping and subsequently murder-
2 ing in October 1994 a dual citizen of the Unit-
3 ed States and Israel; and

4 (X) numerous bombings and murders in
5 Northern Ireland over the past decade.

6 (24) Nuclear materials, including byproduct
7 materials, can be used to create radioactive dispersal
8 devices which are capable of causing serious bodily
9 injury as well as substantial damage to property and
10 the environment.

11 (25) The potential use of nuclear materials, in-
12 cluding byproduct materials, enhances the threat
13 posed by terrorist activities and thereby has a great-
14 er effect on the security interests of the United
15 States.

16 (26) Due to the widespread hazards presented
17 by the threat of nuclear contamination, as well as
18 nuclear bombs, the United States has strong interest
19 in assuring that persons who are engaged in the ille-
20 gal acquisition and use of nuclear materials, includ-
21 ing byproduct materials, are prosecuted for their of-
22 fenses.

23 (27) The threat that the nuclear materials will
24 be obtained and used by terrorist and other criminal
25 organizations has increased substantially due to

1 international developments in the years since the en-
2 actment in 1982 of the legislation which imple-
3 mented the Convention of the Physical Protection of
4 Nuclear Material, codified at section 831 of title 18,
5 United States Code.

6 (28) The successful effort to obtain agreements
7 from other countries to dismantle and destroy nu-
8 clear weapons has resulted in increased packaging
9 and transportation of nuclear materials, thereby cre-
10 ating more opportunities for their unlawful diversion
11 or theft;

12 (29) The illicit trafficking in the relatively more
13 common, commercially available and useable nuclear
14 and byproduct materials poses a potential to cause
15 significant loss of life and/or environmental damage.

16 (30) Reported trafficking incidents in the early
17 1990's suggest that the individuals involved in traf-
18 ficking these materials from Eurasia and Eastern
19 Europe frequently conducted their black market
20 sales within the Federal Republic of Germany, the
21 Baltic States, and to a lesser extent in the Middle
22 European countries.

23 (31) The international community has become
24 increasingly concerned over the illegal possession of
25 nuclear and nuclear byproduct materials.

1 (32) The potentially disastrous ramifications of
2 increased access by terrorists to nuclear and nuclear
3 byproduct material pose such a significant future
4 threat that the United States must use all lawful
5 methods available to combat the illegal use of such
6 materials.

7 (33) The United States has an interest in en-
8 couraging United States corporations to do business
9 in the countries which comprised the former Soviet
10 Union, as well as in other developing democracies;
11 protection of such corporations from threats created
12 by the unlawful use of nuclear materials is impor-
13 tant to encourage such business ventures, and to
14 further the foreign relations and commerce of the
15 United States.

16 (34) The nature of nuclear contamination is
17 such that it may affect the health, environment, and
18 property of United States nationals even if the acts
19 which constitute the illegal activity occur outside the
20 territory of the United States, and are primarily di-
21 rected toward non-nationals of the United States.

22 (35) Plastic explosives were used by terrorists
23 in the bombings of Pan Am flight 103 in December
24 1988 and UTA flight 772 in September 1989.

1 (36) Plastic explosives currently can be used
2 with little likelihood of detection for acts of unlawful
3 interference with civil aviation, maritime navigation,
4 and other modes of transportation.

5 (37) The marking of plastic explosives for the
6 purpose of detection would contribute significantly to
7 the prevention and punishment of such unlawful
8 acts.

9 (38) In order to deter and detect the unlawful
10 use of plastic explosives, the Convention on the
11 Marking of Plastic Explosives for Purpose of Detec-
12 tion, done at Montreal on 1 March 1991, requires
13 each contracting State to adopt appropriate meas-
14 ures to ensure that plastic explosives are duly
15 marked and controlled.

16 The Congress further finds:

17 (39) Such international terrorist offenses place
18 innocent lives in jeopardy, endanger national secu-
19 rity, affect domestic tranquility, and gravely impact
20 on interstate and foreign commerce.

21 (40) Such international terrorist offenses in-
22 volved international associations, communication,
23 and mobility which can often be addressed effectively
24 only at the Federal law enforcement level.

1 (41) There previously has been no Federal
2 criminal statute which provides a comprehensive
3 basis for addressing acts of international terrorism
4 carried out within the United States.

5 (42) There previously has been no Federal pro-
6 vision that specifically prohibits fund raising within
7 the United States on behalf of international terrorist
8 organizations.

9 (43) There previously has been no adequate
10 procedure under the immigration law that permits
11 the expeditious removal of resident and non-resident
12 alien terrorists.

13 (44) There previously has been no Federal
14 criminal statute which provides adequate protection
15 to United States interests from non-weapons grade,
16 yet hazardous radioactive material, and from the il-
17 legal diversion of nuclear materials which are held
18 for other than peaceful purposes.

19 (45) There previously has been no Federal law
20 that requires the marking of plastic explosives to im-
21 prove their detectability.

22 (46) Congress has the power under the inter-
23 state and foreign commerce clause, and other provi-
24 sions of the Constitution, to enact the following

1 measures against international terrorism in order to
2 help ensure the integrity and safety of the Nation.

3 (b) The purposes of this Act are to provide—

4 (1) Federal law enforcement the necessary tools
5 and fullest possible basis allowed under the Con-
6 stitution of the United States to address, pursuant
7 to the rule of law, acts of international terrorism oc-
8 ccurring within the United States, or directed against
9 the United States or its nationals anywhere in the
10 world;

11 (2) the Federal Government the fullest possible
12 basis, consistent with the Constitution, of the United
13 States, to prevent persons and organizations within
14 the jurisdiction of the United States from providing
15 funds, directly or indirectly, to organizations, includ-
16 ing subordinate or affiliated persons, designated by
17 the President as engaging in terrorism, unless au-
18 thorized under this Act;

19 (3) procedures which, consistent with principles
20 of fundamental fairness, will allow the government
21 to deport resident and non-resident alien terrorists
22 promptly without compromising intelligence sources
23 and methods;

24 (4) provide Federal law enforcement the nec-
25 essary tools and fullest possible basis allowed under

1 the Constitution of the United States to combat the
2 threat of nuclear contamination and proliferation
3 which may result from illegal possession and use of
4 radioactive materials; and

5 (5) fully implement the Convention on the
6 Marking or Plastic Explosives for the Purpose of
7 Detection, done at Montreal on 1 March 1991.

8 **TITLE I—SUBSTANTIVE CRIMINAL LAW**
9 **ENHANCEMENTS**

10 **SEC. 101. ACTS OF TERRORISM TRANSCENDING NATIONAL**
11 **BOUNDARIES.**

12 (a) OFFENSE.—Chapter 113B of title 18, United
13 States Code, is amended by inserting after section 2332a
14 this new section:

15 **“§ 2332b. Acts of terrorism transcending national**
16 **boundaries**

17 “(a) FINDINGS AND PURPOSE.—

18 “(1) The Congress hereby finds that—

19 “(A) international terrorism is a serious
20 and deadly problem which threatens the inter-
21 ests of this Nation not only overseas but also
22 within our territory;

23 “(B) international terrorists have dem-
24 onstrated their intention and capability of car-
25 rying out attacks within the United States by,

1 for example, bombing The World Trade Center
2 in New York and undertaking attacks, includ-
3 ing assassinations, against former colleagues
4 and opponents who have taken up residence in
5 this country;

6 “(C) United States foreign policy interests
7 are seriously affected by terrorist acts within
8 the United States directed against foreign gov-
9 ernments and their people;

10 “(D) such offenses place innocent lives in
11 jeopardy, endanger national security, affect do-
12 mestic tranquility, and gravely impact on inter-
13 state and foreign commerce;

14 “(E) such offenses involve international as-
15 sociations, communication, and mobility which
16 often can be addressed effectively only at the
17 Federal law enforcement level; and

18 “(F) there previously has been no Federal
19 criminal statute which provides a comprehensive
20 basis for addressing acts of international terror-
21 ism carried out within the United States.

22 “(2) The purpose of this section is to provide
23 Federal law enforcement the fullest possible basis al-
24 lowed under the Constitution to address acts of

1 international terrorism occurring within the United
2 States.

3 “(b) PROHIBITED ACTS.—

4 “(1) Whoever, in a circumstance described in
5 subsection (c),

6 “(A) kills, kidnaps, maims, commits an as-
7 sult resulting in serious bodily injury, or as-
8 sults with a dangerous weapon any individual
9 within the United States; or

10 “(B) destroys or damages any structure,
11 conveyance or other real or personal property
12 within the United States

13 in violation of the laws of any State or the United
14 States shall be punished as prescribed in subsection
15 (d).

16 “(2) Whoever threatens to commit an offense
17 under subsection (b)(1), or attempts or conspires so
18 to do, shall be punished as prescribed in subsection
19 (d).

20 “(c) JURISDICTIONAL BASES.—The circumstances
21 referred to in subsection (b) are—

22 “(1) any of the offenders travels in commerce
23 with the intent to commit the offense or to escape
24 apprehension after the commission of such offense;

1 “(2) the mail, or any facility utilized in any
2 manner in commerce, is used in furtherance of the
3 commission of the offense or to effect the escape of
4 any offender after the commission of such offense;

5 “(3) the offense obstructs, delays or affects
6 commerce in any way or degree or would have so ob-
7 structed, delayed or affected commerce if the offense
8 had been consummated;

9 “(4) the victim, or intended victim, is the Unit-
10 ed States Government or any official, officer, em-
11 ployee or agent of the legislative, executive or judi-
12 cial branches, or of any department or agency, of
13 the United States;

14 “(5) the structure, conveyance or other real or
15 personal property (A) was used in commerce or in
16 any activity affecting commerce, or (B) was in whole
17 or in part owned, possessed, or used by, or leased to
18 (I) the United States, or any department or agency
19 thereof, or (II) any institution or organization re-
20 ceiving Federal financial assistance or insured by
21 any department or agency of the United States;

22 “(6) any victim, or intended victim, of the of-
23 fense is, at the time of the offense, traveling in com-
24 merce;

1 “(7) any victim, intended victim or offender is
2 not a national of the United States;

3 “(8) the offense is committed in the territorial
4 sea (including the airspace above and the seabed and
5 subsoil below, and artificial islands and fixed struc-
6 tures erected thereon) of the United States; or

7 “(9) the offense is committed in those places
8 within the United States that are in the special mar-
9 itime and territorial jurisdiction of the United
10 States.

11 Jurisdiction shall exist over all principals and
12 coconspirators of an offense under subsection (b), and ac-
13 cessories after the fact to any offense based upon sub-
14 section (b), if at least one of the above circumstances is
15 applicable to at least one offender.

16 “(d) PENALTIES.—Whoever violates this section
17 shall, in addition to the punishment provided for any other
18 crime charged in the indictment, be punished—

19 “(1) for a killing or if death results to any per-
20 son from any other conduct prohibited by this sec-
21 tion by death, or by imprisonment for any term of
22 years or for life;

23 “(2) for kidnapping, by imprisonment for any
24 term of years or for life;

1 “(3) for maiming, by imprisonment for not
2 more than thirty-five years;

3 “(4) for assault with a dangerous weapon or as-
4 sult resulting in serious bodily injury, by imprison-
5 ment for not more than thirty years;

6 “(5) for destroying or damaging any structure,
7 conveyance or other real or personal property, by im-
8 prisonment for not more than twenty-five years;

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

13 “(7) for threatening to commit an offense
14 under this section, by imprisonment for not more
15 than ten years.

16 Notwithstanding any other provision of law, the court
17 shall not place on probation any person convicted of a vio-
18 lation of this section; nor shall the term of imprisonment
19 imposed under this section run concurrently with any
20 other term of imprisonment.

21 “(e) LIMITATION ON PROSECUTION.—No indictment
22 for any offense described in this section shall be sought
23 by the United States except after the Attorney General,
24 or the highest ranking subordinate of the Attorney Gen-
25 eral with responsibility for criminal prosecutions, has

1 made a written certification that, in the judgment of the
2 certifying official, such offense, or any activity preparatory
3 to its commission, transcended national boundaries and
4 that the offense appears to have been intended to coerce,
5 intimidate, or retaliate against a government or a civilian
6 population, including any segment thereof.

7 “(f) INVESTIGATIVE RESPONSIBILITY.—Violations of
8 this section shall be investigated by the Attorney General.
9 Assistance may be requested from any Federal, State or
10 local agency, including the Army, Navy, and Air Force,
11 any statute, rule, or regulation to the contrary notwith-
12 standing.

13 “(g) EVIDENCE.—

14 “(1) The prosecution is not required to prove
15 knowledge by any defendant of a jurisdictional base
16 alleged in the indictment.

17 “(2) In a prosecution under this section that is
18 based upon the adoption of State law, only the ele-
19 ments of the offense under State law, and not any
20 provisions pertaining to criminal procedure or evi-
21 dence, are adopted.

22 “(h) EXTRATERRITORIAL JURISDICTION.—There is
23 extraterritorial Federal jurisdiction (1) over any offense
24 under subsection (b), including any threat, attempt, or
25 conspiracy to commit such offense, and (2) over conduct

1 which, under section 3 of this title, renders any person
2 an accessory after the fact to an offense under subsection
3 (b).

4 “(i) DEFINITIONS.—As used in this section, the
5 term—

6 “(1) ‘commerce’ has the meaning given such
7 term in section 1951(b)(3) of this title;

8 “(2) ‘facility utilized in any manner in com-
9 merce’ includes means of transportation, commu-
10 nication, and transmission;

11 “(3) ‘national of the United States’ has the
12 meaning prescribed in section 101(a)(22) of the Im-
13 migration and Nationality Act (8 U.S.C.
14 1101(a)(22));

15 “(4) ‘serious bodily injury’ has the meaning
16 prescribed in section 1365(g)(3) of this title;

17 “(5) ‘State’ includes a State of the United
18 States, the District of Columbia, and any common-
19 wealth, territory or possession of the United States;
20 and

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

1 (b) TECHNICAL AMENDMENT.—The chapter analysis
2 for Chapter 113B of title 18, United States Code, is
3 amended by inserting after “2332a. Use of Weapons of
4 Mass Destruction.” the following:

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

5 (c) STATUTE OF LIMITATIONS AMENDMENT.—Sec-
6 tion 3286 of title 18, United States Code, is amended by—

7 (1) striking “any offense” and inserting “any
8 non-capital offense”;

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

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

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

12 (5) inserting “2332b (acts of terrorism tran-
13 scending national boundaries),” after “(use of weap-
14 ons of mass destruction),”.

15 (d) PRESUMPTIVE DETENTION.—Section 3142(e) of
16 title 18, United States Code, is amended by inserting “or
17 section 2332b” after “section 924(c)”.

18 (e) WIRETAP AMENDMENT.—Section 2518(11)(b)(ii)
19 of title 18, United States Code, is amended by—

20 (1) inserting “(A)” before “thwart” and

21 (2) inserting “or (B) commit a violation of sec-
22 tion 2332b of this title” after “facilities”.

1 **SEC. 102. CONSPIRACY TO HARM PEOPLE AND PROPERTY**
2 **OVERSEAS.**

3 (a) Section 956 of chapter 45 of title 18, United
4 States Code, is amended to read as follows:

5 **“§956. Conspiracy to kill, kidnap, maim, or injure**
6 **certain property in a foreign country**

7 “(a)(1) Whoever, within the jurisdiction of the United
8 States, conspires with one or more other persons, regard-
9 less of where such other person or persons are located,
10 to commit at any place outside the United States an act
11 that would constitute the offense of murder, kidnapping,
12 or maiming if committed in the special maritime and terri-
13 torial jurisdiction of the United States shall, if he or any
14 such other person commits an act within the jurisdiction
15 of the United States to effect any object of the conspiracy,
16 be punished as provided in subsection (a)(2).

17 “(2) The punishment for an offense under subsection
18 (a)(1) of this section is—

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

22 “(B) imprisonment for not more than thirty-
23 five years if the offense is conspiracy to maim.

24 “(b) Whoever, within the jurisdiction of the United
25 States, conspires with one or more persons, regardless of
26 where such other person or persons are located, to injure

1 or destroy specific property situated within a foreign coun-
2 try and belonging to a foreign government or to any politi-
3 cal subdivision thereof with which the United States is at
4 peace, or any railroad, canal, bridge, airport, airfield or
5 other public utility, public conveyance or public structure,
6 or any religious, educational or cultural property so situ-
7 ated, shall, if he or any such other person commits an
8 act within the jurisdiction of the United States to effect
9 any object of the conspiracy, be imprisoned not more than
10 twenty-five years.”.

11 (b) The chapter analysis for chapter 45 of title 18,
12 United States Code, is amended by striking “956. Con-
13 spiracy to injure property of foreign government.” and in-
14 serting in lieu thereof:

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

15 (c) Section 2339A of title 18, United States Code,
16 is amended by—

17 (1) striking “36” and inserting in lieu thereof
18 “37”;

19 (2) striking “2331” and inserting in lieu there-
20 of “2332”;

21 (3) striking “2339” and inserting in lieu there-
22 of “2332a”;

23 (4) striking “of an escape” and inserting in lieu
24 thereof “or an escape”; and

1 (5) inserting “956,” before “1114.”

2 **SEC. 103. CLARIFICATION AND EXTENSION OF CRIMINAL**
3 **JURISDICTION OVER CERTAIN TERRORISM**
4 **OFFENSES OVERSEAS.**

5 (a) Section 46502(b) of title 49, United States Code,
6 is amended by—

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

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

10 “(2) There is jurisdiction over the offense in
11 paragraph (1) if—

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

14 “(B) an offender is a national of the Unit-
15 ed States; or

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

18 (3) inserting a new paragraph (3) as follows:

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

23 (b) Section 32(b) of title 18, United States Code, is
24 amended by—

1 (1) striking “, if the offender is later found in
2 the United States,”; and

3 (2) adding at the end the following two new
4 paragraphs:

5 “(5) There is jurisdiction over an offense in this
6 subsection if—

7 “(A) a national of the United States was
8 on board, or would have been on board, the air-
9 craft;

10 “(B) an offender is a national of the Unit-
11 ed States; or

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

14 “(6) For purposes of this subsection, the term
15 ‘national of the United States’ has the meaning pre-
16 scribed in section 101(a)(22) of the Immigration
17 and Nationality Act (8 U.S.C. 1101(a)(22)).”.

18 (c) Section 1116 of title 18, United States Code, is
19 amended by—

20 (1) in subsection (b), adding at the end a new
21 paragraph (7) as follows:

22 “(7) ‘national of the United States’ has the
23 meaning prescribed in section 101(a)(22) of the Im-
24 migration and Nationality Act (8 U.S.C.
25 1101(a)(22)).”; and

1 (2) in subsection (c), striking the first sentence
2 and inserting the following: “If the victim of an of-
3 fense under subsection (a) is an internationally pro-
4 tected person outside the United States, the United
5 States may exercise jurisdiction over the offense if
6 (1) the victim is a representative, officer, employee,
7 or agent of the United States, (2) an offender is a
8 national of the United States, or (3) an offender is
9 afterwards found in the United States.”.

10 (d) Section 112 of title 18, United States Code, is
11 amended by—

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

14 (2) in subsection (e), striking the first sentence
15 and inserting the following: “If the victim of an of-
16 fense under subsection (a) is an internationally pro-
17 tected person outside the United States, the United
18 States may exercise jurisdiction over the offense if
19 (1) the victim is a representative, officer, employee,
20 or agent of the United States, (2) an offender is a
21 national of the United States, or (3) an offender is
22 afterwards found in the United States.”.

23 (e) Section 878 of title 18, United States Code, is
24 amended by—

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

3 (2) in subsection (d) striking the first sentence
4 and inserting the following: “If the victim of an of-
5 fense under subsection (a) is an internationally pro-
6 tected person outside the United States, the United
7 States may exercise jurisdiction over the offense if
8 (1) the victim is a representative, officer, employee,
9 or agent of the United States, (2) an offender is a
10 national of the United States, or (3) an offender is
11 afterwards found in the United States.”.

12 (f) Section 1201(e) of title 18, United States Code,
13 is amended by—

14 (1) striking the first sentence and inserting the
15 following: “If the victim of an offense under sub-
16 section (a) is an internationally protected person
17 outside the United States, the United States may
18 exercise jurisdiction over the offense if (1) the victim
19 is a representative, officer, employee, or agent of the
20 United States, (2) an offender is a national of the
21 United States, or (3) an offender is afterwards
22 found in the United States.”; and

23 (2) adding at the end thereof the following:
24 “For purposes of this subsection, the term ‘national
25 of the United States’ has the meaning prescribed in

1 section 101(a)(22) of the Immigration and National-
2 ity Act (8 U.S.C. 1101(a)(22)).”.

3 (g) Section 37(b)(2) of title 18, United States Code,
4 is amended—

5 (1) by inserting “(A)” before “the offender is
6 later found in the United States”; and

7 (2) by inserting “; or (B) an offender or a vic-
8 tim is a national of the United States (as defined in
9 section 101(a)(22) of the Immigration and National-
10 ity Act (8 U.S.C. 1101(a)(22)))” after “the offender
11 is later found in the United States”.

12 (h) Section 178 of title 18, United States Code, is
13 amended by—

14 (1) striking the “and” at the end of paragraph
15 (3);

16 (2) striking the “period” at the end of para-
17 graph (4) and inserting in lieu thereof “; and”; and

18 (3) adding the following at the end thereof:

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

1 **TITLE II—IMMIGRATION LAW**
2 **IMPROVEMENTS**

3 **SEC. 201. ALIEN TERRORIST REMOVAL PROCEDURES.**

4 (a) FINDINGS AND PURPOSE.—

5 (1) The Congress hereby finds that—

6 (A) international terrorism is a serious and
7 deadly problem which threatens the interests of
8 this Nation overseas and within our territory;

9 (B) until recently, United States asylum
10 processing procedures have been complicated
11 and often duplicative, providing a powerful in-
12 centive for individuals, including terrorists,
13 without a genuine claim, to apply for asylum
14 and remain in the United States;

15 (C) while most aliens justify the trust
16 placed in them by our immigration policies, a
17 dangerous few utilized access to the United
18 States to create significant infrastructures and
19 cells in the United States in order to carry out
20 their terrorist activity to the detriment of the
21 Nation's national security and foreign policy in-
22 terests;

23 (D) the bombing of the World Trade Cen-
24 ter exemplifies the danger posed to the United
25 States and its citizens by alien terrorists;

1 (E) similarly, some foreign terrorist orga-
2 nizations utilize associated aliens within the
3 United States to raise funds to facilitate their
4 overseas terrorist acts against United States
5 nationals as well as against foreign govern-
6 ments and their citizens; and

7 (F) current immigration laws and proce-
8 dures are not effective in addressing the alien
9 terrorist problem, as they require the govern-
10 ment to place sensitive intelligence sources and
11 methods at risk and allow the alien to remain
12 within the United States for the prolonged pe-
13 riod necessary to pursue a deportation action.
14 Moreover, under the current statutory frame-
15 work a few high ranking members of terrorist
16 organizations have been naturalized as United
17 States citizens because denial of such natu-
18 ralizations would have necessitated public dis-
19 closure of highly classified sources and methods.

20 (2) The purpose of this section is to provide
21 procedures which, consistent with principles of fun-
22 damental fairness, will allow the government to de-
23 port alien terrorists promptly without compromising
24 intelligence sources and methods.

1 (b) ALIEN REMOVAL PROCEDURES.—The Immigra-
 2 tion and Nationality Act is amended—

3 (1) by adding at the end of the table of con-
 4 tents the following:

“TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

“Sec. 501. Applicability.

“Sec. 502. Special removal hearing.

“Sec. 503. Designation of judges.

“Sec. 504. Miscellaneous provisions.”;

5 and

6 (2) by adding at the end the following new title:

7 “TITLE V—ALIEN TERRORIST REMOVAL
 8 PROCEDURES

9 “APPLICABILITY

10 “SEC. 501. (a) The provisions of this title may be
 11 followed in the discretion of the Department of Justice
 12 whenever the Department of Justice has classified infor-
 13 mation that an alien described in paragraph 4(B) of sec-
 14 tion 241(a), as amended, is subject to deportation because
 15 of such section. For purposes of this title, the terms ‘clas-
 16 sified information’ and ‘national security’ shall have the
 17 meaning prescribed in section 1 of the Classified Informa-
 18 tion Procedures Act, 18 U.S.C. App. III 1.

19 “(b) Whenever an official of the Department of Jus-
 20 tice files, under section 502, an application with the court
 21 established under section 503 for authorization to seek re-
 22 moval pursuant to the provisions of this title, the alien’s

1 rights regarding removal and expulsion shall be governed
2 solely by the provisions of this title. Except as they are
3 specifically referenced, no other provisions of the Immigra-
4 tion and Nationality Act shall be applicable. An alien sub-
5 ject to removal under these provisions shall have no right
6 of discovery of information derived from electronic surveil-
7 lance authorized under the Foreign Intelligence Surveil-
8 lance Act (50 U.S.C. 1801 et seq.) or otherwise for na-
9 tional security purposes. Nor shall such alien have the
10 right to seek suppression of evidence. Further, the govern-
11 ment is authorized to use, in the removal proceedings, the
12 fruits of electronic surveillance and/or unconsented phys-
13 ical searches authorized under the Foreign Intelligence
14 Surveillance Act without regard to subsections 106(c), (e),
15 (f), (g), and (h) of that Act. The provisions and require-
16 ments of section 3504 of title 18, United States Code,
17 shall not apply to procedures under this title.

18 “(c) This title is enacted in response to findings of
19 Congress that aliens described in paragraph 4(B) of sec-
20 tion 241(a), as amended, represent a unique threat to the
21 security of the United States. It is the intention of Con-
22 gress that such aliens be promptly removed from the
23 United States following—

24 “(1) a judicial determination of probable cause
25 to believe that such person is such an alien; and

1 “(2) a judicial determination pursuant to the
2 provisions of this title that an alien is removable on
3 the grounds that he or she is an alien described in
4 paragraph 4(B) of section 241(a), as amended.

5 The Congress further intends that, other than as pro-
6 vided by this title, such aliens shall not be given a deporta-
7 tion hearing and are ineligible for any discretionary relief
8 from deportation or for relief under section 243(h).

9 “SPECIAL REMOVAL HEARING

10 “SEC. 502. (a) Whenever removal of an alien is
11 sought pursuant to the provisions of this title, a written
12 application upon oath or affirmation shall be submitted
13 in camera and ex parte to the court established under sec-
14 tion 503 for an order authorizing such a procedure. Each
15 application shall require the approval of the Attorney Gen-
16 eral or the Deputy Attorney General based upon his find-
17 ing that it satisfies the criteria and requirements of such
18 application as set forth in this title. Each application shall
19 include—

20 “(1) the identity of the Department of Justice
21 attorney making the application;

22 “(2) the approval of the Attorney General or
23 the Deputy Attorney General for the making of the
24 application;

1 “(3) the identity of the alien for whom author-
2 ization for the special removal procedure is sought;
3 and

4 “(4) a statement of the facts and circumstances
5 relied on by the Department of Justice to establish
6 that—

7 “(A) the alien is an alien as described in
8 paragraph 4(B) of section 214(a), as amended,
9 and is physically present in the United States;
10 and

11 “(B) with respect to such alien, adherence
12 to the provisions of title II regarding the depor-
13 tation of aliens would pose a risk to the na-
14 tional security of the United States.

15 “(b)(1) The application shall be filed under seal with
16 the court established under section 503. The Attorney
17 General may take into custody any alien with respect to
18 whom such an application has been filed and, notwith-
19 standing any other provision of law, may retain such an
20 alien in custody in accordance with the procedures author-
21 ized by this title.

22 “(2) An alien lawfully admitted for permanent resi-
23 dence (hereafter referred to as resident alien) shall be enti-
24 tled to a release hearing before the judge assigned to the
25 special removal case pursuant to section 503(a). The resi-

1 dent alien shall be granted release pending the special re-
2 moval hearing, upon such terms and conditions prescribed
3 by the court (including the posting of any monetary
4 amount), if the alien demonstrates to the court that the
5 alien, if released, is not likely to flee and that the alien's
6 release will not endanger national security or the safety
7 of any person or the community. The judge may consider
8 classified information submitted in camera and ex parte
9 in making his determination.

10 “(c) In accordance with the rules of the court estab-
11 lished under section 503, the judge shall consider the ap-
12 plication and may consider other information, including
13 classified information, presented under oath or affirmation
14 at an in camera and ex parte hearing on the application.
15 A verbatim record shall be maintained of such a hearing.
16 The application and any other evidence shall be considered
17 by a single judge of that court who shall enter an ex parte
18 order as requested if he finds, on the basis of the facts
19 submitted in the application and any other information
20 provided by the Department of Justice at the in camera
21 and ex parte hearing, there is probable cause to believe
22 that—

23 “(1) the alien who is the subject of the applica-
24 tion has been correctly identified and is an alien as

1 described in paragraph 4(B) of section 241(a), as
2 amended; and

3 “(2) adherence to the provisions of title II re-
4 garding the deportation of the identified alien would
5 pose a risk to the national security of the United
6 States.

7 “(d)(1) In any case in which the application for the
8 order is denied, the judge shall prepare a written state-
9 ment of his reasons for the denial and the Department
10 of Justice may seek a review of the denial by the United
11 States Court of Appeals for the District of Columbia Cir-
12 cuit by notice of appeal which must be filed within twenty
13 days. In such a case the entire record of the proceeding
14 shall be transmitted to the Court of Appeals under seal
15 and the Court of Appeals shall hear the matter ex parte.

16 “(2) If the Department of Justice does not seek re-
17 view, the alien shall be released from custody, unless such
18 alien may be arrested and taken into custody pursuant
19 to title II as an alien subject to deportation, in which case
20 such alien shall be treated in accordance with the provi-
21 sions of this Act concerning the deportation of aliens.

22 “(3) If the application for the order is denied because
23 the judge has not found probable cause to believe that the
24 alien who is the subject of the application has been cor-
25 rectly identified or is an alien as described in paragraph

1 4(B) of section 241(a), as amended, and the Department
2 of Justice seeks review, the alien shall be released from
3 custody unless such alien may be arrested and taken into
4 custody pursuant to title II as an alien subject to deporta-
5 tion, in which case such alien shall be treated in accord-
6 ance with the provisions of this Act concerning the depor-
7 tation of aliens simultaneously with the application of this
8 title.

9 “(4) If the application for the order is denied be-
10 cause, although the judge found probable cause to believe
11 that the alien who is the subject of the application has
12 been correctly identified and is an alien as described in
13 paragraph 4(B) of section 241(a), as amended, the judge
14 has found that there is not probable cause to believe that
15 adherence to the provisions of title II regarding the depor-
16 tation of the identified alien would pose a risk to the na-
17 tional security of the United States, the judge shall release
18 the alien from custody subject to the least restrictive con-
19 dition or combination of conditions of release described in
20 section 3142(b) and (c)(1)(B) (i) through (xiv) of title 18,
21 United States Code, that will reasonably assure the ap-
22 pearance of the alien at any future proceeding pursuant
23 to this title and will not endanger the safety of any other
24 person or the Community; but if the judge finds no such
25 condition or combination of conditions the alien shall re-

1 main in custody until the completion of any appeal author-
2 ized by this title. The provisions of sections 3145 through
3 3148 of title 18, United States Code, pertaining to review
4 and appeal of a release or detention order, penalties for
5 failure to appear, penalties for an offense committed while
6 on release, and sanctions for violation of a release condi-
7 tion shall apply to an alien to whom the previous sentence
8 applies and—

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

12 “(B) for purposes of section 3146 of such title
13 the alien shall be considered released in connection
14 with a charge of an offense punishable by life im-
15 prisonment.

16 “(e)(1) In any case in which the application for the
17 order authorizing the special procedures of this title is ap-
18 proved, the judge who granted the order shall consider
19 each item of classified information the Department of Jus-
20 tice proposes to introduce in camera and ex parte at the
21 special removal hearing and shall order the introduction
22 of such information pursuant to subsection (j) if he deter-
23 mines the information to be relevant. The Department of
24 Justice shall prepare a written summary of such classified
25 information which does not pose a risk to national security

1 and the judge shall approve the summary if he finds the
2 summary is sufficient to inform the alien of the general
3 nature of the evidence that he is an alien as described in
4 paragraph 4(B) of section 241(a), as amended, and to per-
5 mit the alien to prepare a defense. The Department of
6 Justice shall cause to be delivered to the alien a copy of
7 the summary.

8 “(2) If the written summary is not approved by the
9 court, the Department shall be afforded reasonable oppor-
10 tunity to correct the deficiencies identified by the court
11 and submit a revised summary. Thereafter, if the written
12 summary is not approved by the court, the special removal
13 hearing shall be terminated unless the court issues a find-
14 ing that—

15 “(A) the continued presence of the alien in the
16 United States, or

17 “(B) the provision of the required summary
18 would likely cause serious and irreparable harm to
19 the national security or death or serious bodily in-
20 jury to any person. If such finding is issued, the spe-
21 cial removal hearing shall continue, the Department
22 of Justice shall cause to be delivered to the alien a
23 statement that no summary is possible, and the clas-
24 sified information submitted in camera and ex parte
25 may be used pursuant to subsection (j).

1 “(3) The Department of Justice may take an inter-
2 locutory appeal to the United States Court of Appeals for
3 the District of Columbia Circuit of—

4 “(A) any determination by the judge pursuant
5 to paragraph (1)—

6 “(I) concerning whether an item of evi-
7 dence may be introduced in camera and ex
8 parte; or

9 “(II) concerning the contents of any sum-
10 mary of evidence to be introduced in camera
11 and ex parte prepared pursuant to paragraph
12 (1); or

13 “(B) the refusal of the court to make the find-
14 ing permitted by paragraph (2);

15 In any interlocutory appeal taken pursuant to this para-
16 graph, the entire record, including any proposed order of
17 the judge or summary of evidence, shall be transmitted
18 to the Court of Appeals under seal and the matter shall
19 be heard ex parte. The Court of Appeals shall consider
20 the appeal as expeditiously as possible.

21 “(f) In any case in which the application for the order
22 is approved, the special removal hearing authorized by this
23 section shall be conducted for the purpose of determining
24 if the alien to whom the order pertains should be removed
25 from the United States on the grounds that he is an alien

1 as described in paragraph 4(B) of section 241(a), as
2 amended. In accordance with subsection (e), the alien shall
3 be given reasonable notice of the nature of the charges
4 against him and a general account of the basis for the
5 charges. The alien shall be given notice, reasonable under
6 all the circumstances, of the time and place at which the
7 hearing will be held. The hearing shall be held as expedi-
8 tiously as possible.

9 “(g) The special removal hearing shall be held before
10 the same judge who granted the order pursuant to sub-
11 section (e) unless that judge is deemed unavailable due
12 to illness or disability by the chief judge of the court estab-
13 lished pursuant to section 503, or has died, in which case
14 the chief judge shall assign another judge to conduct the
15 special removal hearing. A decision by the chief judge pur-
16 suant to the preceding sentence shall not be subject to
17 review by either the alien or the Department of Justice.

18 “(h) The special removal hearing shall be open to the
19 public. The alien shall have a right to be present at such
20 hearing and to be represented by counsel. Any alien finan-
21 cially unable to obtain counsel shall be entitled to have
22 counsel assigned to represent him. Such counsel shall be
23 appointed by the judge pursuant to the plan for furnishing
24 representation for any person financially unable to obtain
25 adequate representation for the district in which the hear-

1 ing is conducted, as provided for in section 3006A of title
2 18, United States Code. All provisions of that section shall
3 apply and, for purposes of determining the maximum
4 amount of compensation, the matter shall be treated as
5 if a felony was charged. The alien may be called as a wit-
6 ness by the Department of Justice. The alien shall have
7 a right to introduce evidence on his own behalf. Except
8 as provided in subsection (j), the alien shall have a reason-
9 able opportunity to examine the evidence against him and
10 to cross-examine any witness. A verbatim record of the
11 proceedings and of all testimony and evidence offered or
12 produced at such a hearing shall be kept. The decision
13 of the judge shall be based only on the evidence introduced
14 at the hearing, including evidence introduced under sub-
15 section (j).

16 “(i) At any time prior to the conclusion of the special
17 removal hearing, either the alien or the Department of
18 Justice may request the judge to issue a subpoena for the
19 presence of a named witness (which subpoena may also
20 command the person to whom it is directed to produce
21 books, papers, documents, or other objects designated
22 therein) upon a satisfactory showing that the presence of
23 the witness is necessary for the determination of any ma-
24 terial matter. Such a request may be made ex parte except
25 that the judge shall inform the Department of Justice of

1 any request for a subpoena by the alien for a witness or
2 material if compliance with such a subpoena would reveal
3 evidence or the source of evidence which has been intro-
4 duced, or which the Department of Justice has received
5 permission to introduce, in camera and ex parte pursuant
6 to subsection (j), and the Department of Justice shall be
7 given a reasonable opportunity to oppose the issuance of
8 such a subpoena. If an application for a subpoena by the
9 alien also makes a showing that the alien is financially
10 unable to pay for the attendance of a witness so requested,
11 the court may order the costs incurred by the process and
12 the fees of the witness so subpoenaed to be paid for from
13 funds appropriated for the enforcement of title II. A sub-
14 poena under this subsection may be served anywhere in
15 the United States. A witness subpoenaed under this sub-
16 section shall receive the same fees and expenses as a wit-
17 ness subpoenaed in connection with a civil proceeding in
18 a court of the United States. Nothing in this subsection
19 is intended to allow an alien to have access to classified
20 information.

21 “(j) When classified information has been summa-
22 rized pursuant to subsection (e)(1) or where a finding has
23 been made under subsection (e)(2) that no summary is
24 possible, classified information shall be introduced (either
25 in writing or through testimony) in camera and ex parte

1 and neither the alien nor the public shall be informed of
2 such evidence or its sources other than through reference
3 to the summary provided pursuant to subsection (e)(1).
4 Notwithstanding the previous sentence, the Department of
5 Justice may, in its discretion and, in the case of classified
6 information, after coordination with the originating agen-
7 cy, elect to introduce such evidence in open session.

8 “(k) Evidence introduced at the special removal hear-
9 ing, either in open session or in camera and ex parte, may,
10 in the discretion of the Department of Justice, include all
11 or part of the information presented under subsections (a)
12 through (c) used to obtain the order for the hearing under
13 this section.

14 “(l) Following the receipt of evidence, the attorneys
15 for the Department of Justice and for the alien shall be
16 given fair opportunity to present argument as to whether
17 the evidence is sufficient to justify the removal of the
18 alien. The attorney for the Department of Justice shall
19 open the argument. the attorney for the alien shall be per-
20 mitted to reply. The attorney for the Department of Jus-
21 tice shall then be permitted to reply in rebuttal. The judge
22 may allow any part of the argument that refers to evidence
23 received in camera and ex parte to be heard in camera
24 and ex parte.

1 “(m) The Department of Justice has the burden of
2 showing by clear and convincing evidence that the alien
3 is subject to removal because he is an alien as described
4 in paragraph 4(B) of subsection 241(a) of this Act (8
5 U.S.C. 1251(a)(4)(B)), as amended. If the judge finds
6 that the Department of Justice has met this burden, the
7 judge shall order the alien removed and, if the alien is
8 a resident alien who was released pending the special re-
9 moval hearing, order the Attorney General to take the
10 alien into custody.

11 “(n)(1) At the time of rendering a decision as to
12 whether the alien shall be removed, the judge shall prepare
13 a written order containing a statement of facts found and
14 conclusions of law. Any portion of the order that would
15 reveal the substance or source of information received in
16 camera and ex parte pursuant to subsection (j) shall not
17 be made available to the alien or the public.

18 “(2) The decision of the judge may be appealed by
19 either the alien or the Department of Justice to the United
20 States Court of Appeals for the District of Columbia Cir-
21 cuit by notice of appeal which must be filed within twenty
22 days, during which time such order shall not be executed.
23 In any case appealed pursuant to this subsection, the en-
24 tire record shall be transmitted to the Court of Appeals
25 and information received pursuant to subsection (j), and

1 any portion of the judge's order that would reveal the sub-
2 stance or source of such information shall be transmitted
3 under seal. The Court of Appeals shall consider the case
4 as expeditiously as possible.

5 “(3) In an appeal to the Court of Appeals pursuant
6 to either subsection (d) or (e) of this section, the Court
7 of Appeals shall review questions of law de novo, but a
8 prior finding on any question of fact shall not be set aside
9 unless such finding was clearly erroneous.

10 “(o) If the judge decides pursuant to subsection (n)
11 that the alien should not be removed, the alien shall be
12 released from custody unless such alien may be arrested
13 and taken into custody pursuant to title II of this Act
14 as an alien subject to deportation, in which case, for pur-
15 poses of detention, such alien may be treated in accord-
16 ance with the provisions of this Act concerning the depor-
17 tation of aliens.

18 “(p) Following a decision by the Court of Appeals
19 pursuant to either subsection (d) or (n), either the alien
20 or the Department of Justice may petition the Supreme
21 Court for a writ of certiorari. In any such case, any infor-
22 mation transmitted to the Court of Appeals under seal
23 shall, if such information is also submitted to the Supreme
24 Court, be transmitted under seal. Any order of removal
25 shall not be stayed pending disposition of a writ of certio-

1 rari except as provided by the Court of Appeals or a Jus-
2 tice of the Supreme Court.

3 “(q) The Department of Justice retains the right to
4 dismiss a removal action at any stage of the proceeding.

5 “(r) Nothing in this section shall prevent the United
6 States from seeking protective orders and/or asserting
7 privileges ordinarily available to the United States to pro-
8 tect against the disclosure of classified information, in-
9 cluding the invocation of the military and state secrets
10 privileges.

11 “DESIGNATION OF JUDGES

12 “SEC. 503. (a) The Chief Justice of the United
13 States shall publicly designate five district court judges
14 from five of the United States judicial circuits who shall
15 constitute a court which shall have jurisdiction to conduct
16 all matters and proceedings authorized by section 502.
17 The Chief Justice shall publicly designate one of the
18 judges so appointed as the chief judge. The chief judge
19 shall promulgate rules to facilitate the functioning of the
20 court and shall be responsible for assigning the consider-
21 ation of cases to the various judges.

22 “(b) Proceedings under section 502 shall be con-
23 ducted as expeditiously as possible. The Chief Justice, in
24 consultation with the Attorney General, the Director of
25 Central Intelligence and other appropriate Federal offi-

1 cials, shall, consistent with the objectives of this title, pro-
2 vide for the maintenance of appropriate security measures
3 for applications for ex parte orders to conduct the special
4 removal hearings authorized by section 502, the orders
5 themselves, and evidence received in camera and ex parte,
6 and for such other actions as are necessary to protect in-
7 formation concerning matters before the court from harm-
8 ing the national security of the United States.

9 “(c) Each judge designated under this section shall
10 serve for a term of five years and shall be eligible for re-
11 designation, except that the four associate judges first des-
12 ignated under subsection (a) shall be designated for terms
13 of from one to four years so that the term of one judge
14 shall expire each year.

15 “MISCELLANEOUS PROVISIONS

16 “SEC. 504. (a)(1) Following a determination pursu-
17 ant to this title that an alien shall be removed, and after
18 the conclusion of any judicial review thereof, the Attorney
19 General may retain the alien in custody or, if the alien
20 was released pursuant to subsection 502(o), may return
21 the alien to custody, and shall cause the alien to be trans-
22 ported to any country which the alien shall designate pro-
23 vided such designation does not, in the judgment of the
24 Attorney General, in consultation with the Secretary of
25 State, impair the obligation of the United States under

1 any treaty (including a treaty pertaining to extradition)
2 or otherwise adversely affect the foreign policy of the
3 United States.

4 “(2) If the alien refuses to choose a country to which
5 he wishes to be transported, or if the Attorney General,
6 in consultation with the Secretary of State, determines
7 that removal of the alien to the country so selected would
8 impair a treaty obligation or adversely affect United
9 States foreign policy, the Attorney General shall cause the
10 alien to be transported to any country willing to receive
11 such alien.

12 “(3) Before an alien is transported out of the United
13 States pursuant to paragraph (1) or (2) or pursuant to
14 an order of exclusion because such alien is excludable
15 under paragraph 212(a)(3)(B) of this Act (8 U.S.C.
16 1182(a)(3)(B)), as amended, he shall be photographed
17 and fingerprinted, and shall be advised of the provisions
18 of subsection 276(b) of this Act (8 U.S.C. 1326(b)).

19 “(4) If no country is willing to receive such an alien,
20 the Attorney General may, notwithstanding any other pro-
21 vision of law, retain the alien in custody. The Attorney
22 General, in coordination with the Secretary of State, shall
23 make periodic efforts to reach agreement with other coun-
24 tries to accept such an alien and at least every six months
25 shall provide to the alien a written report on his efforts.

1 Any alien in custody pursuant to this subsection shall be
2 released from custody solely at the discretion of the Attor-
3 ney General and subject to such conditions as the Attorney
4 General shall deem appropriate. The determinations and
5 actions of the Attorney General pursuant to this sub-
6 section shall not be subject to judicial review, including
7 application for a writ of habeas corpus, except for a claim
8 by the alien that continued detention violates his rights
9 under the Constitution. Jurisdiction over any such chal-
10 lenge shall lie exclusively in the United States Court of
11 Appeals for the District of Columbia Circuit.

12 “(b)(1) Notwithstanding the provisions of subsection
13 (a), the Attorney General may hold in abeyance the re-
14 moval of an alien who has been ordered removed pursuant
15 to this title to allow the trial of such alien on any Federal
16 or State criminal charge and the service of any sentence
17 of confinement resulting from such a trial.

18 “(2) Pending the commencement of any service of a
19 sentence of confinement by an alien described in para-
20 graph (1), such an alien shall remain in the custody of
21 the Attorney General, unless the Attorney General deter-
22 mines that temporary release of the alien to the custody
23 of State authorities for confinement in a State facility is
24 appropriate and would not endanger national security or
25 public safety.

1 “(3) Following the completion of a sentence of con-
2 finement by an alien described in paragraph (1) or follow-
3 ing the completion of State criminal proceedings which do
4 not result in a sentence of confinement of an alien released
5 to the custody of State authorities pursuant to paragraph
6 (2), such an alien shall be returned to the custody of the
7 Attorney General who shall proceed to carry out the provi-
8 sions of subsection (a) concerning removal of the alien.

9 “(c) For purposes of section 751 and 752 of title 18,
10 United States Code, an alien in the custody of the Attor-
11 ney General pursuant to this title shall be subject to the
12 penalties provided by those sections in relation to a person
13 committed to the custody of the Attorney General by vir-
14 tue of an arrest on a charge of felony.

15 “(d)(1) An alien in the custody of the Attorney Gen-
16 eral pursuant to this title shall be given reasonable oppor-
17 tunity to communicate with and receive visits from mem-
18 bers of his family, and to contact, retain, and commu-
19 nicate with an attorney.

20 “(2) An alien in the custody of the Attorney General
21 pursuant to this title shall have the right to contact an
22 appropriate diplomatic or consular official of the alien’s
23 country of citizenship or nationality or of any country pro-
24 viding representation services therefor. The Attorney Gen-

1 eral shall notify the appropriate embassy, mission, or con-
2 sular office of the alien’s detention.”.

3 (c) ADDITIONAL AMENDMENTS TO INA.—(1) Sub-
4 section 106(b) of the Immigration and Nationality Act (8
5 U.S.C. 1105a(b)) is amended by adding at the end thereof
6 the following sentence: “Jurisdiction to review an order
7 entered pursuant to the provisions of section 235(c) of this
8 Act concerning an alien excludable under paragraph 3(B)
9 of subsection 212(a) (8 U.S.C. 1182(a)), as amended,
10 shall rest exclusively in the United States Court of Appeals
11 for the District of Columbia Circuit.”.

12 (2) Section 276(b) of the Immigration and National-
13 ity Act (8 U.S.C. 1326(b)) is amended by deleting the
14 word “or” at the end of subparagraph (b)(1), by replacing
15 the period at the end of subparagraph (b)(2) with a semi-
16 colon followed by the word “or”, and by adding at the
17 end of paragraph (b) the following subparagraph:

18 “(3) who has been excluded from the United
19 States pursuant to subsection 235(c) of this Act (8
20 U.S.C. 1225(c)) because such alien was excludable
21 under paragraph 3(B) of subsection 212(a) thereof
22 (8 U.S.C. 1182(a)(2)(B)), as amended, or who has
23 been removed from the United States pursuant to
24 the provisions of title V of the Immigration and Na-
25 tionality Act, and who thereafter, without the per-

1 mission of the Attorney General, enters the United
2 States or attempts to do so shall be fined under title
3 18, United States Code, and imprisoned for a period
4 of ten years which sentence shall not run concur-
5 rently with any other sentence.”

6 (3) Section 106(a) of the Immigration and National-
7 ity Act (8 U.S.C. 1105a(a)) is amended by striking from
8 the end of subparagraph 9 the semicolon and the word
9 “and” and inserting a period in lieu thereof, and by strik-
10 ing subparagraph 10.

11 (d) EFFECTIVE DATE.—The provisions of this Act
12 shall be effective upon enactment, and shall apply to all
13 aliens without regard to the date of entry or attempted
14 entry into the United States.

15 **SEC. 202. CHANGES TO THE IMMIGRATION AND NATIONAL-**
16 **ITY ACT TO FACILITATE REMOVAL OF ALIEN**
17 **TERRORISTS.**

18 (a) Section 212(a)(3)(B) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1182(a)(3)(B)) is amended to read
20 as follows:

21 “(B) TERRORISM ACTIVITIES.—

22 “(i) IN GENERAL.—Any alien who—

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

1 “(II) a consular officer or the At-
2 torney General knows, or has reason
3 to believe, is likely to engage after
4 entry in any terrorism activity (as de-
5 fined in clause (iii)),
6 is excludable. An alien who is a representa-
7 tive of the Palestine Liberation Organiza-
8 tion, or any terrorist organization des-
9 ignated by proclamation by the President
10 after he has found such organization to be
11 detrimental to the interest of the United
12 States, is considered, for purposes of this
13 Act, to be engaged in a terrorism activity.
14 As used in clause (B)(i), the term “rep-
15 resentative” includes an officer, official, or
16 spokesman of the organization and any
17 person who directs, counsels, commands or
18 induces such organization or its members
19 to engage in terrorism activity. For pur-
20 poses of subparagraph (3)(B)(i), the deter-
21 mination by the Secretary of State or the
22 Attorney General that an alien is a rep-
23 resentative of the organization shall be
24 controlling and shall not be subject to re-
25 view by any court.

1 “(ii) TERRORISM ACTIVITY DE-
2 FINED.—As used in this Act, the term
3 “terrorism activity’ means any activity
4 which is unlawful under the laws of the
5 place where it is committed (or which, if it
6 had been committed in the United States,
7 would be unlawful under the laws of the
8 United States or any State), and which in-
9 volves any of the following:

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

13 “(II) The seizing or detaining,
14 and threatening to kill, injure, or con-
15 tinue to detain, another individual in
16 order to compel a third person (in-
17 cluding a governmental organization)
18 to do or abstain from doing any act as
19 an explicit or implicit condition for
20 the release of the individual seized or
21 detained.

22 “(III) A violent attack upon an
23 internationally protected person (as
24 defined in section 1116(b)(4) of title

1 18, United States Code) or upon the
2 liberty of such a person.

3 “(IV) An assassination.

4 “(V) The use of any—

5 “(aa) biological agent, chem-
6 ical agent, or nuclear weapon or
7 device, or

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

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

15 “(VI) A threat, attempt, or con-
16 spiracy to do any of the foregoing.

17 “(iii) ENGAGE IN TERRORISM ACTIV-
18 ITY DEFINED.—As used in this Act, the
19 term ‘engage in terrorism activity’ means
20 to commit, in an individual capacity or as
21 a member of an organization, an act of ter-
22 rorism activity or an act which the actor
23 knows, or reasonably should know, affords
24 material support to any individual, organi-
25 zation, or government which the actor

1 knows or reasonably should know has com-
2 mitted or plans to commit terrorism activ-
3 ity, including any of the following acts:

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

6 “(II) The gathering of informa-
7 tion on potential targets for terrorism
8 activity.

9 “(III) The providing of any type
10 of material support, including a safe
11 house, transportation, communica-
12 tions, funds, false documentation or
13 identification, weapons, explosives, or
14 training.

15 “(IV) The soliciting of funds or
16 other things of value for terrorism ac-
17 tivity or for any terrorist organization.

18 “(V) The solicitation of any indi-
19 vidual for membership in a terrorist
20 organization, terrorist government, or
21 to engage in a terrorism activity.

22 “(iv) TERRORIST ORGANIZATION DE-
23 FINED.—As used in this Act, the term ‘ter-
24 rorist organization’ means any organiza-
25 tion engaged, or which has a significant

1 subgroup which engages, in terrorism ac-
2 tivity, regardless of any legitimate activi-
3 ties conducted by the organization or its
4 subgroups.

5 “(v) **TERRORISM DEFINED.**—As used
6 in this Act, the term ‘terrorism’ means
7 premeditated, politically motivated violence
8 perpetrated against noncombatant tar-
9 gets.”.

10 (b) Section 241(a)(4)(B) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1251(a)(4)(B)) is amended to read
12 as follows:

13 “(B) **TERRORISM ACTIVITIES.**—Any alien who
14 has engaged, is engaged, or at any time after entry
15 engages in any terrorism activity (as defined in sec-
16 tion 212(a)(3)(B)).”.

17 (c) Section 291 of the Immigration and Nationality
18 Act (8 U.S.C. 1361) is amended by adding after “custody
19 of the Service.” this new sentence: “The limited produc-
20 tion authorized by this provision shall not extend to the
21 records of any other agency or department of the Govern-
22 ment or to any documents that do not pertain to the re-
23 spondent’s entry.”.

24 (d) Section 242(b)(3) of the Immigration and Nation-
25 ality Act (8 U.S.C. 1252(b)(3)) is amended by inserting

1 after “Government” the following: “. In the case of an
2 alien who is not lawfully admitted for permanent residence
3 and notwithstanding the provisions of any other law, rea-
4 sonable opportunity shall not comprehend access to classi-
5 fied information, whether or not introduced in evidence
6 against him. The provisions and requirements of 18
7 U.S.C. 3504 and 50 U.S.C. 1801 et seq. shall not apply
8 in such cases.”

9 **SEC. 203. ACCESS TO CERTAIN CONFIDENTIAL INS FILES**
10 **THROUGH COURT ORDER.**

11 (a) Section 245A(c)(5) of the Immigration and Na-
12 tionality Act (8 U.S.C. 1255a(c)(5)) is amended by—

13 (1) inserting “(i)” after “except the Attorney
14 General”; and

15 (2) inserting after “Title 13” the following:
16 “and

17 “(ii) may authorize an application to
18 a Federal court of competent jurisdiction
19 for, and a judge of such court may grant,
20 an order authorizing disclosure of informa-
21 tion contained in the application of the
22 alien to be used:

23 “(I) for identification of the alien
24 when there is reason to believe that

1 the alien has been killed or severely
2 incapacitated; or

3 “(II) for criminal law enforce-
4 ment purposes against the alien whose
5 application is to be disclosed if the al-
6 leged criminal activity occurred after
7 the legalization application was filed
8 and such activity poses either an im-
9 mediate risk to life or to national se-
10 curity or would be prosecutable as an
11 aggravated felony, but without regard
12 to the length of sentence that could be
13 imposed on the applicant.”.

14 (b)(1) Section 210(b)(5) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1160(b)(5)) is amended by insert-
16 ing “, except as allowed by a court order issued pursuant
17 to paragraph (6) of this subsection” after “consent of the
18 alien”.

19 (2) Section 210(b)(6) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1160 (b)(6)) is amended by inserting
21 the following sentence before “Anyone who uses”: “Except
22 the Attorney General may authorize an application to a
23 Federal court of competent jurisdiction for, and a judge
24 of such court may grant an order authorizing disclosure

1 of information contained in the application of the alien
2 to be used:

3 “(E) for identification of the alien when
4 there is reason to believe that the alien has
5 been killed or severely incapacitated; or

6 “(F) for criminal law enforcement pur-
7 poses against the alien whose application is to
8 be disclosed if the alleged criminal activity oc-
9 curred after the special agricultural worker ap-
10 plication was filed and such activity poses either
11 an immediate risk to life or to national security
12 or would be prosecutable as an aggravated fel-
13 ony, but without regard to the length of sen-
14 tence that could be imposed on the applicant.”.

15 **TITLE III—CONTROLS OVER TERRORIST**
16 **FUND-RAISING**

17 **SEC. 301. TERRORIST FUND-RAISING PROHIBITED.**

18 (a) Chapter 113B of title 18, United States Code,
19 is amended by adding at the end thereof the following new
20 section:

21 **“§ 2339B. Fund-raising for terrorist organizations**

22 “(a) FINDINGS AND PURPOSE.—

23 “(1) The Congress hereby finds that—

24 “(A) terrorism is a serious and deadly
25 problem which threatens the interests of the

1 United States both overseas and within our ter-
2 ritory;

3 “(B) the Nation’s security interests are
4 gravely impacted by terrorist attacks carried
5 out overseas against United States Government
6 facilities and officials, as well as against other
7 American citizens present in foreign countries;

8 “(C) United States foreign policy interests
9 are profoundly affected by terrorist acts over-
10 seas directed against foreign governments and
11 their people;

12 “(D) United States economic interests are
13 significantly impacted by terrorist attacks car-
14 ried out in foreign countries against United
15 States citizens and businesses;

16 “(E) international cooperation is required
17 for an effective response to terrorism, as dem-
18 onstrated by the numerous multilateral conven-
19 tions in force providing universal prosecutive ju-
20 risdiction over persons involved in a variety of
21 terrorist acts, e.g., hostage taking, murder of
22 an internationally protected person, and aircraft
23 piracy and sabotage;

24 “(F) some foreign terrorist organizations,
25 acting through affiliated groups or individuals,

1 raise significant funds within the United States
2 or use the United States as a conduit for their
3 receipt of funds raised in other nations; and

4 “(G) the provision of funds to organiza-
5 tions that engage in terrorism serves to facili-
6 tate their terrorist endeavors, regardless of
7 whether the funds, in whole or in part, are in-
8 tended or claimed to be used for non-violent
9 purposes.

10 “(2) The purpose of this section is to provide
11 the Federal Government the fullest possible basis,
12 consistent with the Constitution, to prevent persons
13 within the United States or subject to the jurisdic-
14 tion of the United States from providing funds, di-
15 rectly or indirectly, to foreign organizations, includ-
16 ing subordinate or affiliated persons, designated by
17 the President as engaging in terrorism, unless au-
18 thorized under this section.

19 “(b) AUTHORITY.—Notwithstanding any other provi-
20 sion of law, the President is authorized, under such regu-
21 lations as he may prescribe, to regulate or prohibit—

22 “(1) fund-raising or the provision of funds for
23 use by or for the benefit of any foreign organization,
24 including persons assisting such organization in
25 fund-raising, that the President has designated pur-

1 suant to subsection (c) as being engaged in terror-
2 ism activities, or

3 “(2) financial transactions with any such for-
4 eign organization,

5 within the United States or by any person subject to the
6 jurisdiction of the United States anywhere.

7 “(c) DESIGNATION.—

8 “(1) Pursuant to the authority granted in sub-
9 section (b), the President is authorized to designate
10 any foreign organization based on finding that—

11 “(A) the organization engages in terrorism
12 activity as defined in section 212(a)(3)(B) of
13 the Immigration and Nationality Act (8 U.S.C.
14 1182(a)(3)(B)); and

15 “(B) the organization’s terrorism activities
16 threaten the national security, foreign policy, or
17 economy of the United States.

18 “(2) Pursuant to the authority granted in sub-
19 section (b), the President is also authorized to des-
20 ignate persons which are raising funds for, or acting
21 for or on behalf of, any organization designated pur-
22 suant to subsection (c)(1) above.

23 “(3) If the President finds that the conditions
24 which were the basis for any designation issued
25 under this subsection have changed in such a man-

1 ner as to warrant revocation of such designation, or
2 that the national security, foreign relations, or eco-
3 nomic interests of the United States so warrant, he
4 may revoke such designation in whole or in part.

5 “(4) Any designation, or revocation thereof, is-
6 sued pursuant to this subsection shall be published
7 in the Federal Register and shall become effective
8 immediately on publication.

9 “(5) Any revocation of a designation shall not
10 affect any action or proceeding based on any con-
11 duct committed prior to the effective date of such
12 revocation.

13 “(6) Any finding made in any designation is-
14 sued pursuant to paragraph (1) of this subsection
15 that a foreign organization engages in terrorism ac-
16 tivity shall be conclusive. No question concerning the
17 validity of the issuance of such designation may be
18 raised by a defendant in a criminal prosecution as
19 a defense in or as an objection to any trial or hear-
20 ing if such designation was issued and published in
21 the Federal Register in accordance with this sub-
22 section.

23 “(d) PROHIBITED ACTIVITIES.—

24 “(1) Except as authorized pursuant to the pro-
25 cedures in subsection (e), it shall be unlawful for

1 any person within the United States, or any person
2 subject to the jurisdiction of the United States any-
3 where, to directly or indirectly, raise, receive or col-
4 lect on behalf of, or furnish, give, transmit, transfer
5 or provide funds to or for an organization or person
6 designated by the President under subsection (c), or
7 to attempt to do any of the foregoing.

8 “(2) It shall be unlawful for any person within
9 the United States or any person subject to the juris-
10 diction of the United States anywhere, acting for or
11 on behalf of any organization or person designated
12 under subsection (c), (A) to transmit, transfer, or
13 receive any funds raised in violation of subsection
14 (d)(1), or (B) to transmit, transfer or dispose of any
15 funds in which any organization or person des-
16 igned pursuant to subsection (c) has an interest.

17 “(e) AUTHORIZED TRANSACTIONS.—

18 “(1) The Secretary shall publish regulations,
19 consistent with the provisions of this subsection, set-
20 ting forth the procedures to be followed by persons
21 seeking to raise or provide funds for an organization
22 designated under subsection (c)(1).

23 “(2) Any person within the United States, or
24 any person subject to the jurisdiction of the United
25 States anywhere, who seeks to solicit funds for or to

1 transfer funds to any organization or person des-
2 igned under subsection (c) shall, regardless of
3 whether it has an agency relationship with the des-
4 igned organization or person, first obtain a license
5 from the Secretary and may thereafter solicit funds
6 or transfer funds to a designated organization or
7 person only as permitted under the terms of a li-
8 cense issued by the Secretary.

9 “(3) The Secretary shall grant a license only
10 after the person establishes to the satisfaction of the
11 Secretary that—

12 “(A) the funds are intended to be used ex-
13 clusively for religious, charitable, literary, or
14 educational purposes; and

15 “(B) all recipient organizations in any
16 fund-raising chain have effective procedures in
17 place to ensure that the funds (i) will be used
18 exclusively for religious, charitable, literary, or
19 educational purposes, and (ii) will not be used
20 to offset a transfer of funds to be used in ter-
21 rorist activity.

22 “(4) Any person granted a license shall main-
23 tain books and records, as required by the Secretary,
24 that establish the source of all funds it receives, ex-
25 penses it incurs, and disbursements it makes. Such

1 books and records shall be made available for inspec-
2 tion within two business days of a request by the
3 Secretary. Any person granted a license shall also
4 have an agreement with any recipient organization
5 or person that such organization's or person's books
6 and records, wherever located, must be made avail-
7 able for inspection of the Secretary upon a request
8 of the Secretary at a place and time agreeable to
9 that organization or person and the Secretary.

10 “(5) The Secretary may also provide by regula-
11 tion procedures for the licensing of transactions oth-
12 erwise prohibited by this section in cases found by
13 the Secretary to be consistent with the statement of
14 purpose in subsection (a)(2).

15 “(f) SPECIAL REQUIREMENTS FOR FINANCIAL INSTI-
16 TUTIONS.—

17 “(1) Except as authorized by the Secretary by
18 means of directives, regulations, or licenses, any fi-
19 nancial institution which becomes aware that it has
20 possession of or control over any funds in which an
21 organization or person designated under subsection
22 (c) has an interest, shall—

23 “(A) retain possession of or maintain con-
24 trol over such funds; and

1 “(B) report to the Secretary the existence
2 of such funds in accordance with the regula-
3 tions prescribed by the Secretary.

4 “(2) Any financial institution that fails to re-
5 port to the Secretary the existence of such funds
6 shall be subject to a civil penalty of \$250 per day
7 for each day that it fails to report to the Sec-
8 retary—

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

13 “(B) in the case of funds whose possession
14 of or control over arose after the designation of
15 the organization or person, within ten days
16 after the financial institution obtained posses-
17 sion of or control over the funds.

18 “(g) INVESTIGATIONS.—Any investigation emanating
19 from a possible violation of this section, or of any license,
20 order, or regulation issued pursuant to this section, shall
21 be conducted by the Attorney General, except that inves-
22 tigations relating to (1) a licensee’s compliance with the
23 terms of a license issued by the Secretary pursuant to sub-
24 section (e) of this section, (2) a financial institution’s com-
25 pliance with the requirements of subsection (f) of this sec-

1 tion, and (3) civil penalty proceedings authorized pursuant
2 to subsection (i) of this section, shall be conducted in co-
3 ordination with the Attorney General by the office within
4 the Department of the Treasury responsible for licensing
5 and civil penalty proceedings authorized by this section.
6 Any evidence of a criminal violation of this section arising
7 in the course of an investigation by the Secretary or any
8 other Federal agency shall be referred immediately to the
9 Attorney General for further investigation. The Attorney
10 General shall timely notify the Secretary of any action
11 taken on referrals from the Secretary, and may refer in-
12 vestigations to the Secretary for remedial licensing or civil
13 penalty action.

14 “(h) RECORDKEEPING AND REPORTING; CIVIL PRO-
15 CEDURES.—

16 “(1) Notwithstanding any other provision of
17 law, in exercising the authorities granted by this sec-
18 tion, the Secretary and the Attorney General may
19 require any person to keep a full record of, and to
20 furnish under oath, in the form of reports or other-
21 wise, complete information relative to any act or
22 transaction referred to in this section either before,
23 during, or after the completion thereof, or relative to
24 any funds referred to in this section, or as may be
25 necessary to enforce the terms of this section. In any

1 case in which a report by a person could be required
2 under this subsection, the Secretary or the Attorney
3 General may require the production of any books of
4 account, records, contracts, letters, memoranda, or
5 other papers or documents, whether maintained in
6 hard copy or electronically, in the control or custody
7 of such person.

8 “(2) Compliance with any regulation, instruc-
9 tion, or direction issued under this section shall to
10 the extent thereof be a full acquittance and dis-
11 charge for all purposes of the obligation of the per-
12 son making the same. No person shall be held liable
13 in any court for or with respect to anything done or
14 omitted in good faith in connection with the admin-
15 istration of, or pursuant to and in reliance on, this
16 section, or any regulation, instruction, or direction
17 issued under this section.

18 “(3) In carrying out their function under this
19 section, the Secretary and the Attorney General may
20 hold hearings, sign and issue subpoenas, administer
21 oaths, examine witnesses, and receive evidence.

22 “(4) In the case of contumacy by, or refusal to
23 obey a subpoena issued to, any person, the Attorney
24 General may invoke the aid of any court of the Unit-
25 ed States within the jurisdiction of which the inves-

1 tigation is carried on or of which the subpoenaed
2 person is an inhabitant, or in which the subpoenaed
3 person carries on business or may be found, to com-
4 pel compliance with the subpoena. The court may
5 issue an order requiring the subpoenaed person to
6 appear before the agency issuing the subpoena, or
7 other order or direction, to produce records, if so or-
8 dered, or to give testimony touching the matter
9 under investigation. Any failure to obey the order of
10 the court may be punished by the court as a con-
11 tempt thereof. All process in any such case may be
12 served in any judicial district in which such person
13 may be found.

14 “(i) PENALTIES.—

15 “(1) Any person who knowingly violates sub-
16 section (d) shall be fined under this title, or impris-
17 oned for up to ten years, or both.

18 “(2)(A) Any person who fails to maintain or to
19 make available to the Secretary upon his request or
20 demand the books or records required by subsection
21 (e), or by regulations promulgated thereunder, shall
22 be subject to a civil penalty of \$50,000 or twice the
23 amount of money which would have been docu-
24 mented had the books and records been properly
25 maintained, whichever is greater.

1 “(B) Any person who fails to take the actions
2 required of financial institutions pursuant to sub-
3 section (f)(1), or by regulations promulgated there-
4 under, shall be subject to a civil penalty of \$50,000
5 per violation, or twice the amount of money of which
6 the financial institution was required to retain pos-
7 session or control, whichever is greater.

8 “(C) Except as otherwise specified in this sec-
9 tion, any person who violates any license, order, di-
10 rection, or regulation issued pursuant to this section
11 shall be subject to a civil penalty of \$50,000 per vio-
12 lation, or twice the value of the violation, whichever
13 is greater.

14 “(3) Any person who intentionally fails to main-
15 tain or to make available to the Secretary the books
16 or records required by subsection (e), or by regula-
17 tions promulgated thereunder, shall be fined under
18 this title, or imprisoned for up to five years, or both.

19 “(4) Any organization convicted of an offense
20 under (h) (1) or (3) of this section shall, upon con-
21 viction, forfeit any charitable designation it might
22 have received under the Internal Revenue Code.

23 “(j) INJUNCTION.—

24 “(1) Whenever it appears to the Secretary or
25 the Attorney General that any person is engaged in,

1 or is about to engage in, any act which constitutes,
2 or would constitute, a violation of this section, the
3 Attorney General may initiate civil action in a dis-
4 trict court of the United States to enjoin such viola-
5 tion.

6 “(2) A proceeding under this subsection is gov-
7 erned by the Federal Rules of Civil Procedure, ex-
8 cept that, if an indictment has been returned against
9 the respondent, discovery is governed by the Federal
10 Rules of Criminal Procedure.

11 “(k) EXTRATERRITORIAL JURISDICTION.—There is
12 extraterritorial Federal jurisdiction over an offense under
13 this section.

14 “(l) CLASSIFIED INFORMATION IN CIVIL PROCEED-
15 INGS BROUGHT BY THE UNITED STATES.—

16 “(1) DISCOVERY OF CLASSIFIED INFORMATION
17 BY DEFENDANTS.—A court, upon a sufficient show-
18 ing, may authorize the United States to delete speci-
19 fied items of classified information from documents
20 to be introduced into evidence and/or made available
21 to the defendant through discovery under the Fed-
22 eral Rules of Civil Procedure, to substitute a sum-
23 mary of the information for such classified docu-
24 ments, or to substitute a statement admitting rel-
25 evant facts that the classified information would

1 tend to prove. The court shall permit the United
2 States to make a request for such authorization in
3 the form of a written statement to be inspected by
4 the court alone. If the court enters an order grant-
5 ing relief following such an ex parte showing, the en-
6 tire text of the statement of the United States shall
7 be sealed and preserved in the records of the court
8 to be made available to the appellate court in the
9 event of an appeal. If the court enters an order de-
10 nying relief to the United States under this provi-
11 sion, the United States may take an immediate, in-
12 terlocutory appeal in accordance with the provisions
13 of paragraph (3) of this subsection. In the event of
14 such an appeal, the entire text of the underlying
15 written statement of the United States, together
16 with any transcripts of arguments made ex parte to
17 the court in connection therewith, shall be main-
18 tained under seal and delivered to the appellate
19 court.

20 “(2) INTRODUCTION OF CLASSIFIED INFORMA-
21 TION; PRECAUTIONS BY COURT.—

22 “(A) EXHIBITS.—The United States, in
23 order to prevent unnecessary or inadvertent dis-
24 closure of classified information in a civil trial
25 or other proceeding brought by the United

1 States under this section, may petition the
2 court ex parte to admit, in lieu of classified
3 writings, recordings or photographs, one or
4 more of the following: (i) copies of those items
5 from which classified information has been de-
6 leted, (ii) stipulations admitting relevant facts
7 that specific classified information would tend
8 to prove, or (iii) a summary of the specific clas-
9 sified information. The court shall grant such a
10 motion of the United States if it finds that the
11 redacted item, stipulation, or summary will pro-
12 vide the defendant with substantially the same
13 ability to make his defense as would disclosure
14 of the specific classified information.

15 “(B) TAKING OF TRIAL TESTIMONY.—Dur-
16 ing the examination of a witness in any civil
17 proceeding brought by the United States under
18 this section, the United States may object to
19 any question or line of inquiry that may require
20 the witness to disclose classified information not
21 previously found to be admissible. Following
22 such an objection, the court shall take suitable
23 action to determine whether the response is ad-
24 missible and, in doing so, shall take precautions
25 to guard against the compromise of any classi-

1 fied information. Such action may include per-
2 mitting the United States to provide the court,
3 ex parte, with a proffer of the witness's re-
4 sponse to the question or line of inquiry, and
5 requiring the defendant to provide the court
6 with a proffer of the nature of the information
7 he seeks to elicit.

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

13 “(3) INTERLOCUTORY APPEAL.—

14 “(A) An interlocutory appeal by the United
15 States shall lie to a court of appeals from a de-
16 cision or order of a district court authorizing
17 the disclosure of classified information, impos-
18 ing sanctions for nondisclosure of classified in-
19 formation, or refusing a protective order sought
20 by the United States to prevent the disclosure
21 of classified information.

22 “(B) An appeal taken pursuant to this sec-
23 tion either before or during trial shall be expe-
24 dited by the court of appeals. Prior to trial, an
25 appeal shall be taken within ten days after the

1 decision or order appealed from and the trial
2 shall not commence until the appeal is resolved.
3 If an appeal is taken during trial, the trial
4 court shall adjourn the trial until the appeal is
5 resolved and the court of appeals (1) shall hear
6 argument on such appeal within four days of
7 the adjournment of the trial, (2) may dispense
8 with written briefs other than the supporting
9 materials previously submitted to the trial
10 court, (3) shall render its decision within four
11 days of argument on appeal, and (4) may dis-
12 pense with the issuance of a written opinion in
13 rendering its decision. Such appeal and decision
14 shall not affect the right of the defendant, in a
15 subsequent appeal from a final judgment, to
16 claim as error reversal by the trial court on re-
17 mand of a ruling appealed from during trial.

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

24 “(m) DEFINITIONS.—As used in this section, the
25 term—

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

9 “(2) ‘financial institution’ has the meaning pre-
10 scribed in section 5312(a)(2) of title 31, United
11 States Code, including any regulations promulgated
12 thereunder;

13 “(3) ‘funds’ includes coin or currency of the
14 United States or any other country, traveler’s
15 checks, personal checks, bank checks, money orders,
16 stocks, bonds, debentures, drafts, letters of credit,
17 any other negotiable instrument, and any electronic
18 representation of any of the foregoing;

19 “(4) ‘national security’ means the national de-
20 fense and foreign relations of the United States;

21 “(5) ‘person’ includes an individual, partner-
22 ship, association, group, corporation, or other orga-
23 nization;

24 “(6) ‘Secretary’ means the Secretary of the
25 Treasury; and

1 “(7) ‘United States’, when used in a geographi-
2 cal sense, includes all commonwealths, territories,
3 and possessions of the United States.”.

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

 “2339B. Fund-raising for terrorist organizations”.

7 (c) Section 212(a)(3)(B)(i) of the Immigration and
8 Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)), as amended
9 by section 202(a) of this Act, is further amended by in-
10 serting after the phrase “Palestine Liberation Organiza-
11 tion” the following: “, an organization designated by the
12 President under section 2339B of title 18, United States
13 Code”.

14 (d) The provisions of section 2339B(k) of title 18,
15 United States Code (relating to classified information in
16 civil proceedings brought by the United States), shall also
17 be applicable to civil proceedings brought by the United
18 States under the International Emergency Economic Pow-
19 ers Act (50 U.S.C. 1701 et seq.).

20 **TITLE IV—CONVENTION ON THE**
21 **MARKING OF PLASTIC EXPLOSIVES**

22 **SEC. 401. SHORT TITLE.**

23 This title may be cited as the “Marking of Plastic
24 Explosives for Detection Act.”.

1 **SEC. 402. FINDINGS AND PURPOSES.**

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

3 (1) plastic explosives were used by terrorists in
4 the bombings of Pan Am flight 103 in December
5 1988 and UTA flight 772 in September 1989;

6 (2) plastic explosives can be used with little
7 likelihood of detection for acts of unlawful inter-
8 ference with civil aviation, maritime navigation, and
9 other modes of transportation;

10 (3) the criminal use of plastic explosives places
11 innocent lives in jeopardy, endangers national secu-
12 rity, affects domestic tranquillity, and gravely affects
13 interstate and foreign commerce;

14 (4) the marking of plastic explosives for the
15 purpose of detection would contribute significantly to
16 the prevention and punishment of such unlawful
17 acts; and

18 (5) for the purpose of deterring and detecting
19 such unlawful acts, the Convention on the Marking
20 of Plastic Explosives for the Purpose of Detection,
21 Done at Montreal on 1 March 1991, requires each
22 contracting State to adopt appropriate measures to
23 ensure that plastic explosives are duly marked and
24 controlled.

25 (b) PURPOSE.—The purpose of this Act is to fully
26 implement the Convention on the Marking of Plastic Ex-

1 plosives for the Purpose of Detection, Done at Montreal
2 on 1 March 1991.

3 **SEC. 403. DEFINITIONS.**

4 Section 841 of title 18, United States Code, is
5 amended by adding at the end the following new sub-
6 sections:

7 “(o) ‘Convention on the Marking of Plastic Explo-
8 sives’ means the Convention on the Marking of Plastic Ex-
9 plosives for the Purpose of Detection, Done at Montreal
10 on 1 March 1991.

11 “(p) ‘Detection agent’ means any one of the sub-
12 stances specified in this subsection when introduced into
13 a plastic explosive or formulated in such explosive as a
14 part of the manufacturing process in such a manner as
15 to achieve homogeneous distribution in the finished explo-
16 sive, including—

17 “(1) Ethylene glycol dinitrate (EGDN),
18 $C_2H_4(NO_3)_2$, molecular weight 152, when the mini-
19 mum concentration in the finished explosive is 0.2
20 percent by mass;

21 “(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB),
22 $C_6H_{12}(NO_2)_2$, molecular weight 176, when the mini-
23 mum concentration in the finished explosive is 0.1
24 percent by mass;

1 “(3) Para-Mononitrotoluene (p-MNT),
2 C₇H₇NO₂, molecular weight 137, when the minimum
3 concentration in the finished explosive is 0.5 percent
4 by mass;

5 “(4) Ortho-Mononitrotoluene (o-MNT),
6 C₇H₇NO₂, molecular weight 137, when the minimum
7 concentration in the finished explosive is 0.5 percent
8 by mass; and

9 “(5) any other substance in the concentration
10 specified by the Secretary, after consultation with
11 the Secretary of State and the Secretary of Defense,
12 which has been added to the table in part 2 of the
13 Technical Annex to the Convention on the Marking
14 of Plastic Explosives.

15 “(q) ‘Plastic explosive’ means an explosive material
16 in flexible or elastic sheet form formulated with one or
17 more high explosives which in their pure form have a
18 vapor pressure less than 10^{-4} Pa at a temperature of
19 25°C., is formulated with a binder material, and is as a
20 mixture malleable or flexible at normal room tempera-
21 ture.”.

1 **SEC. 404. REQUIREMENT OF DETECTION AGENTS FOR**
2 **PLASTIC EXPLOSIVES.**

3 Section 842 of title 18, United States Code, is
4 amended by adding after subsection (k) the following new
5 subsections:

6 “(l) It shall be unlawful for any person to manufac-
7 ture any plastic explosive which does not contain a detec-
8 tion agent.

9 “(m)(1) it shall be unlawful for any person to import
10 or bring into the United States, or export from the United
11 States, any plastic explosive which does not contain a de-
12 tection agent.

13 “(2) This subsection does not apply to the importa-
14 tion or bringing into the United States, or the exportation
15 from the United States, of any plastic explosive which was
16 imported, brought into, or manufactured in the United
17 States prior to the effective date of the Marking of Plastic
18 Explosives for Detection Act by or on behalf of any agency
19 of the United States performing military or police func-
20 tions (including any military Reserve component) or by or
21 on behalf of the National Guard of any State, not later
22 than fifteen years after the date of entry into force of the
23 Convention on the Marking of Plastic Explosives, with re-
24 spect to the United States.

1 “(n)(1) It shall be unlawful for any person to ship,
2 transport, transfer, receive, or possess any plastic explo-
3 sive which does not contain a detection agent.

4 “(2) This subsection does not apply to—

5 “(A) the shipment, transportation, transfer, re-
6 ceipt, or possession of any plastic explosive, which
7 was imported, brought into, or manufactured in the
8 United States prior to the effective date of this Act
9 by any person during a period not exceeding three
10 years after the effective date of this Act; or

11 “(B) the shipment, transportation, transfer, re-
12 ceipt, or possession of any plastic explosive, which
13 was imported, brought into, or manufactured in the
14 United States prior to the effective date of this Act
15 by or on behalf of any agency of the United States
16 performing a military or police function (including
17 any military reserve component) or by or on behalf
18 of the National Guard of any State, not later than
19 fifteen years after the date of entry into force of the
20 Convention on the Marking of Plastic Explosives,
21 with respect to the United States.

22 “(o) It shall be unlawful for any person, other than
23 an agency of the United States (including any military re-
24 serve component) or the National Guard of any State, pos-
25 sessed any plastic explosive on the effective date of this

1 Act, to fail to report to the Secretary within one hundred
2 twenty days from the effective date of this Act the quan-
3 tity of such explosives possessed, the manufacturer or im-
4 porter, any marks of identification on such explosives, and
5 such other information as the Secretary may by regula-
6 tions prescribe.”.

7 **SEC. 405. CRIMINAL SANCTIONS.**

8 Section 844(a) of title 18, United States Code, is
9 amended to read as follows:

10 “(a) Any person who violates subsections (a) through
11 (i) or (1) through (o) of section 842 of this chapter shall
12 be fined under this title or imprisoned not more than ten
13 years, or both.”.

14 **SEC. 406. EXCEPTIONS.**

15 Section 845 of title 18, United States Code, is
16 amended—

17 (1) in subsection (a), by inserting “(l), (m), (n),
18 or (o) of section 842 and subsections” after “sub-
19 sections”;

20 (2) by adding at the end of subsection (a)(1)
21 “and which pertains to safety”; and

22 (3) by adding at the end the following new sub-
23 section:

24 “(c) It is an affirmative defense against any proceed-
25 ing involving sections 842 (l) through (o) if the proponent

1 proves by a preponderance of the evidence that the plastic
2 explosive—

3 “(1) consisted of a small amount of plastic ex-
4 plosive intended for and utilized solely in lawful—

5 “(A) research, development, or testing of
6 new or modified explosive materials;

7 “(B) training in explosives detection or de-
8 velopment or testing of explosives detection
9 equipment; or

10 “(C) forensic science purposes; or

11 “(2) was plastic explosive which, within three
12 years after the date of entry into force of the Con-
13 vention on the Marking of Plastic Explosives, with
14 respect to the United States, will be or is incor-
15 porated in a military device within the territory of
16 the United States and remains an integral part of
17 such military device, or is intended to be, or is incor-
18 porated in, and remains an integral part of a mili-
19 tary device that is intended to become, or has be-
20 come, the property of any agency of the United
21 States performing military or police functions (in-
22 cluding any military reserve component) or the Na-
23 tional Guard of any State, wherever such device is
24 located. For purposes of this subsection, the term
25 ‘military device’ includes, but is not restricted to,

1 shells, bombs, projectiles, mines, missiles, rockets,
2 shaped charges, grenades, perforators, and similar
3 devices lawfully manufactured exclusively for mili-
4 tary or police purposes.”.

5 **SEC. 407. INVESTIGATIVE AUTHORITY.**

6 Section 846 of title 18, United States Code, is
7 amended—

8 (1) by inserting in the last sentence before the
9 “subsection” the phrase “subsection (m) or (n) of
10 section 842 or;”, and

11 (2) by adding at the end the following: “The
12 Attorney General shall exercise authority over viola-
13 tions of subsection (m) or (n) of section 842 only
14 when they are committed by a member of a terrorist
15 or revolutionary group. In any matter involving a
16 terrorist or revolutionary group or individual, as de-
17 termined by the Attorney General, the Attorney
18 General shall have primary investigative responsibil-
19 ity and the Secretary shall assist the Attorney Gen-
20 eral as requested.”.

21 **SEC. 408. EFFECTIVE DATE.**

22 The amendments made by this title shall take effect
23 one year after the date of the enactment of this Act.

TITLE V—NUCLEAR MATERIALS**SEC. 501. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.**

(a)(1) FINDINGS.—The Congress finds and declares:

(A) Nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices which are capable of causing serious bodily injury as well as substantial damage to property and the environment.

(B) The potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States.

(C) Due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in assuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses.

(D) The threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation which imple-

1 mented the Convention on the Physical Protection of
2 Nuclear Material, codified at section 831 of title 18,
3 United States Code.

4 (E) The successful efforts to obtain agreements
5 from other countries to dismantle nuclear weapons
6 have resulted in increased packaging and transpor-
7 tation of nuclear materials, thereby decreasing the
8 security of such materials by increasing the oppor-
9 tunity for unlawful diversion and theft.

10 (F) The illicit trafficking in the relatively more
11 common, commercially available and usable nuclear
12 and byproduct materials poses a potential to cause
13 significant loss of life and/or environmental damage.

14 (G) Reported trafficking incidents in the early
15 1990's suggest that the individuals involved in traf-
16 ficking these materials from Eurasia and Eastern
17 Europe frequently conducted their black market
18 sales of these materials within the Federal Republic
19 of Germany, the Baltic States, and to a lesser extent
20 in the Middle European countries.

21 (H) The international community has become
22 increasingly concerned over the illegal possession of
23 nuclear and nuclear byproduct materials.

24 (I) The potentially disastrous ramifications of
25 increased access to nuclear and nuclear byproduct

1 materials pose such a significant future threat that
2 the United States must use all lawful methods avail-
3 able to combat the illegal use of such materials.

4 (J) The United States has an interest in en-
5 couraging United States corporations to do business
6 in the countries which comprised the former Soviet
7 Union, as well as in other developing democracies;
8 protection of such United States corporations from
9 threats created by the unlawful use of nuclear mate-
10 rials is important to the success of the effort to en-
11 courage such business ventures, and to further the
12 foreign relations and commerce of the United States.

13 (K) The nature of nuclear contamination is
14 such that it may affect the health, environment, and
15 property of United States nationals even if the acts
16 which constitute the illegal activity occur outside the
17 territory of the United States, and are primarily di-
18 rected toward non-United States nationals.

19 (L) There is presently no Federal criminal stat-
20 ute which provides adequate protection to United
21 States interests from non-weapons grade, yet haz-
22 ardous radioactive material, and from the illegal di-
23 version of nuclear materials which are held for other
24 than peaceful purposes.

1 (2) PURPOSE.—The purpose of the Act is to provide
2 Federal law enforcement the necessary tools and fullest
3 possible basis allowed under the Constitution of the
4 United States to combat the threat of nuclear contamina-
5 tion and proliferation which may result from illegal posses-
6 sion and use of radioactive materials.

7 (b) EXPANSION OF SCOPE AND JURISDICTIONAL
8 BASES.—Section 831 of title 18, United States Code, is
9 amended by—

10 (1) in subsection (a), striking “nuclear mate-
11 rial” each time it appears and inserting each time
12 “nuclear material or nuclear byproduct material”;

13 (2) in subsection (a)(1)(A), inserting “or the
14 environment” after “property”;

15 (3) amending subsection (a)(1)(B) to read as
16 follows:

17 “(B)(i) circumstances exist which are likely
18 to cause the death of or serious bodily injury to
19 any person or substantial damage to property
20 or the environment; or (ii) such circumstances
21 are represented to the defendant to exist;”;

22 (4) in subsection (a)(6), inserting “or the envi-
23 ronment” after “property”;

24 (5) amending subsection (c)(2) to read as fol-
25 lows:

1 “(2) an offender or a victim is a national of the
2 United States or a United States corporation or
3 other legal entity;”;

4 (6) in subsection (c)(3), striking “at the time of
5 the offense the nuclear material is in use, storage,
6 or transport, for peaceful purposes, and”;

7 (7) striking “or” at the end of subsection
8 (c)(3);

9 (8) in subsection (c)(4), striking “nuclear mate-
10 rial for peaceful purposes” and inserting “nuclear
11 material or nuclear byproduct material”;

12 (9) striking the period at the end of subsection
13 (c)(4) and inserting “; or”;

14 (10) adding at the end of subsection (c) a new
15 paragraph as follows:

16 “(5) the governmental entity under subsection
17 (a)(5) is the United States or the threat under sub-
18 section (a)(6) is directed at the United States.”;

19 (11) in subsection (f)(1)(A), striking “with an
20 isotopic concentration not in excess of 80 percent
21 plutonium 238”;

22 (12) inserting at the beginning of subsection
23 (f)(1)(C) “enriched uranium, defined as”;

24 (13) redesignating subsections (f)(2)–(4) as
25 (f)(3)–(5);

1 (14) inserting after subsection (f)(1) the follow-
2 ing new paragraph:

3 “(2) the term ‘nuclear byproduct material’
4 means any material containing any radioactive iso-
5 tope created through an irradiation process in the
6 operation of a nuclear reactor or accelerator;”;

7 (15) striking “and” at the end of subsection
8 (f)(4), as redesignated;

9 (16) striking the period at the end of subsection
10 (f)(5), as redesignated, and inserting a semicolon;
11 and

12 (17) adding at the end of subsection (f) the fol-
13 lowing new paragraphs:

14 “(6) the term ‘national of the United States’
15 has the meaning prescribed in section 101(a)(22) of
16 the Immigration and Nationality Act (8 U.S.C.
17 1101(a)(22)); and

18 “(7) the term ‘United States corporation or
19 other legal entity’ means any corporation or other
20 entity organized under the laws of the United States
21 or any State, district, commonwealth, territory or
22 possession of the United States.’”.

1 **TITLE VI—PROCEDURAL AND TECHNICAL**
2 **CORRECTIONS AND IMPROVEMENTS**

3 **SEC. 601. CORRECTION TO MATERIAL SUPPORT PROVI-**
4 **SION.**

5 Section 120005 of Public Law 103-322, September
6 13, 1994, is amended to read at the time of its enactment
7 on September 13, 1994, as follows:

8 “(a) OFFENSE.—Chapter 113A of title 18, United
9 States Code, is amended by adding the following new sec-
10 tion:

11 **“§ 2339A. Providing material support to terrorists**

12 “(a) DEFINITION.—In this section, ‘material support
13 or resources’ means currency or other financial securities,
14 financial services, lodging, training, safehouses, false doc-
15 umentation or identification, communications equipment,
16 facilities, weapons, lethal substances, explosives, person-
17 nel, transportation, and other physical assets, but does not
18 include humanitarian assistance to persons not directly in-
19 volved in such violations.

20 “(b) OFFENSE.—A person who, within the United
21 States, provides material support or resources or conceals
22 or disguises the nature, location, source, or ownership of
23 material support or resources, knowing or intending that
24 they are to be used in preparation for, in carrying out,
25 a violation of section 32, 37, 351, 844(f) or (i), 1114,

1 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or
2 2332a of this title or section 46502 of title 49, or in prepa-
3 ration for or carrying out the concealment or an escape
4 from the commission of any such violation, shall be fined
5 under this title, imprisoned not more than ten years, or
6 both.”.

7 **SEC. 602. EXPANSION OF WEAPONS OF MASS DESTRUCTION**
8 **STATUTE.**

9 Section 2332a of title 18, United States Code, is
10 amended by—

11 (1) in subsection (a), inserting “threatens,” be-
12 fore “attempts or conspires to use, a weapon of
13 mass destruction”;

14 (2) by redesignating subsection (b) as sub-
15 section (c); and

16 (3) by adding the following new subsection:

17 “(b) Any national of the United States who outside
18 of the United States uses, or threatens, attempts or con-
19 spires to use, a weapon of mass destruction shall be im-
20 prisoned for any term of years or for life, and if death
21 results, shall be punished by death or imprisonment for
22 any term of years or for life.”.

1 **SEC. 603. ADDITION OF TERRORIST OFFENSES TO THE**
2 **RICO STATUTE.**

3 (a) Section 1961(1)(B) of title 18 of the United
4 States Code is amended by—

5 (1) inserting after “Section” the following: “32
6 (relating to the destruction of aircraft), section 37
7 (relating to violence at international airports), sec-
8 tion 115 (relating to influencing, impeding, or retali-
9 ating against a Federal official by threatening or in-
10 juring a family member), section”;

11 (2) inserting after “section 224 (relating to
12 sports bribery),” the following: “section 351 (relat-
13 ing to Congressional or Cabinet officer assassina-
14 tion),”;

15 (3) inserting after “section 664 (relating to em-
16 bezzlement from pension and welfare funds),” the
17 following: “section 831 (relating to prohibited trans-
18 actions involving nuclear materials), section 844 (f)
19 or (i) (relating to destruction by explosives or fire of
20 government property or property affecting interstate
21 or foreign commerce),”;

22 (4) inserting after “sections 891–894 (relating
23 to extortionate credit transactions),” the following:
24 “section 956 (relating to conspiracy to kill, kidnap,
25 maim, or injure certain property in a foreign coun-
26 try),”;

1 (5) inserting after “section 1084 (relating to
2 the transmission of gambling information),” the fol-
3 lowing: “section 1111 (relating to murder), section
4 1114 (relating to murder of United States law en-
5 forcement officials), section 1116 (relating to mur-
6 der of foreign officials, official guests, or internation-
7 ally protected persons), section 1203 (relating to
8 hostage taking),”;

9 (6) inserting after “section 1344 (relating to fi-
10 nancial institution fraud),” the following: “section
11 1361 (relating to willful injury of government prop-
12 erty within the special maritime and territorial juris-
13 diction),”;

14 (7) inserting after “section 1513 (relating to re-
15 taliating against a witness, victim, or an inform-
16 ant),” the following: “section 1751 (relating to Pres-
17 idential assassination),”;

18 (8) inserting after “section 1958 (relating to
19 use of interstate commerce facilities in the commis-
20 sion of murder-for-hire),” the following: “section
21 2280 (relating to violence against maritime naviga-
22 tion), section 2281 (relating to violence against mar-
23 itime fixed platforms),”; and

24 (9) inserting after “2321 (relating to traffick-
25 ing in certain motor vehicles or motor vehicle

1 parts),” the following: “section 2332 (relating to ter-
2 rorist acts abroad against United States nationals),
3 section 2332a (relating to use of weapons of mass
4 destruction), section 2332b (relating to acts of ter-
5 rorism transcending national boundaries), section
6 2339A (relating to providing material support to ter-
7 rorists),”.

8 (b) Section 1961(1) of title 18 of the United States
9 Code is amended by striking “or” before “(E)”, and in-
10 serting at the end thereof the following: “or (F) section
11 46502 of title 49, United States Code;”.

12 **SEC. 604. ADDITION OF TERRORISM OFFENSES TO THE**
13 **MONEY LAUNDERING STATUTE.**

14 (a) Section 1956(c)(7)(B)(ii) of title 18, United
15 States Code, is amended by striking “or extortion;” and
16 inserting “extortion, murder, or destruction of property by
17 means of explosive or fire;”.

18 (b) Section 1956(c)(7)(D) of title 18, United States
19 Code, is amended by—

20 (1) inserting after “an offense under” the fol-
21 lowing: “section 32 (relating to the destruction of
22 aircraft), section 37 (relating to violence at inter-
23 national airports), section 115 (relating to influenc-
24 ing, impeding or retaliating against a Federal offi-
25 cial by threatening or injuring a family member),”;

1 (2) inserting after “section 215 (relating to
2 commissions or gifts for procuring loans),” the fol-
3 lowing: “section 351 (relating to Congressional or
4 Cabinet officer assassination),”;

5 (3) inserting after “section 798 (relating to es-
6 pionage),” the following: “section 831 (relating to
7 prohibited transactions involving nuclear materials),
8 section 844 (f) or (i) (relating to destruction by ex-
9 plosives or fire of Government property or property
10 affecting interstate or foreign commerce),”;

11 (4) inserting after “section 875 (relating to
12 interstate communications),” the following: “section
13 956 (relating to conspiracy to kill, kidnap, maim, or
14 injure certain property in a foreign country),”;

15 (5) inserting after “section 1032 (relating to
16 concealment of assets from conservator, receiver, or
17 liquidating agent of financial institution),” the fol-
18 lowing: “section 1111 (relating to murder), section
19 1114 (relating to murder of United States law en-
20 forcement officials), section 1116 (relating to mur-
21 der of foreign officials, official guests, or internation-
22 ally protected persons),”;

23 (6) inserting after “section 1203 (relating to
24 hostage taking)” the following: “section 1361 (relat-
25 ing to willful injury of Government property), sec-

1 tion 1363 (relating to destruction of property within
2 the special maritime and territorial jurisdiction),”;

3 (7) inserting after “section 1708 (relating to
4 theft from the mail” the following:”), section 1751
5 (relating to Presidential assassination),”;

6 (8) inserting after “2114 (relating to bank and
7 postal robbery and theft),” the following: “section
8 2280 (relating to violence against maritime naviga-
9 tion), section 2281 (relating to violence against mar-
10 itime fixed platforms),”;

11 (9) striking “of this title” and inserting the fol-
12 lowing: “section 2332 (relating to terrorist acts
13 abroad against United States nationals), section
14 2332a (relating to use of weapons of mass destruc-
15 tion), section 2332b (relating to international terror-
16 ist acts transcending national boundaries), 2339A
17 (relating to providing material support to terrorists)
18 of this title, section 46502 of title 49, United States
19 Code,”.

20 **SEC. 605. AUTHORIZATION FOR INTERCEPTIONS OF COM-**
21 **MUNICATIONS IN CERTAIN TERRORISM RE-**
22 **LATED OFFENSES.**

23 (a) Section 2516(1) of title 18, United States Code,
24 is amended by—

1 (1) striking “and” at the end of subparagraph
2 (n);

3 (2) redesignating subparagraph (o) as subpara-
4 graph (q); and

5 (3) inserting these two new paragraphs after
6 paragraph (n):

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

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

12 (b) Section 2516(1)(c) of title 18, United States
13 Code, is amended by inserting before “or section 1992 (re-
14 lating to wrecking trains)” the following: “section 2332
15 (relating to terrorist acts abroad), section 2332a (relating
16 to weapons of mass destruction, section 2332b (relating
17 to acts of terrorism transcending national boundaries),
18 section 2339A (relating to providing material support to
19 terrorists), section 37 (relating to violence at international
20 airports),”.

21 **SEC. 606. CLARIFICATION OF MARITIME VIOLENCE JURIS-**
22 **DICTION.**

23 Section 2280(B)(1)(A) of title 18, United States
24 Code, is amended by—

1 (1) in clause (ii), striking “and the activity is
2 not prohibited as a crime by the State in which the
3 activity takes place”; and

4 (2) in clause (iii), striking “the activity takes
5 place on a ship flying the flag of a foreign country
6 or outside of the United States,”.

7 **SEC. 607. EXPANSION OF FEDERAL JURISDICTION OVER**
8 **BOMB THREATS.**

9 Section 844(e) of title 18, United States Code, is
10 amended by—

11 (1) inserting “(1)” before “Whoever”; and

12 (2) adding at the end thereof this new para-
13 graph:

14 “(2) Whoever willfully makes any threat, or
15 maliciously conveys false information knowing the
16 same to be false, concerning an attempt or alleged
17 attempt being made, or to be made to violate sub-
18 sections (f) or (i) of this section or section 81 of this
19 title shall be fined under this title or imprisoned for
20 not more than five years, or both.

21 **SEC. 608. INCREASED PENALTY FOR EXPLOSIVE CONSPIR-**
22 **ACIES.**

23 Section 844 of title 18, United States Code, is
24 amended by adding at the end the following new sub-
25 section:

1 (c)(1) Section 115(a)(1)(A) of title 18, United States
2 Code, is amended by inserting “or conspires” after “at-
3 tempts”.

4 (2) Section 115(a)(2) of title 18, United States Code,
5 as amended by section 609, is further amended by insert-
6 ing “or conspires” after “attempts”.

7 (3) Section 115(b)(2) of title 18, United States Code,
8 is amended by striking both times it appears “or at-
9 tempted kidnapping” and inserting both times “, at-
10 tempted kidnapping or conspiracy to kidnap”.

11 (4)(A) Section 115(b)(3) of title 18, United States
12 Code, is amended by striking “or attempted murder” and
13 inserting “, attempted murder or conspiracy to murder”.

14 (B) Section 115(b)(3) of title 18, United States Code,
15 is further amended by striking “and 1113” and inserting
16 “, 1113 and 1117”.

17 (d) Section 175(a) of title 18, United States Code,
18 is amended by inserting “, or conspires to do so,” after
19 “any organization to do so,”.

20 (e) Section 1203(a) of title 18, United States Code,
21 is amended by inserting “or conspires” after “attempts”.

22 (f) Section 2280(a)(1)(H) of title 18, United States
23 Code, is amended by inserting “or conspires” after “at-
24 tempts”.

1 (g) Section 2281(a)(1)(F) of title 18, United States
2 Code, is amended by inserting “or conspires” after “at-
3 tempts”.

4 (h)(1) Section 46502(a)(2) of title 49, United States
5 Code, is amended by inserting “or conspiring” after “at-
6 tempting”.

7 (2) Section 46502(b)(1) of title 49, United States
8 Code, is amended by inserting “or conspiring to commit”
9 after “committing”.

10 **TITLE VII—ANTITERRORISM ASSISTANCE**

11 **SEC. 701. FINDINGS.**

12 Congress finds that in order to improve the effective-
13 ness and cost efficiency of the Antiterrorism Training As-
14 sistance Program, which is administered and coordinated
15 by the Department of State to increase the antiterrorism
16 capabilities of friendly countries, more flexibility is needed
17 in providing trainers and courses overseas and to provide
18 personnel needed to enhance the administration and eval-
19 uation of the courses.

20 **SEC. 702. ANTITERRORISM ASSISTANCE AMENDMENTS.**

21 Section 573 of chapter 8 (relating to antiterrorism
22 assistance), of the Foreign Assistance Act of 1961 (22
23 U.S.C. 2349aa2) is amended by:

24 (1) striking “30 days” in subsection (d)(1)(A)
25 and inserting in lieu thereof “180 days”;

1 (2) striking the “add” after subsection
2 (d)(1)(B);

3 (3) striking subsection (d)(1)(B);

4 (4) inserting “and” after subsection (d)(1)(A);

5 (5) redesignating subsection (d)(1)(C) as sub-
6 section (d)(1)(B);

7 (6) amending subsection (d)(2) to read as fol-
8 lows:

9 “(2) Personnel of the United States Govern-
10 ment authorized to advise foreign countries on anti-
11 terrorism matters shall carry out their responsibil-
12 ities within the United States when determined most
13 effective or outside the United States for periods not
14 to exceed 180 consecutive calendar days.”; and

15 (7) striking subsection (f).

○

S 390 IS—2

S 390 IS—3

S 390 IS—4

S 390 IS—5

S 390 IS—6