

Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding" (MM Docket No. 98-204, 96-16, FCC 00-338) received on November 30, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11748. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations (Grapeland, Texas)" (MM Docket No. 00-151) received on November 30, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11749. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; DTV Broadcast Stations (Dozier, AL)" (MM Docket No. 00-131, RM-9897) received on November 30, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11750. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Mill Hall, Jersey Shore and Pleasant Gap, Pennsylvania)" (MM Docket No. 99-312) received on November 30, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11751. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; DTV Broadcast Stations, Redding, CA" (MM Docket No. 00-115, RM-9884) received on November 30, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11752. A communication from the Federal Motor Carrier Safety Administration Regulations Officer, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Motor Carrier Identification Report" (RIN2126-AA57) received on November 30, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11753. A communication from the Federal Motor Carrier Safety Administration Regulations Officer, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires" (RIN2126-AA65) received on November 30, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11754. A communication from the Chief, Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Savannah, GA (COTP Savannah 00-098)" (RIN2115-AA97) (2000-0093) received on November 30, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11755. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Recreational Fishery Closure" received on December 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11756. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Maine Mahogany Quahog Fishery; Commercial Quota Harvested" (I.D. 110700C) received on December 1, 2000; to the Committee on Commerce, Science, and Transportation.

#### ADDITIONAL COSPONSORS

S. 1814

At the request of Mr. SMITH of Oregon, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1814, a bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes.

S. 3183

At the request of Ms. LANDRIEU, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Nevada (Mr. BRYAN) were added as cosponsors of S. 3183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 3273

At the request of Mr. SCHUMER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3273, a bill to require the Federal Election Commission to study voting procedures in Federal elections, award Voting Improvement Grants to States, and for other purposes.

#### AMENDMENTS SUBMITTED

##### DNA ANALYSIS BACKLOG ELIMINATION ACT OF 2000

##### LEAHY AMENDMENT NO. 4359

Mr. GRASSLEY (for Mr. LEAHY) proposed an amendment to the bill (H.R. 4640) to make grants to States for carrying out DNA analyses for use in the Combined DNA Index System of the Federal Bureau of Investigation, to provide for the collection and analysis of DNA samples from certain violent and sexual offenders for use in such system, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. . SENSE OF CONGRESS REGARDING THE OBLIGATION OF GRANTEE STATES TO ENSURE ACCESS TO POST-CONVICTION DNA TESTING AND COMPETENT COUNSEL IN CAPITAL CASES.**

(a) FINDINGS.—Congress finds that—

(1) over the past decade, deoxyribo-nucleic acid testing (referred to in this section as "DNA testing") has emerged as the most reliable forensic technique for identifying

criminals when biological material is left at a crime scene;

(2) because of its scientific precision, DNA testing can, in some cases, conclusively establish the guilt or innocence of a criminal defendant;

(3) in other cases, DNA testing may not conclusively establish guilt or innocence, but may have significant probative value to a finder of fact;

(4) DNA testing was not widely available in cases tried prior to 1994;

(5) new forensic DNA testing procedures have made it possible to get results from minute samples that could not previously be tested, and to obtain more informative and accurate results than earlier forms of forensic DNA testing could produce, resulting in some cases of convicted inmates being exonerated by new DNA tests after earlier tests had failed to produce definitive results;

(6) DNA testing can and has resulted in the post-conviction exoneration of more than 75 innocent men and women, including some under sentence of death;

(7) in more than a dozen cases, post-conviction DNA testing that has exonerated an innocent person has also enhanced public safety by providing evidence that led to the apprehension of the actual perpetrator;

(8) experience has shown that it is not unduly burdensome to make DNA testing available to inmates in appropriate cases;

(9) under current Federal and State law, it is difficult to obtain post-conviction DNA testing because of time limits on introducing newly discovered evidence;

(10) the National Commission on the Future of DNA Evidence, a Federal panel established by the Department of Justice and comprised of law enforcement, judicial, and scientific experts, has urged that post-conviction DNA testing be permitted in the relatively small number of cases in which it is appropriate, notwithstanding procedural rules that could be invoked to preclude such testing, and notwithstanding the inability of an inmate to pay for the testing;

(11) only a few States have adopted post-conviction DNA testing procedures;

(12) States have received millions of dollars in DNA-related grants, and more funding is needed to improve State forensic facilities and to reduce the nationwide backlog of DNA samples from convicted offenders and crime scenes that need to be tested or retested using upgraded methods;

(13) States that accept such financial assistance should not deny the promise of truth and justice for both sides of our adversarial system that DNA testing offers;

(14) post-conviction DNA testing and other post-conviction investigative techniques have shown that innocent people have been sentenced to death in the United States;

(15) a constitutional error in capital cases is incompetent defense lawyers who fail to present important evidence that the defendant may have been innocent or does not deserve to be sentenced to death; and

(16) providing quality representation to defendants facing the loss of liberty or life is essential to fundamental due process and the speedy final resolution of judicial proceedings.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress should condition forensic science-related grants to a State or State forensic facility on the State's agreement to ensure post-conviction DNA testing in appropriate cases; and

(2) Congress should work with the States to improve the quality of legal representation in capital cases through the establishment of standards that will assure the timely appointment of competent counsel with adequate resources to represent defendants

in capital cases at each stage of those proceedings.

INTELLIGENCE AUTHORIZATION  
ACT FOR FISCAL YEAR 2001

ALLARD AMENDMENT NO. 4360

Mr. GRASSLEY (for Mr. ALLARD) proposed an amendment to the bill (H.R. 5630) to authorize appropriations for fiscal year 2001 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

On page 48, strike lines 4 through 16.

On page 48, line 17, strike "502." and insert "501."

On page 49, line 7, strike "503." and insert "502."

PROSECUTION DRUG TREATMENT  
ALTERNATIVE TO PRISON ACT  
OF 2000

HATCH (AND OTHERS)  
AMENDMENT NO. 4361

Mr. GRASSLEY (for Mr. HATCH (for himself, Mr. SCHUMER, and Mr. THURMOND)) proposed an amendment to the bill (H.R. 4493) to establish grants for drug treatment alternative to prison programs administered by State or local prosecutors; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—PROSECUTION DRUG  
TREATMENT ALTERNATIVE TO PRISON

SEC. 101. SHORT TITLE.

This title may be cited as the "Prosecution Drug Treatment Alternative to Prison Act of 2000".

SEC. 102. DRUG TREATMENT ALTERNATIVE TO  
PRISON PROGRAMS ADMINISTERED  
BY STATE OR LOCAL PROSECUTORS.

(a) PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new part:

"PART BB—PROSECUTION DRUG TREATMENT  
ALTERNATIVE TO PRISON PROGRAMS

"SEC. 2801. PILOT PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Attorney General may make grants to State or local prosecutors for the purpose of developing, implementing, or expanding drug treatment alternative to prison programs that comply with the requirements of this part.

"(b) USE OF FUNDS.—A State or local prosecutor who receives a grant under this part shall use amounts provided under the grant to develop, implement, or expand the drug treatment alternative to prison program for which the grant was made, which may include payment of the following expenses:

"(1) Salaries, personnel costs, equipment costs, and other costs directly related to the operation of the program, including the enforcement unit.

"(2) Payments to licensed substance abuse treatment providers for providing treatment to offenders participating in the program for which the grant was made, including aftercare supervision, vocational training, education, and job placement.

"(3) Payments to public and nonprofit private entities for providing treatment to offenders participating in the program for which the grant was made.

"(c) FEDERAL SHARE.—The Federal share of a grant under this part shall not exceed 75 percent of the cost of the program.

"(d) SUPPLEMENT AND NOT SUPPLANT.—Grant amounts received under this part shall be used to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"SEC. 2802. PROGRAM REQUIREMENTS.

"A drug treatment alternative to prison program with respect to which a grant is made under this part shall comply with the following requirements:

"(1) A State or local prosecutor shall administer the program.

"(2) An eligible offender may participate in the program only with the consent of the State or local prosecutor.

"(3) Each eligible offender who participates in the program shall, as an alternative to incarceration, be sentenced to or placed with a long term, drug free residential substance abuse treatment provider that is licensed under State or local law.

"(4) Each eligible offender who participates in the program shall serve a sentence of imprisonment with respect to the underlying crime if that offender does not successfully complete treatment with the residential substance abuse provider.

"(5) Each residential substance abuse provider treating an offender under the program shall—

"(A) make periodic reports of the progress of treatment of that offender to the State or local prosecutor carrying out the program and to the appropriate court in which the defendant was convicted; and

"(B) notify that prosecutor and that court if that offender absconds from the facility of the treatment provider or otherwise violates the terms and conditions of the program.

"(6) The program shall have an enforcement unit comprised of law enforcement officers under the supervision of the State or local prosecutor carrying out the program, the duties of which shall include verifying an offender's addresses and other contacts, and, if necessary, locating, apprehending, and arresting an offender who has absconded from the facility of a residential substance abuse treatment provider or otherwise violated the terms and conditions of the program, and returning such offender to court for sentence on the underlying crime.

"SEC. 2803. APPLICATIONS.

"(a) IN GENERAL.—To request a grant under this part, a State or local prosecutor shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(b) CERTIFICATIONS.—Each such application shall contain the certification of the State or local prosecutor that the program for which the grant is requested shall meet each of the requirements of this part.

"SEC. 2804. GEOGRAPHIC DISTRIBUTION.

"The Attorney General shall ensure that, to the extent practicable, the distribution of grant awards is equitable and includes State or local prosecutors—

"(1) in each State; and

"(2) in rural, suburban, and urban jurisdictions.

"SEC. 2805. REPORTS AND EVALUATIONS.

"For each fiscal year, each recipient of a grant under this part during that fiscal year shall submit to the Attorney General a report regarding the effectiveness of activities carried out using that grant. Each report shall include an evaluation in such form and

containing such information as the Attorney General may reasonably require. The Attorney General shall specify the dates on which such reports shall be submitted.

"SEC. 2806. DEFINITIONS.

"In this part:

"(1) The term 'State or local prosecutor' means any district attorney, State attorney general, county attorney, or corporation counsel who has authority to prosecute criminal offenses under State or local law.

"(2) The term 'eligible offender' means an individual who—

"(A) has been convicted of, or pled guilty to, or admitted guilt with respect to a crime for which a sentence of imprisonment is required and has not completed such sentence;

"(B) has never been convicted of, or pled guilty to, or admitted guilt with respect to, and is not presently charged with, a felony crime of violence, a major drug offense, or a crime that is considered a violent felony under State or local law; and

"(C) has been found by a professional substance abuse screener to be in need of substance abuse treatment because that offender has a history of substance abuse that is a significant contributing factor to that offender's criminal conduct.

"(3) The term 'felony crime of violence' has the meaning given such term in section 924(c)(3) of title 18, United States Code.

"(4) The term 'major drug offense' has the meaning given such term in section 36(a) of title 18, United States Code."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following new paragraph:

"(24) There are authorized to be appropriated to carry out part BB \$10,000,000 for each of fiscal years 2001 through 2003."

TITLE II—FEDERAL DRUG TREATMENT  
ALTERNATIVE SENTENCING

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Drug Treatment Alternative Sentencing Act of 2000".

SEC. 202. ESTABLISHMENT.

The court, upon the conviction of an individual for a misdemeanor under section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)), if the individual is a defendant described in section 3553(f)(2) of title 18, United States Code, shall consider sentencing that individual to a term of probation that includes a condition, or a term of imprisonment that includes a recommendation, of participation in substance abuse treatment, including a drug dependency program as described under this title.

SEC. 203. PROBATION PROGRAMS.

(a) GENERALLY.—If the court imposes a sentence of probation pursuant to section 202, the sentence of probation shall be subject to subtitle B of chapter 227 of title 18, United States Code. In considering discretionary conditions of probation under section 3563(b) of such title, the court shall consider and use, where appropriate to assure participation in substance abuse treatment, any of the following:

- (1) Day fines.
- (2) House arrest.
- (3) Electronic monitoring.
- (4) Intensive probation supervision.
- (5) Day reporting centers.
- (6) Interim confinement.
- (7) Treatment in therapeutic community.

(b) ALTERNATIVE SENTENCE.—In order to assure participation in substance abuse treatment each offender who participates in a substance abuse program pursuant to this section shall serve a sentence of imprisonment with respect to the underlying offense

if that offender does not successfully complete such a substance abuse treatment program.

(c) PREFERENCE FOR COMMUNITY-BASED PROGRAMS.—The court shall order, to the greatest extent practicable, that substance abuse treatment for an individual sentenced under subsection (a) shall be provided in the locality in which the individual resides.

#### SEC. 204. DRUG DEPENDENCY PROGRAM.

(a) IN GENERAL.—The Bureau of Prisons (referred to in this title as the "Bureau") shall maintain a drug dependency program for offenders sentenced to incarceration under this title. The program shall consist of—

(1) residential substance abuse treatment; and

(2) aftercare services.

(b) REPORT.—The Bureau of Prisons shall transmit to the Congress on January 1, 2002, and on January 1 of each year thereafter, a report. Such report shall contain—

(1) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau; and

(2) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

#### SEC. 205. DEFINITIONS.

In this title—

(1) the term "residential substance abuse treatment" means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment programs—

(A) directed at the substance abuse problems of the convicted person;

(B) intended to develop a person's cognitive, behavioral, social, vocational, and other skills so as to solve the convicted person's substance abuse and related problems; and

(C) shall include—

(i) addiction education;

(ii) individual, group, and family counseling pursuant to individualized treatment plans;

(iii) opportunity for involvement in Alcoholics Anonymous, Narcotics Anonymous, or Cocaine Anonymous;

(iv) parenting skills training, domestic violence counseling, and sexual abuse counseling, where appropriate;

(v) HIV education counseling and testing, when requested, and early intervention services for seropositive individuals;

(vi) services that facilitate access to health and social services, where appropriate and to the extent available; and

(vii) planning for and counseling to assist reentry into society, including referrals to appropriate educational, vocational, and other employment-related programs (to the extent available), referrals to appropriate outpatient or other drug or alcohol treatment, counseling, transitional housing, and assistance in obtaining suitable affordable housing and employment upon completion of treatment (and release from prison, if applicable);

(2) the term "aftercare services" means a course of individual and group treatment for a minimum of one year or for the remainder of the term of incarceration if less than one year, involving sustained and frequent interaction with individuals who have successfully completed a program of residential substance abuse treatment, and shall include consistent personal interaction between the individual and a primary counselor or case manager, participation in group and individual counseling sessions, social activities targeted toward a recovering substance abuser, and, where appropriate, more intensive intervention; and

(3) the term "substance abuse or dependency" means the abuse of or dependency on drugs or alcohol.

#### SEC. 206. STUDY OF THE EFFECT OF MANDATORY MINIMUM SENTENCES FOR CONTROLLED SUBSTANCE OFFENSES.

Not later than 1 year after the date of enactment of this Act, the United States Sentencing Commission shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report regarding mandatory minimum sentences for controlled substance offenses, which shall include an analysis of—

(1) whether such sentences may have a disproportionate impact on ethnic or racial groups;

(2) the effectiveness of such sentences in reducing drug-related crime by violent offenders; and

(3) the frequency and appropriateness of the use of such sentences for nonviolent offenders in contrast with other approaches such as drug treatment programs.

#### PRIVILEGE OF FLOOR

Mr. DURBIN. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Joe Conley, a fellow on my staff, for today.

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

#### DNA ANALYSIS BACKLOG ELIMINATION ACT OF 2000

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4640, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4640) to make grants to States for carrying out DNA analyses for use in the Combined DNA Index System of the Federal Bureau of Investigation, to provide for the collection and analysis of DNA samples from certain violent and sexual offenders for use in such system, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

#### AMENDMENT NO. 4359

Mr. GRASSLEY. Mr. President, it is my understanding that Senator LEAHY has an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. LEAHY, proposes an amendment numbered 4359.

Mr. GRASSLEY. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of Congress regarding the obligation of grantee States to ensure access to post-conviction DNA testing and competent counsel in capital cases)

At the appropriate place, insert the following:

#### SEC. . SENSE OF CONGRESS REGARDING THE OBLIGATION OF GRANTEE STATES TO ENSURE ACCESS TO POST-CONVICTION DNA TESTING AND COMPETENT COUNSEL IN CAPITAL CASES.

(a) FINDINGS.—Congress finds that—

(1) over the past decade, deoxyribo-nucleic acid testing (referred to in this section as "DNA testing") has emerged as the most reliable forensic technique for identifying criminals when biological material is left at a crime scene;

(2) because of its scientific precision, DNA testing can, in some cases, conclusively establish the guilt or innocence of a criminal defendant;

(3) in other cases, DNA testing may not conclusively establish guilt or innocence, but may have significant probative value to a finder of fact;

(4) DNA testing was not widely available in cases tried prior to 1994;

(5) new forensic DNA testing procedures have made it possible to get results from minute samples that could not previously be tested, and to obtain more informative and accurate results than earlier forms of forensic DNA testing could produce, resulting in some cases of convicted inmates being exonerated by new DNA tests after earlier tests had failed to produce definitive results;

(6) DNA testing can and has resulted in the post-conviction exoneration of more than 75 innocent men and women, including some under sentence of death;

(7) in more than a dozen cases, post-conviction DNA testing that has exonerated an innocent person has also enhanced public safety by providing evidence that led to the apprehension of the actual perpetrator;

(8) experience has shown that it is not unduly burdensome to make DNA testing available to inmates in appropriate cases;

(9) under current Federal and State law, it is difficult to obtain post-conviction DNA testing because of time limits on introducing newly discovered evidence;

(10) the National Commission on the Future of DNA Evidence, a Federal panel established by the Department of Justice and comprised of law enforcement, judicial, and scientific experts, has urged that post-conviction DNA testing be permitted in the relatively small number of cases in which it is appropriate, notwithstanding procedural rules that could be invoked to preclude such testing, and notwithstanding the inability of an inmate to pay for the testing;

(11) only a few States have adopted post-conviction DNA testing procedures;

(12) States have received millions of dollars in DNA-related grants, and more funding is needed to improve State forensic facilities and to reduce the nationwide backlog of DNA samples from convicted offenders and crime scenes that need to be tested or retested using upgraded methods;

(13) States that accept such financial assistance should not deny the promise of truth and justice for both sides of our adversarial system that DNA testing offers;

(14) post-conviction DNA testing and other post-conviction investigative techniques have shown that innocent people have been sentenced to death in the United States;

(15) a constitutional error in capital cases is incompetent defense lawyers who fail to present important evidence that the defendant may have been innocent or does not deserve to be sentenced to death; and

(16) providing quality representation to defendants facing the loss of liberty or life is essential to fundamental due process and the speedy final resolution of judicial proceedings.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress should condition forensic science-related grants to a State or State forensic facility on the State's agreement to ensure post-conviction DNA testing in appropriate cases; and