II Treaty is subject to the following conditions, which shall be binding upon the President:

(1) NONCOMPLIANCE.—If the President determines that a party to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on July 3, 1991 (in this resolution referred to as the ''START Treaty'') or to the START II Treaty is acting in a manner that is inconsistent with the object and purpose of the respective Treaty or is in violation of either the START or START II Treaty so as to threaten the national security interests of the United States, then the President shall—

(A) consult with and promptly submit a report to the Senate detailing the effect of such actions on the START Treaties;

(B) seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant party with the objective of bringing the noncompliant party into compliance;

(C) in the event that a party other than the Russian Federation is determined not to be in compliance—

(i) request consultations with the Russian Federation to assess the viability of both START Treaties and to determine if a change in obligations is required in either treaty to accommodate the changed circumstances, and

(ii) submit for the Senate's advice and consent to ratification any agreement changing the obligations of the United States; and

(D) in the event that noncompliance persists, seek a Senate resolution of support of continued adherence to one or both of the START Treaties, notwithstanding the changed circumstances affecting the object and purpose of one or both of the START Treaties.

(2) TREATY OBLIGATIONS.—Ratification by the United States of the START II Treaty obligates the United States to meet the conditions contained in this resolution of ratification and shall not be interpreted as an obligation by the United States to accept any modification, change in scope, or extension of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (commonly referred to as the ''ABM Treaty'').

(3) FINANCING IMPLEMENTATION.—The United States understands that in order to be assured of the Russian commitment to a reduction in arms levels, Russia must maintain a substantial stake in financing the implementation of the START II Treaty. The costs of implementing the START II Treaty should be borne by both parties to the Treaty. The exchange of instruments of ratification of the START II Treaty shall not be contingent upon the United States providing financial guarantees to pay for implementation of commitments by Russia under the START II Treaty.

(4) EXCHANGE OF LETTERS.—The exchange of letters—

(A) between Secretary of State Lawrence Eagleburger and Minister of Foreign Affairs Andrey Kozyrev, dated December 29, 1992, regarding SS–18 missiles and launchers now on the territory of Kazakstan,

(B) between Secretary of State Eagleburger and Minister of Foreign Affairs Kozyrev, dated December 29, 1992, and December 31, 1992, regarding heavy bombers, and

(C) between Minister of Defense Pavel Grachev and Secretary of Defense Richard Cheney, dated December 29, 1992, and January 3, 1993, making assurances on Russian intent regarding the conversion and retention of 90 silo launchers of RS–20 heavy intercontinental ballistic missiles (ICBMs) (all having been submitted to the Senate as associated with the START II Treaty),

are of the same force and effect as the provisions of the START II Treaty. The United States shall regard actions inconsistent with obligations under those exchanges of letters as equivalent under international law to actions inconsistent with the START II Treaty.

(5) SPACE-LAUNCH VEHICLES.—Space-launch vehicles composed of items that are limited by the START Treaty or the START II Treaty shall be subject to the obligations undertaken in the respective treaty.

(6) NTM AND CUBA.—The obligation of the United States under the START Treaty not to interfere with the national technical means (NTM) of verification of the other party to the Treaty does not preclude the United States from pursuing the question of the removal of the electronic intercept facility operated by the Government of the Russian Federation at Lourdes, Cuba.

(c) DECLARATIONS.—The advice and consent of the Senate to ratification of the START II Treaty is subject to the following declarations, which express the intent of the Senate:

(1) COOPERATIVE THREAT REDUCTIONS.—Pursuant to the Joint Statement on the Transparency and Irreversibility of the Process of Reducing Nuclear Weapons, agreed to in Moscow, May 10, 1995, between the President of the United States and the President of the Russian Federation, it is the sense of the Senate that both parties to the START II Treaty should attach high priority to—

(A) the exchange of detailed information on aggregate stockpiles of nuclear warheads, on stocks of fissile materials, and on their safety and security;

(B) the maintenance at distinct and secure storage facilities, on a reciprocal basis, of fissile materials removed from nuclear warheads and declared to be excess to national security requirements for the purpose of confirming the irreversibility of the process of nuclear weapons reduction; and

(C) the adoption of other cooperative measures to enhance confidence in the reciprocal declarations on fissile material stockpiles.

(2) ASYMMETRY IN REDUCTIONS.—It is the sense of the Senate that, in conducting the reductions mandated by the START or START II Treaty, the President should, within the parameters of the elimination schedules provided for in the START Treaties, regulate reductions in the United States strategic nuclear forces so that the number of accountable warheads under the START and START II Treaties possessed by the Russian Federation in no case exceeds the comparable number of accountable warheads possessed by the United States to an extent that a strategic imbalance endangering the national security interests of the United States results.

(3) EXPANDING STRATEGIC ARSENALS IN COUNTRIES OTHER THAN RUSSIA.—It is the sense of the Senate that, if during the time the START II Treaty remains in force or in advance of any further strategic offensive arms reductions the President determines there has been an expansion of the strategic arsenal of any country not party to the START II Treaty so as to jeopardize the supreme interests of the United States, then the President should consult on an urgent basis with the Senate to determine whether adherence to the START II Treaty remains in the national interest of the United States.

(4) SUBSTANTIAL FURTHER REDUCTIONS.—Cognizant of the obligation of the United States under Article VI of the Treaty on the Non-Proliferation on Nuclear Weapons of July 1, 1968 ''to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at any early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control'', it is the sense of the Senate that in anticipation of the ratification and entry into force of the START II Treaty, the Senate calls upon the parties to the START II Treaty to seek further strategic offensive arms reductions consistent with their national security interests and calls upon the other nuclear weapon states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.

(5) MISSILE TECHNOLOGY CONTROL REGIME.—The Senate urges the President to insist that the Republic of Belarus, the Republic of Kazakstan, Ukraine, and the Russian Federation abide by the guidelines of the Missile Technology Control Regime (MTCR). For purposes of this paragraph, the term ''Missile Technology Control Regime'' means the policy statement between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(6) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power as set forth in Article II, Section 2, Clause 2 of the Constitution.

(7) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification with respect to the INF Treaty. For purposes of this declaration, the term ''INF Treaty'' refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. HATCH (for himself, Mr. HARKIN, Mr. CRAIG, and Mr. BENNETT):

S. 1481. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes; to the Committee on Finance.

By Mr. GRAMS:

S. 1482. A bill to amend chapter 13 of title 31, United States Code, to deem all Federal employees to be essential employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KYL (for himself, Mrs. FEINSTEIN, and Mr. DEWINE):

S. 1483. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. HARKIN, Mr. CRAIG, and Mr. BENNETT):

S. 1481. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes; to the Committee on Finance.

FARMERS' COOPERATIVE LEGISLATION

Mr. HATCH. Mr. President, I am joined by Senators HARKIN, CRAIG, and BENNETT in introducing legislation that will assist farmers' cooperatives in purchasing the refining and processing facilities that receive their goods and lower the cost of bringing agricultural products to market. The bill extends certain nonrecognition of gain benefits contained in the Internal Revenue code to owners of agricultural product refining and processing facilities if they sell to a farmers cooperative.

Currently, the Tax Code provides various incentives for the promotion of economic activity and growth. For example, section 1042 grants employees participating in an Employee Stock Ownership Plan [ESOP] and worker-owned cooperatives the opportunity to acquire an ownership interest in certain corporate stock. This has enabled employees and members of worker-owned cooperatives to participate as owners of the business. This Congress, as have previous Congresses recognizes that economic conditions are changing as advancing technology has transformed our business climate into one that is more dependent on capital investment for growth and profits. Participatory ownership at all levels is important in spreading the benefits of capital ownership from the few to the many.

The bill would provide farmers who form farmers cooperatives the opportunity for an ownership interest in the processing and marketing of their products. Owners of a refining or processing facility would be able to receive nonrecognition treatment on any capital gain if the facility is sold to a farmers cooperative that did at least 50 percent of its business with the refining or processing facility, so long as the owners reinvest the sales proceeds into similar property.

Mr. President, farmers generally own their own businesses. Some have a few acres of land and some have developed large operations. Over the years, farmers cooperatives have been formed to take advantage of economies of scale. These farmers cooperatives bring farmers together to sell their agricultural products to someone else who refines or processes them and sells them to the public. The chain in agricultural marketing includes both the farmer and the refiner or processor. Each additional link in the chain can add increasing costs to the final sale of these agricultural products. If the farmers, through the combined power of a farmers cooperative, could acquire ownership in the refiner or processor that finishes and markets their products, the driving need for profits at both levels of the chain would be lessened. By combining their business interest, an additional level of overhead and profitability could be greatly reduced. The net result would be lower costs to the consuming public and a healthier farm economy.

America's farmers have seen many changes to their industry over the past few years. It is tough to be a farmer. Price changes, demands for new machinery, changes in agricultural demand, the unpredictable weather, and economic hardship have shaken the farming industry. This bill will give farmers a chance for more stability and control in the future marketing of their products. Of course, not all farmers will take advantage of these benefits. However, those that do will hopefully reap greater benefits from a more integrated agricultural business.

Representatives PAT ROBERTS, chairman of the House Committee on Agriculture, CHARLES STENHOLM, and others introduced similar legislation in the House as H.R. 2676. This bill has bipartisan support. It is timely assistance for our Nations farmers' cooperatives. I urge my colleagues in the Senate on both sides of the isle to support this initiative for our Nation's farming industry. This bill has been endorsed by the National Council of Farmers' Cooperatives.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1481

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

SECTION 1. NONRECOGNITION OF GAIN ON SALE OF STOCK TO CERTAIN FARMERS' COOPERATIVES.

(a) *Application of Section* 1042 SECTION 1042 TO CERTAIN FARMERS' COOPERATIVES.—Section 1042 of the Internal Revenue Code of 1986 (relating to sales of stock to employee stock ownership plans or certain cooperatives) is amended by adding at the end of the following new subsection:

''(g) APPLICATION OF SECTION TO SALES OF STOCK IN AGRICULTURAL REFINERS AND PROCESSORS TO ELIGIBLE FARM COOPERATIVES.—

''(1) IN GENERAL.—This section shall apply to the sale of stock of a qualified refiner or processor to an eligible farmers' cooperative.

''(2) QUALIFIED REFINER OR PROCESSOR.—For purposes of this subsection, the term 'qualified refiner or processor' means a domestic corporation—

''(A) substantially all of the activities of which consist of the active conduct of the trade or business of refining or processing agricultural or horticultural products, and

''(B) which purchases more than one-half of such products to be refined or processed from farmers who make up the eligible farmers' cooperative which is purchasing stock in the corporation in a transaction to which this subsection is to apply.

''(3) ELIGIBLE FARMERS' COOPERATIVE.—For purposes of this section, the term 'eligible farmers' cooperative' means an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products.

''(4) SPECIAL RULES.—In applying this section to a sale to which paragraph (1) applies—

''(A) the eligible farmers' cooperative shall be treated in the same manner as a cooperative described in subsection (b)(1)(B),

''(B) subsection (b)(2) shall be applied by substituting '100 percent' for '30 percent',

''(C) the determination as to whether any stock in the domestic corporation is a qualified security shall be made—

''(i) without regard to whether the stock is an employer security, and

''(ii) by treating the requirements of subsection (c)(1)(A) as being met if more than 50 percent of the outstanding stock of the corporation is not readily tradable on an established securities market, and

''(D) subsection (c)(7) shall not apply.''

''(b) COORDINATION WITH SECTION 338(h)(10).—Section 338(h)(10) of the Internal Revenue Code of 1986 is amended by adding at the end of the following new subparagraph:

''(D) CORPORATION WITH SECTION 1042.—An election may be made under this paragraph with respect to a sale described in section 1042(g) for which an election was made under section 1042(a), except that no gain shall be recognized by reason of subparagraph (A)(ii) to the extent it is not recognized under section 1042(a).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

• Mr. CRAIG. Mr. President, I join with Senators HATCH, HARKIN, and BENNETT in introducing legislation which would be helpful to farmer cooperatives seeking to purchase businesses that refine or processes their agricultural crops, and ultimately would lower the costs of bringing their products to market.

The proposed legislation would amend section 1042 of the Internal Revenue Code, which currently allows a similar treatment for sales to Employee Stock Ownership Plan [ESOP] and worker-owned cooperatives. Through this section of the Internal Revenue Code, employees and members of worker-owned cooperatives are able to acquire an ownership interest in certain corporate stock and participate in ownership of the business.

Currently, farmers cannot compete with other business entities and with ESOP's in buying such businesses because of the advantages inherent in the tax deferrals available in transactions with these other purchasers.

Mr. President, this bill would allow farmers' cooperatives the opportunity to be directly involved with the processing and marketing of their products. With this combination, overhead could be greatly reduced, and the result would be lower costs to the consuming public and a healthier farm economy.

Making it easier, on a more level playing field, for farmers to participate in the refining and processing of their products will provide them with a better way to deal with market fluctuations of commodity prices and also provide for more stability and control in their future marketing of products.

This bill has bipartisan support. Similar legislation has been introduced in the House as H.R. 2676, by PAT ROBERTS, CHARLIE STENHOLM, and others. I urge my colleagues here in the Senate on both sides of the aisle to support

this initiative for our Nation's farming industry, which has been endorsed by the National Council of Farmers Cooperatives.●

By Mr. GRAMS:

S. 1482. A bill to amend chapter 13 of title 31, United States Code, to deem all Federal employees to be essential employees, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL GOVERNMENT SHUTDOWN LEGISLATION

● Mr. GRAMS. Mr. President, once again we stand at the edge of another partial shutdown of the Federal Government.

Looking back on last month's shutdown, I have a hard time explaining to Minnesotans why we gave 800,000 Federal Government employees 4½ days of what amounts to paid ''vacation'' on top of the already generous employee leave benefits. I have a hard time explaining what the taxpayers got when they footed the bill for $400 million dollars of work that was never performed.

Mr. President, losing your job is tough but if you get laid off or you go on strike, you don't get paid. Yet, if the Federal Government furloughs many of its employees it becomes a vacation and is paid in full. I'm reminded of that popular song from a few years back: ''Somthin' for nothin'.'' That's exactly what Federal employees got when the Government shut down—''Somethin' for nothin'.'' And I suggest, Mr. President, that the American taxpayer is sick and tired of getting nothing.

I realize that most Federal employees want to work and not become pawns in the debate over Federal spending. I want to change the law to ensure that Federal employees will work during shutdowns.

As we all know, the determination of whether you came to work during the shutdown depended on if you were deemed ''essential'' or ''nonessential.''

It was very interesting when we saw the numbers of ''nonessential'' employees in some of the agencies we continue to support with billions of tax dollars.

Fifty-seven percent of the employees at Health and Human Services; 66 percent of Commerce; 72 percent at Interior; 75 percent at Labor; 82 percent at EPA; 89 percent at Education; and a full 99 percent of HUD.

Overall 800,000 employees—all of them deemed ''nonessential'' all of them on a paid ''vacation'' they didn't ask for and didn't want.

I can't tell you how many times I've tried to explain to angry Minnesotans why we're employing all of these nonessential employees and even worse, why we paid them to stay away from the office.

Mr. President, we cannot let this happen again. We cannot have employees who come to work not knowing whether they'll be paid and others forced to sit at home, hoping they will be paid. This is unfair to Federal employees and this is especially unfair to American taxpayers, who pay far too much of their hard earned dollars to the Government.

For this reason, I am introducing legislation which will end this classification process and restore some common sense that will keep people working when Congress and the President fail to enact appropriations.

Simply put, my bill, the ''Federal Employment Taxpayer Accountability Act,'' eliminates the distinction between essential and nonessential employees deeming all Federal Government employees essential.

This will put an end to classification of Federal employees. It removes the guesswork on who's ''essential'' and most importantly, it eliminates Federal employees being used as ''pawns'' of the process—as bargaining chips for negotiators.

Mr. President, the prospect of another Government shutdown is disappointing. The people of this country are demanding a balanced budget. Yet here we are, ready to throw another 300,000 employees out of work at Christmas time. Will they get paid when they come back? My bet is yes. If they're paid again for not working will the taxpayers understand? My bet is no.

Let's not let this happen again. Let's ensure that taxpayers are protected. Let's ensure that when we ask them to send part of their paycheck to Washington, they're getting the most efficient cost effective Government possible—without the paid vacations.

I urge my colleagues to support Federal workers—and the American taxpayers—by supporting the Federal Employment Taxpayer Accountability Act.

By Mr. KYL (for himself, Mrs. FEINSTEIN, and Mr. DEWINE):

S. 1483. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

THE VICTIM RIGHTS AND DOMESTIC VIOLENCE PREVENTION ACT OF 1995

● Mr. KYL. Mr. President, I introduce the Victim Rights and Domestic Violence Prevention Act of 1995. The O.J. Simpson trial reminded all of us of the terrible problem of domestic violence in America. Now is the time to do all we can to bring abusers to justice.

Women are the victims of more than 4.5 million violent crimes a year, including half a million rapes or other sexual assaults, according to the Department of Justice. The National Victims Center calculates that a woman is battered every 15 seconds. Additionally, the FBI has reported that one violent crime occurs every 16 seconds, an aggravated assault every 28 seconds, a robbery every 48 seconds, and a murder every 21 minutes.

Nicole Brown Simpson's story is an all-too-familiar one. Last year's crime bill, which is now law, did much to help victims of domestic violence—making it easier for evidence of intrafamilial sexual abuse to be introduced, for example. It will now be much easier for prosecutors in Federal cases to introduce evidence that the accused committed a similar crime in the past. The crime act also provides Federal funding for battered women's shelters and training for law-enforcement officers and prosecutors.

The Victim Rights and Domestic Violence Prevention Act will strengthen the rights of domestic violence victims in Federal court and, hopefully, set a standard for the individual States to emulate.

A message must be sent to abusers that their behavior is not a family matter. Society should treat domestic violence as seriously as it does violence between strangers. My bill authorizes the death penalty for cases in which a woman is murdered by her husband or boyfriend.

Courts will not, under this bill, be able to exclude evidence of a defendant's violent disposition toward the victim as impermissible character evidence. My bill also provides that if a defendant presents negative character evidence concerning the victim, the government's rebuttal can include negative character evidence concerning the defendant. It makes clear that testimony regarding battered women's syndrome is admissible to explain the behavior of victims of violence.

We must establish a higher standard of professional conduct for lawyers. My legislation prohibits harassing or dilatory tactics, knowingly presenting false evidence or discrediting truthful evidence, willful ignorance of matters that could be learned from the client, and concealment of information necessary to prevent sexual abuse or other violent crimes.

Violence in our society leaves law-abiding citizens feeling defenseless. It is time to level the playing field. Federal law currently gives the defense more chances than the prosecution to reject a potential juror. My bill protects the right of victims to an impartial jury by giving both sides the same number of peremptory challenges.

Last year's Crime Act included a provision requiring notice to State and local authorities concerning the release of Federal violent offenders. Under the act, notice can only be used for law-enforcement purposes. The Justice Department opposes this limitation because it disallows other legitimate uses of the information, such as warning potential victims of the offender's return to the community. My bill would delete this restriction.

Under the bill, if a victim requests an HIV test in a sexual abuse case, the court must order HIV testing of the defendant, unless the court determines that the defendant's conduct created no risk of transmission of the virus to the victim. The order must direct that the initial test be performed within 24 hours of the issuance of the testing order, or as soon thereafter as feasible. The defendant cannot be released from custody until the test is performed.

Test results would be disclosed to the victim, and follow up testing would take place after 6 and 12 months. Additionally, the bill deletes a requirement that a victim must undergo counseling before she can seek a testing order. Second, it deletes a provision that the court cannot order testing of the defendant unless the victim demonstrates that such a test would provide information that is necessary for her health. Third, it makes clear that prosecutors may assist victims in obtaining testing orders under these provisions.

It is our responsibility to continue to work to combat violent crime, wherever it occurs. The Victim Rights and Domestic Violence Prevention Act of 1995 is an important step toward protecting the rights of crime victims, curbing domestic violence, and removing violent offenders from our streets and communities.

Finally, I would like to thank two of my colleagues on the Judiciary Committee. Throughout her career, Senator FEINSTEIN has been a staunch defender of women against violence. She has worked hard on this bill. I greatly appreciate her work and her support. And I would also like to thank Senator DEWINE for his help. Senator DEWINE has worked hard to fight crime. His work on this bill is part of his ongoing effort to put an end to violence and bring criminals to justice.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1483

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Victim Rights and Domestic Violence Prevention Act of 1995''.

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

Sec. 1. Short title; table of contents.

TITLE I—EQUAL PROTECTION FOR VICTIMS

Sec. 101. Right of the victim to an impartial jury.
Sec. 102. Rebuttal of attacks on the victim's character.
Sec. 103. Victim's right of allocution in sentencing.
Sec. 104. Right of the victim to fair treatment in legal proceedings.
Sec. 105. Use of notice concerning release of offender.
Sec. 106. Balance in the composition of rules committees.

TITLE II—DOMESTIC VIOLENCE

Sec. 201. Death penalty for fatal domestic violence offenses.
Sec. 202. Evidence of defendant's disposition toward victim in domestic violence cases and other cases.
Sec. 203. Battered women's syndrome evidence.
Sec. 204. HIV testing of defendants in sexual assault cases.

TITLE I—EQUAL PROTECTION FOR VICTIMS

SEC. 101. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking ''the government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges'' and inserting ''each side is entitled to 6 peremptory challenges''.

SEC. 102. REBUTTAL OF ATTACKS ON THE VICTIM'S CHARACTER.

Rule 404(a)(1) of the Federal Rules of Evidence is amended by inserting before the semicolon the following: '', or, if an accused offers evidence of a pertinent trait of character of the victim of the crime, evidence of a pertinent trait of character of the accused offered by the prosecution''.

SEC. 103. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (c)(3)(E), by striking ''if sentence is to be imposed for a crime of violence or sexual abuse,''; and

(2) by amending subdivision (f) to read as follows:

''(f) DEFINITION.—For purposes of this rule, 'victim' means any individual against whom an offense has been committed for which a sentence is to be imposed, but the right of allocution under subdivision (c)(3)(E) may be exercised instead by—

''(1) a parent or legal guardian if the victim is below the age of 18 years or is incompetent; or

''(2) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.''.

SEC. 104. RIGHT OF THE VICTIM TO FAIR TREATMENT IN LEGAL PROCEEDINGS.

The following rules, to be known as the Rules of Professional Conduct for Lawyers in Federal Practice, are enacted as an appendix to title 28, United States Code:

"RULES OF PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE

''Rule 1. Scope.
''Rule 2. Abuse of Victims and Others Prohibited.
''Rule 3. Duty of Enquiry in Relation to Client.
''Rule 4. Duty To Expedite Litigation.
''Rule 5. Duty To Prevent Commission of Crime.

"Rule 1. Scope

''(a) These rules apply to the conduct of lawyers in their representation of clients in relation to proceedings and potential proceedings before Federal tribunals.

''(b) For purposes of these rules, 'Federal tribunal' and 'tribunal' mean a court of the United States or an agency of the Federal Government that carries out adjudicatory or quasi-adjudicatory functions.

"Rule 2. Abuse of Victims and Others Prohibited

''(a) A lawyer shall not engage in any action or course of conduct for the purpose of increasing the expense of litigation for any person, other than a liability under an order or judgment of a tribunal.

''(b) A lawyer shall not engage in any action or course of conduct that has no substantial purpose other than to distress, harass, embarrass, burden, or inconvenience another person.

''(c) A lawyer shall not offer evidence that the lawyer knows to be false or attempt to discredit evidence that the lawyer knows to be true.

"Rule 3. Duty of Enquiry in Relation to Client

''A lawyer shall attempt to elicit from the client a truthful account of the material facts concerning the matters in issue. In representing a client charged with a crime or civil wrong, the duty of enquiry under this rule includes—

''(1) attempting to elicit from the client a materially complete account of the alleged criminal activity or civil wrong if the client acknowledges involvement in the alleged criminal activity or civil wrong; and

''(2) attempting to elicit from the client the material facts relevant to a defense of alibi if the client denies such involvement.

"Rule 4. Duty To Expedite Litigation

''(a) A lawyer shall seek to bring about the expeditious conduct and conclusion of litigation.

''(b) A lawyer shall not seek a continuance or otherwise attempt to delay or prolong proceedings in the hope or expectation that—

''(1) evidence will become unavailable;

''(2) evidence will become more subject to impeachment or otherwise less useful to another party because of the passage of time; or

''(3) an advantage will be obtained in relation to another party because of the expense, frustration, distress, or other hardship resulting from prolonged or delayed proceedings.

"Rule 5. Duty To Prevent Commission of Crime

''(a) A lawyer may disclose information relating to the representation of a client, including information obtained from the client, to the extent necessary to prevent the commission of a crime or other unlawful act.

''(b) A lawyer shall disclose information relating to the representation of a client, including information obtained from the client, when disclosure is required by law.

''(c) A lawyer shall disclose information relating to the representation of a client, including information obtained from the client, to the extent necessary to prevent—

''(1) the commission of a crime involving the use or threatened use of force against a person, or a substantial risk of death or serious bodily injury to a person; or

''(2) the commission of a crime of sexual assault or child molestation.

''(d) For purposes of this rule, 'crime' means a crime under the law of the United States or the law of a State, and 'unlawful act' means an act in violation of the law of the United States or the law of a State.''.

SEC. 105. USE OF NOTICE CONCERNING RELEASE OF OFFENDER.

Section 4042(b) of title 18, United States Code, is amended by striking paragraph (4).

SEC. 106. BALANCE IN THE COMPOSITION OF RULES COMMITTEES.

Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2), by adding at the end the following: ''On each such committee that makes recommendations concerning rules that affect criminal cases, including the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, the Rules Governing Section 2254 Cases, and the Rules Governing Section 2255 Cases, the number of members who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases.''; and

(2) in subsection (b), by adding at the end the following: ''The number of members of the standing committee who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise

the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases.''.

TITLE II—DOMESTIC VIOLENCE

SEC. 201. DEATH PENALTY FOR FATAL DOMESTIC VIOLENCE OFFENSES.

Sections 2261(b)(1) and 2262(b)(1) of title 18, United States Code, are each amended by inserting ''or may be sentenced to death'' after ''years,''.

SEC. 202. EVIDENCE OF DEFENDANT'S DISPOSITION TOWARD VICTIM IN DOMESTIC VIOLENCE CASES AND OTHER CASES.

Rule 404(b) of the Federal Rules of Evidence is amended by striking ''or absence of mistake or accident'' and inserting ''absence of mistake or accident, or a disposition toward a particular individual''.

SEC. 203. BATTERED WOMEN'S SYNDROME EVIDENCE.

Rule 702 of the Federal Rules of Evidence is amended by adding at the end the following: ''Testimony that may be admitted pursuant to this rule includes testimony concerning the behavior, and mental or emotional conditions of victims to explain a victim's failure to report or delay in reporting an offense, recantation of an accusation, or failure to cooperate in the investigation or prosecution.''.

SEC. 204. HIV TESTING OF DEFENDANTS IN SEXUAL ASSAULT CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

''§ 2249. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

''(a) TESTING AT TIME OF PRETRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, upon request of the victim, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that followup tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

''(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that followup tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

''(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of followup testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

''(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested. Test results disclosed pursuant to this subsection shall be subject to section 40503(b) (5) through (7) of the Violent Crime Control Act of 1994 (42 U.S.C. 14011(b)). Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling, unless the recipient does not wish to receive such counseling.

''(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end the following new item:

''2249. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.''.

(c) AMENDMENTS TO TESTING PROVISIONS.—Section 40503(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14011(b)) is amended—

(1) by amending the heading to read as follows: ''(b) TESTING OF DEFENDANTS.—'';

(2) in paragraph (1)—

(A) by inserting '', or the Government in such a case,'' after ''subsection (a)'';

(B) by inserting ''(or to the victim's parent or legal guardian, as appropriate)'' after ''communicated to the victim''; and

(C) by inserting '', unless the recipient does not wish to receive such counseling'' after ''counseling''; and

(3) in paragraph (2)—

(A) by striking ''To obtain an order under paragraph (1), the victim must demonstrate that'' and inserting ''The victim or the Government may obtain an order under paragraph (1) by showing that'';

(B) in subparagraph (A)—

(i) by striking ''the offense'' and inserting ''a sexual assault involving alleged conduct that poses a risk of transmission of the etiologic agent for acquired immune deficiency syndrome''; and

(ii) by inserting ''and'' after the semicolon;

(C) in subparagraph (B), by striking ''after appropriate counseling; and'' and inserting a period; and

(D) by striking subparagraph (C).●

● Mrs. FEINSTEIN. Mr. President, I offer my strong support for the Victim Rights and Domestic Violence Prevention Act, which I am pleased to cosponsor with Senators KYL and DEWINE. I also want to commend my colleague from Arizona the cooperative spirit he has shown in working with me on this and other efforts to help crime victims, and for addressing this important issue which is now so prominently, and tragically, in the news.

Nearly every American knows the plight of Nicole Brown Simpson. Who among us hasn't read of, or heard of, or discussed the tragic circumstances of her case?

But, Mr. President, what about the thousands of women who suffer the terrible physical and emotional effects of domestic violence in silent anonymity every day all across the Nation? And, what about the women who do stand up to domestic abusers and seek refuge from them from a justice system that seemingly doesn't care?

It is for those women that I rise today to offer my strong support for this much needed bill.

Last year, Congress acknowledged that action must be taken to stop domestic violence when it passed the Violence Against Women Act as part of the President's crime bill.

The Violence Against Women Act is designed to, among other things, provide funding for: Local programs for victims' services; battered women's shelters; rape education and community prevention programs; a national family violence hotline; and increased security in public places.

I strongly believe that this landmark legislation will go a long way toward reducing domestic abuse and helping its victims recover from their ordeals.

Today, we continue the work begun by the Violence Against Women Act.

Much more needs to be done to protect the rights of the victims of domestic and sexual violence and to stop these heinous crimes.

Let us not underestimate the magnitude of this problem: According to the National Coalition of Physicians Against Family Violence, domestic violence strikes one in four families in the United States; the FBI has reported that a women is beaten every 18 seconds in the United States; and the Senate Judiciary Committee reported in 1992 that three to four million women are battered each year.

In my own State, the attorney general has reported that there were 251,233 domestic violence-related calls for assistance from law enforcement last year. Of those cases, 155,944 calls involved a perpetrator attacking his victim with a personal weapon—such as his hands or feet.

According to the FBI, a women is raped every five minutes in this country; in 1994 alone, there were 102,296 rape or attempted rape cases reported to law enforcement; and in California, there were 10,960 cases of forcible rape that year.

Domestic violence touches too many woman. It must be stopped by making the court system more user-friendly to the victims of this crime, and those who inflict it must be more severely punished. This bill accomplishes those two important goals.

EQUAL PROTECTION FOR VICTIMS

This bill will make the court system more user-friendly in several ways:

First, it protects the right of victims to an impartial jury by equalizing the number of peremptory challenges afforded to the defense and the prosecution in jury selection.

Second, this bill provides that if a defendant in a criminal case presents negative evidence about the victim's character, the victim's defense lawyer can present character evidence concerning the defendant. Mr. President, too many women who take their abusers to court must suffer the double indignity of having their own characters

attacked. It's time to level the playing field.

Third, it extends the right of victims to address the court concerning the sentence to all criminal cases.

Fourth, the bill establishes higher standards of professional conduct for lawyers in Federal cases to protect victims and other witnesses from abuse, and to promote the effective search for the truth. It does this by requiring hat lawyers in Federal cases: not engage in conduct for the purpose of increasing litigation expenses; not engage in conduct designed just to harass another person; not offer false evidence, or discredit true evidence; elicit a full account of the events from the lawyer's client; not necessarily delay litigation; must disclose information that the client intends to commit a crime of violence; and may disclose information that the client intends to commit other crimes.

Fifth, it removes the restriction that limits use of notices that violent Federal offenders will be released to law enforcement purposes. This will allow victims to be informed when their assailant is back in the community.

Finally, the bill requires that prosecutors have the same level of representation on committees that make court rules as defense attorneys do. This will ensure that fair, balanced rules are enacted, which do not favor criminals over prosecutors.

DOMESTIC VIOLENCE

I also strongly believe that swift, sure action must be taken to stop domestic violence, and that penalties must be increased for those who commit this heinous crime.

This bill includes a provision to authorize capital punishment, under Federal interstate domestic violence offenses, for cases in which the offender murders the victim.

That's tough punishment for perpetrators who think domestic violence is something that goes on behind closed doors, where it's OK for them to beat their wives, or girlfriends, or mothers or sisters because it's their prerogative. Well, Mr. President, domestic violence is no one's prerogative and this bill provides tough punishment for criminals who deserve it.

This bill also makes two changes in the rules of evidence, to help victims of domestic violence. First, it allows evidence of the defendant's past crimes or wrongful acts against the victim to be introduced, to establish a pattern of abuse.

Second, it allows evidence of battered women's syndrome to be introduced, to show why some women are driven to retaliate against their abusers.

Finally, the bill fights those who transmit HIV in sexual assaults, by requiring that: sentences be toughened if the offender knew he was infected; upon request of the victim, the offender must be tested for HIV before he is released; and follow-up testing be done on sexual assailants.

CONCLUSION

Mr. President, right now too many women fear for their safety and too many women suffer physically and emotionally from domestic violence. We can do something about it. I urge my colleagues to support the Victim Rights and Domestic Violence Prevention Act of 1995.●

ADDITIONAL COSPONSORS

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 949

At the request of Mr. GRAHAM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1212

At the request of Mr. COATS, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1212, a bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based welfare policy may be used to enable individuals and families with low income to achieve economic self-sufficiency.

S. 1317

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

S. 1360

At the request of Mr. BENNETT, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1360, a bill to ensure personal privacy with respect to medical records and health care-related information, and for other purposes.

S. 1392

At the request of Mr. BAUCUS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1392, a bill to impose temporarily a 25-percent duty on imports of certain Canadian wood and lumber products, to require the administering authority to initiate an investigation under title VII of the Tariff Act of 1930 with respect to such products, and for other purposes.

S. 1453

At the request of Mr. BURNS, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1453, a bill to prohibit the regulation by the Secretary of Health and Human Services and the Commissioner of Food and Drugs of any activities of sponsors or sponsorship programs connected with, or any advertising used or purchased by, the Professional Rodeo Cowboy Association, its agents or affiliates, or any other professional rodeo association, and for other purposes.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Wednesday, December 20, 1995 at 9:30 a.m. in room SD–366 of the Dirksen Senate office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 594 and H.R. 1296, bills to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer and to review a map associated with the San Francisco Presidio. Specifically, the purposes are to determine which properties within the Presidio of San Francisco should be transferred to the administrative jurisdiction of the Presidio Trust and to outline what authorities are required to ensure that the Trust can meet the objective of generating revenues sufficient to operate the Presidio without a Federal appropriation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the committee staff

AUTHORITY FOR COMMITTEES TO MEET.

COMMITTEE ON FOREIGN RELATIONS

Mr. THOMAS. Mr President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, December 15, 1995, at 2:00 p.m.

The PRESIDING OFFICER. Without ojective, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. THOMAS. Mr President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for hearing on the Fair Labor Standards Act and the Minimum Wage, during the session of the