

(B) evidence otherwise demonstrates that the individual is entitled to treatment as a former prisoner of war.

(2) Any reasonable doubt under this subsection shall be resolved in favor of the claimant.

(3) The treatment of an individual as a former prisoner of war under paragraph (1) shall be rebutted only by clear and convincing evidence.

(e) **TIMING OF PAYMENT.**—The Secretary of Defense shall pay compensation to a former prisoner of war, under subsection (a) not later than 30 days after determining that compensation is payable to or on behalf of the former prisoner of war under this section.

(f) **PRIORITY IN PAYMENTS.**—The Secretary of Defense shall complete the processing of applications under this section in a manner that provides, to the maximum extent practicable, for the payment of compensation to former prisoners of war during their natural lives, with payments prioritized based on age and health of the claimant.

(g) **FUNDING.**—(1) From funds available otherwise in this Act up to \$49,000,000 may be made available to carry out this title.

(2) The amount made available by paragraph (1) shall remain available for obligation and expenditure during the two-year period beginning on October 1, 2003.

(3) Any amounts made available by paragraph (1) that have not been obligated as of September 30, 2005, shall revert to the Treasury as of that date.

SEC. 903. DEFINITIONS.

In this title:

(1) **FORMER PRISONER OF WAR.**—The term “former prisoner of war” means any individual who—

(A) was a member of the Armed Forces of the United States, a civilian employee of the United States, or an employee of a contractor of the United States during World War II;

(B) served in or with the United States combat forces during World War II;

(C) was captured and held as a prisoner of war or prisoner by Japan in the course of such service; and

(D) was required by one or more Japanese companies to perform forced or slave labor during World War II.

(2) **JAPANESE COMPANY.**—The term “Japanese company” means—

(A) any business enterprise, corporation, company, association, partnership, or sole proprietorship having its principal place of business within Japan or organized or incorporated under the laws of Japan or any political subdivision thereof; and

(B) any subsidiary or affiliate of an entity in Japan, as described in subparagraph (A), if controlled in fact by the entity, whether currently incorporated or located in Japan or elsewhere.

(3) **WORLD WAR II.**—The term “World War II” means the period beginning on December 7, 1941, and ending on August 8, 1945.

This Act may be cited as the “Department of Defense Appropriations Act of 2004”.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today’s Executive Calendar: Nos. 300 and 301.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate’s action, and the

Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF DEFENSE

Thomas W. O’Connell, of Virginia, to be an Assistant Secretary of Defense.

DEPARTMENT OF ENERGY

Paul Morgan Longworth, of Virginia, to be Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

PRISON RAPE ELIMINATION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1435.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1435) to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The bill (S. 1435) was read the third time and passed, as follows:

S. 1435

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 “Prison Rape Elimination Act of 2003”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. National prison rape statistics, data, and research.
- Sec. 5. Prison rape prevention and prosecution.
- Sec. 6. Grants to protect inmates and safeguard communities.
- Sec. 7. National Prison Rape Reduction Commission.
- Sec. 8. Adoption and effect of national standards.
- Sec. 9. Requirement that accreditation organizations adopt accreditation standards.
- Sec. 10. Definitions.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) 2,100,146 persons were incarcerated in the United States at the end of 2001: 1,324,465

in Federal and State prisons and 631,240 in county and local jails. In 1999, there were more than 10,000,000 separate admissions to and discharges from prisons and jails.

(2) Insufficient research has been conducted and insufficient data reported on the extent of prison rape. However, experts have conservatively estimated that at least 13 percent of the inmates in the United States have been sexually assaulted in prison. Many inmates have suffered repeated assaults. Under this estimate, nearly 200,000 inmates now incarcerated have been or will be the victims of prison rape. The total number of inmates who have been sexually assaulted in the past 20 years likely exceeds 1,000,000.

(3) Inmates with mental illness are at increased risk of sexual victimization. America’s jails and prisons house more mentally ill individuals than all of the Nation’s psychiatric hospitals combined. As many as 16 percent of inmates in state prisons and jails, and 7 percent of Federal inmates, suffer from mental illness.

(4) Young first-time offenders are at increased risk of sexual victimization. Juveniles are 5 times more likely to be sexually assaulted in adult rather than juvenile facilities—often within the first 48 hours of incarceration.

(5) Most prison staff are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults.

(6) Prison rape often goes unreported, and inmate victims often receive inadequate treatment for the severe physical and psychological effects of sexual assault—if they receive treatment at all.

(7) HIV and AIDS are major public health problems within America’s correctional facilities. In 2000, 25,088 inmates in Federal and State prisons were known to be infected with HIV/AIDS. In 2000, HIV/AIDS accounted for more than 6 percent of all deaths in Federal and State prisons. Infection rates for other sexually transmitted diseases, tuberculosis, and hepatitis B and C are also far greater for prisoners than for the American population as a whole. Prison rape undermines the public health by contributing to the spread of these diseases, and often giving a potential death sentence to its victims.

(8) Prison rape endangers the public safety by making brutalized inmates more likely to commit crimes when they are released—as 600,000 inmates are each year.

(9) The frequently interracial character of prison sexual assaults significantly exacerbates interracial tensions, both within prison and, upon release of perpetrators and victims from prison, in the community at large.

(10) Prison rape increases the level of homicides and other violence against inmates and staff, and the risk of insurrections and riots.

(11) Victims of prison rape suffer severe physical and psychological effects that hinder their ability to integrate into the community and maintain stable employment upon their release from prison. They are thus more likely to become homeless and/or require government assistance.

(12) Members of the public and government officials are largely unaware of the epidemic character of prison rape and the day-to-day horror experienced by victimized inmates.

(13) The high incidence of sexual assault within prisons involves actual and potential violations of the United States Constitution. In *Farmer v. Brennan*, 511 U.S. 825 (1994), the Supreme Court ruled that deliberate indifference to the substantial risk of sexual assault violates prisoners’ rights under the Cruel and Unusual Punishments Clause of the Eighth Amendment. The Eighth Amendment rights of State and local prisoners are protected through the Due Process Clause of the Fourteenth Amendment. Pursuant to the