

**PROPOSED LEGISLATION—VIOLENT CRIME CONTROL
ACT OF 1992**

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

**A DRAFT OF PROPOSED LEGISLATION ENTITLED, THE "VIOLENT
CRIME CONTROL ACT OF 1992"**



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**SEPTEMBER 30, 1992.—Message and accompanying papers referred to the
Committee on the Judiciary and ordered to be printed**

U.S. GOVERNMENT PRINTING OFFICE

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the "Violent Crime Control Act of 1992." Also transmitted is a section-by-section analysis.

In a speech I delivered recently at the DeSales Catholic Church in Fox Park, Missouri, I outlined my crime agenda for the remainder of this Congress and for next year. I discussed several issues of particular concern to the families of this country such as carjacking, sexual and domestic assault, and gang violence. The enclosed legislative proposal addresses these critical problems.

As you know, I first proposed a comprehensive crime bill to the Congress on June 15, 1989. I again submitted a bill to the 102nd Congress on March 11, 1991. That bill, which has yet to be enacted, includes provisions for restoring and expanding the Federal death penalty, ending the abuse of habeas corpus, reforming the exclusionary rule, and establishing additional crimes and penalties involving the criminal use of firearms. The failure of the Congress to pass these pro-law enforcement proposals is particularly frustrating in light of the broad bipartisan support they enjoy.

I know that there is currently an effort being made to forge a genuine compromise that would include effective death penalty provisions and a version of habeas corpus reform that would be acceptable to me. It is my hope that the Congress will present me with such a compromise, one that is truly meaningful for Federal, State, and local law enforcement. This apparent willingness to work realistically on crime legislation provides the basis for me to call on this Congress to act quickly in its final days to pass the additional crime-fighting measures I am today proposing.

The bill I am transmitting today addresses several of the most significant current threats to public safety. It includes:

1. *New tools for fighting sexual violence* such as increased penalties, new rules of evidence and conduct for trial lawyers, expanded restitution for victims, and grants to State and local law enforcement.

2. *Anti-carjacking provisions* in the form of a new Federal crime, expanded use of law enforcement grants to the States, and a study of devices to prevent carjacking.

3. *Provisions for combatting domestic violence* such as a new Federal offense covering spouse abuse, violations of protective orders, and stalking, and a comprehensive grant program to fight domestic violence and enforce child support obligations.

4. *Anti-gang amendments*, including a new RICO-type offense for street gang activities, a new offense for involving a minor in the commission of a violent crime, and broadened adult prosecution of violent juveniles.

5. *New laws for child support enforcement* that will give the Federal Government the ability to punish criminally "dead-

beat dads" who leave a State in order to avoid child support or who are significantly late in the payment of child support obligations. The legislation will also assist the States in the enforcement of child support orders.

6. *Increased penalties for crimes against the elderly* that will punish and deter criminals from assaulting or defrauding senior citizens.

7. *New crimes and penalties for the criminal use of firearms* such as a mandatory 10-year sentence for using a semiautomatic firearm in the course of a violent or drug trafficking crime, and a mandatory 5-year sentence for possession of a gun by a dangerous felon.

As the 102nd Congress draws to a close, the Congress has an opportunity to pass legislation that will have a major impact on many of the most serious crime problems facing Americans. The public wants decisive action from government to combat the menacing presence of violent criminals. Let us address this unfinished agenda now.

GEORGE BUSH.

THE WHITE HOUSE, *September 30, 1992.*

A BILL

To prevent and punish crime, to strengthen the rights of crime victims, to assist state and local efforts against crime, and for other purposes.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE. -- This Act may be cited as the "Violent Crime Control Act of 1992".

(b) TABLE OF CONTENTS. -- The following is the table of contents for this Act:

Sec. 1. Short title and table of contents.

TITLE I -- SEXUAL ASSAULT PREVENTION ACT

Sec. 100. Short title.

Subtitle A -- Penalties and Remedies

- Sec. 101. Pre-trial detention in sex offense cases.
- Sec. 102. Death penalty for murders committed by sex offenders.
- Sec. 103. Increased penalties for recidivist sex offenders.
- Sec. 104. Increased penalties for sex offenses against victims below the age of 16.
- Sec. 105. Sentencing guidelines increase for sex offenses.
- Sec. 106. HIV testing and penalty enhancement in sex offense cases.
- Sec. 107. Payment of cost of HIV testing for victims in sex offense cases.
- Sec. 108. Increased penalties for drug distribution to pregnant women.
- Sec. 109. Extension and strengthening of restitution.
- Sec. 110. Enforcement of restitution orders through suspension of federal benefits.
- Sec. 111. Civil remedy for victims of sexual violence.

Subtitle B -- Rules of Evidence, Practice, and Procedure

- Sec. 121. Admissibility of evidence of similar crimes in sex offense cases.
- Sec. 122. Extension and strengthening of rape victim shield law.
- Sec. 123. Inadmissibility of evidence to show provocation or invitation by victim in sex offense cases.
- Sec. 124. Right of the victim to fair treatment in legal proceedings.
- Sec. 125. Right of the victim to an impartial jury.

Sec. 126. Victim's right of allocution in sentencing.

Subtitle C -- Safe Campuses

Sec. 131. National baseline study on campus sexual assault.

Subtitle D -- Assistance to States and Localities

Sec. 141. Sexual violence grant program.

Sec. 142. Supplementary grants for states adopting effective laws relating to sexual violence.

Sec. 143. Removal of cap on crime victims fund.

Subtitle E -- National Task Force on Violence against Women

Sec. 151. Establishment.

Sec. 152. Duties of task force.

Sec. 153. Membership.

Sec. 154. Pay.

Sec. 155. Executive director and staff.

Sec. 156. Powers of task force.

Sec. 157. Report.

Sec. 158. Authorization of appropriations.

Sec. 159. Termination.

TITLE II -- GANGS AND JUVENILES

Sec. 201. Short title.

Sec. 202. Criminal street gangs offenses.

Sec. 203. Crimes involving the use of minors as RICO predicates.

Sec. 204. Serious juvenile drug offenses as Armed Career Criminal Act predicates.

Sec. 205. Adult prosecution of serious juvenile offenders.

Sec. 206. Increased penalties for using minors in drug trafficking and drug distribution to minors.

Sec. 207. Increased penalties for drug trafficking near schools.

Sec. 208. Increased penalties for drug trafficking near public housing.

Sec. 209. Increased penalties for travel act crimes involving violence and conspiracy to commit contract killings.

Sec. 210. Offense of inducing minors or other persons to use steroids.

Sec. 211. Amendments concerning records of crimes committed by juveniles.

Sec. 212. Addition of anti-gang Byrne grant funding objective.

TITLE III -- CARJACKING

Sec. 301. Short title.

Sec. 302. Carjacking offense.

Sec. 303. Addition of carjacking prevention as Byrne grant

program funding objective.
 Sec. 304. Task force on carjacking prevention.

TITLE IV -- DOMESTIC VIOLENCE, STALKING, AND OFFENSES
 AGAINST THE FAMILY

Subtitle A -- Domestic Violence and Stalking

Sec. 401. Short title.
 Sec. 402. Interstate travel to commit spouse abuse or to violate protective order; interstate stalking.
 Sec. 403. Full faith and credit for protective orders.
 Sec. 404. Presumption against child custody for spouse abusers.
 Sec. 405. Report on battered women's syndrome.
 Sec. 406. Report on confidentiality of addresses for victims of domestic violence.
 Sec. 407. Report on recordkeeping relating to domestic violence.
 Sec. 408. Anti-stalking legislation.
 Sec. 409. Domestic violence and family support grant program.

Subtitle B -- Child Support Enforcement

Sec. 411. Short title.
 Sec. 412. Offense of non-compliance with child support obligations in interstate cases.
 Sec. 413. Interstate enforcement of child support orders.
 Sec. 414. Legal assistance.

TITLE V -- FIREARMS

Sec. 501. Short title.
 Sec. 502. Enhanced penalty for use of semiautomatic firearm during a crime of violence or drug trafficking offense.
 Sec. 503. Increased penalty for second offense of using an explosive to commit a felony.
 Sec. 504. Smuggling firearms in aid of drug trafficking or violent crimes.
 Sec. 505. Prohibition against theft of firearms or explosives.
 Sec. 506. Increased penalty for knowingly false, material statement in firearms purchase from licensed dealer.
 Sec. 507. Summary destruction of explosives subject to forfeiture.
 Sec. 508. Elimination of outmoded parole language.
 Sec. 509. Enhanced penalties for use of firearms in connection with counterfeiting or forgery.
 Sec. 510. Mandatory penalties for firearms possession by violent felons and serious drug offenders.
 Sec. 511. Receipt of firearms by nonresident.
 Sec. 512. Conspiracy to violate Federal firearms or explosives laws.
 Sec. 513. Theft of firearms or explosives from licensee.
 Sec. 514. Prohibition against disposing of explosives to

- prohibited persons.
- Sec. 515. Increased penalty for interstate gun trafficking.
- Sec. 516. Prohibitions against transactions involving stolen firearms which have moved in interstate or foreign commerce.
- Sec. 517. Possession of explosives by felons and others.
- Sec. 518. Possession of an explosive during the commission of a felony.
- Sec. 519. Disposition of forfeited firearms.
- Sec. 520. Definition of conviction.
- Sec. 521. Definition of serious drug offense.
- Sec. 522. Definition of burglary under the Armed Career Criminal Act.
- Sec. 523. Revocation of supervised release for possession of firearm in violation of release condition.

TITLE VI -- DRUG TESTING

- Sec. 601. Drug testing of Federal offenders on post-conviction release.

TITLE VII -- CRIMES AGAINST THE ELDERLY

- Sec. 701. Increased penalties for crimes against the elderly.

TITLE I -- SEXUAL ASSAULT PREVENTION ACT

SECTION 100. SHORT TITLE.

This title may be cited as the "Sexual Assault Prevention Act of 1992".

Subtitle A -- Penalties and Remedies

SEC. 101. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended by striking ", or" at the end of subparagraph (A) and inserting a semicolon, by striking the period at the end of subparagraph (B) and inserting "; or", and by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110 of this title."

SEC. 102. DEATH PENALTY FOR MURDERS COMMITTED BY SEX OFFENDERS.

Chapter 51 of title 18, United States Code, is amended --

- (a) by adding the following new section:

"§ 1118. Capital Punishment for Murders Committed by Sex Offenders

"(a) OFFENSE. -- Whoever --

(1) causes the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life; or

(2) causes the death of a person through the intentional infliction of serious bodily injury;

shall be punished as provided in subsection (c):

"(b) FEDERAL JURISDICTION. -- There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the course of another offense against the United States.

"(c) PENALTY. -- An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in this section, except that a sentence of death may not be imposed on a defendant who was below the age of eighteen at the time of the commission of the crime.

"(d) MITIGATING FACTORS. -- In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY. -- The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS. -- The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR. -- The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS. -- In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors --

"(1) KILLING IN COURSE OF DESIGNATED SEX CRIMES. -- The conduct resulting in death occurred in the course of an

offense defined in chapter 109A, 110, or 117 of this title.

"(2) KILLING IN CONNECTION WITH SEXUAL ASSAULT OR CHILD MOLESTATION. -- The defendant committed a crime of sexual assault or crime of child molestation, as defined in subsection (x), in the course of an offense on which Federal jurisdiction is based under subsection (b).

"(3) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION. -- The defendant has previously been convicted of a crime of sexual assault or crime of child molestation as defined in subsection (x).

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY. -- If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time before trial as the court may permit for good cause. If the court permits a late filing of the notice upon a showing of good cause, the court shall ensure that the defendant has adequate time to prepare for trial. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING. -- A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS. -- No

presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant. The information presented may include trial transcripts and exhibits. Information presented by the government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS. -- The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH. -- If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION. -- In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH. -- Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, that is authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH. -- The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated with an appeal of the judgment of conviction and shall have priority over all non-capital matters in the court of appeals. The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for and raised on appeal. In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor set forth in subsection (e) which was found to exist remains and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court

of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH. -- A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed, or in the manner prescribed by the law of another State designated by the court if the law of the State in which the sentence was imposed does not provide for implementation of a sentence of death. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION. -- A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION. -- No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no person providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS. -- A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT. -- When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make a determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL. -- In relation to a defendant who is entitled to appointment of counsel under subsections (q)-(r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least three years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS. -- The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE. -- A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90

days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION. -- The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if --

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW. -- If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless --

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence

in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS. -- For purposes of this section --

"(1) 'crime of sexual assault' means a crime under Federal or State law that involved --

"(A) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(B) contact, without consent, between the genitals or anus of the defendant and any part of the body of another person;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A)-(C);

"(2) 'crime of child molestation' means a crime under Federal or State law that involved --

"(A) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(B) contact between the genitals or anus of the defendant and any part of the body of a child;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A)-(C); and

"(3) 'child' means a person below the age of 14."; and

(b) by adding to the table of sections for the chapter the following:

"1118. Capital Punishment for Murders Committed by Sex Offenders."

SEC. 103. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) REDESIGNATION. -- Sections 2245 of title 18, United States Code, is redesignated as section 2246.

(b) **RECIDIVIST PENALTIES.** -- Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized."

(c) **CLERICAL AMENDMENT.** -- The table of sections for chapter 109A of title 18, United States Code, is amended --

(1) by striking "2245" and inserting "2246"; and

(2) by inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses."

SEC. 104. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Paragraph (2) of section 2246 of title 18, United States Code, as designated by section 103(a), is amended --

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;"

SEC. 105. SENTENCING GUIDELINES INCREASE FOR SEX OFFENSES.

The United States Sentencing Commission shall amend the sentencing guidelines to increase by at least 4 levels the base offense level for an offense under section 2241 (aggravated sexual abuse) or section 2242 (sexual abuse) of title 18, United States Code, and shall consider whether any other changes are warranted in the guidelines provisions applicable to such offenses to ensure realization of the objectives of sentencing. In amending the guidelines in conformity with this section, the Sentencing Commission shall review the appropriateness and

adequacy of existing offense characteristics and adjustments applicable to such offenses, taking into account the heinousness of sexual abuse offenses, the severity and duration of the harm caused to victims, and any other relevant factors. In any subsequent amendment to the sentencing guidelines, the Sentencing Commission shall maintain minimum guidelines sentences for the offenses referenced in this section which are at least equal to those required by this section.

SEC. 106. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL OFFENSE CASES

(a) Chapter 109A of title 18, United States Code, as amended by section 103, is amended by adding at the end the following new section:

"§ 2247. Testing for Human Immunodeficiency Virus; Disclosure of Test Results to Victim; Effect on Penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION. -- In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed six months and twelve 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 follow-up tests be performed six months and twelve 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 follow-up 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.

"(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 he 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) CLERICAL AMENDMENT. -- The table of sections for chapter 109A of title 18, United States Code, as amended by section 103, is amended by inserting at the end the following new item:

"2247. Testing for Human Immunodeficiency Virus; Disclosure of Test Results to Victim; Effect on Penalty".

SEC. 107. PAYMENT OF COST OF HIV TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

SEC. 108. INCREASED PENALTIES FOR DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 405 of the Controlled Substances Act (21 U.S.C. 859) is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

SEC. 109. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663 of title 18, United States Code, is amended --

(1) in subsection (b), by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim" in paragraph (2);

(2) in subsection (b), by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and"; and

(3) in subsection (d), by inserting at the end the following: "However, the court shall issue an order requiring restitution of the full amount of the victim's losses and expenses for which restitution is authorized under this section in imposing sentence for an offense under chapter 109A or chapter 110 unless the government and the victim do not request such restitution.".

SEC. 110. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended --

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection --

"(A) the term 'Federal benefits' --

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 111. CIVIL REMEDY FOR VICTIMS OF SEXUAL VIOLENCE.

(a) CAUSE OF ACTION. -- Whoever, in violation of the Constitution or laws of the United States, engages in sexual violence against another, shall be liable to the injured party in an action under this section. The relief available in such an action shall include compensatory and punitive damages and any appropriate equitable or declaratory relief.

(b) DEFINITION. -- For purposes of this section, "sexual violence" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison.

(c) ATTORNEY'S FEES. -- The Civil Rights Attorney's Fees Award Act of 1976 (42 U.S.C. 1988) is amended by striking "or" after "Public Law 92-318" and by inserting after "1964" the following: ", or section 111 of the Sexual Assault Prevention Act of 1992,".

Subtitle B -- Rules of Evidence, Practice, and Procedure**SEC. 121. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES**

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) Evidence admissible. -- In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) Disclosure to defendant. -- In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) Effect on other rules. -- This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) Definition. -- For purposes of this Rule and Rule 415,

"offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved --

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) Evidence admissible. -- In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) Disclosure to defendant. -- In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) Effect on other rules. -- This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) Definition. -- For purposes of this Rule and Rule 414, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved --

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title

18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) Evidence admissible. -- In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these Rules.

"(b) Disclosure to other parties. -- A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) Effect on other rules. -- This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule."

SEC. 122. EXTENSION AND STRENGTHENING OF RAPE VICTIM SHIELD LAW.

(a) AMENDMENTS TO RAPE VICTIM SHIELD LAW. -- Rule 412 of the Federal Rules of Evidence is amended --

(1) in subdivisions (a) and (b), by striking "criminal case" and inserting "criminal or civil case";

(2) in subdivisions (a) and (b), by striking "an offense under chapter 109A of title 18, United States Code," and inserting "an offense or civil wrong involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison,";

(3) in subdivision (a), by striking "victim of such offense" and inserting "victim of such conduct";

(4) in subdivision (c) --

(A) by striking in paragraph (1) "the person accused of committing an offense under chapter 109A of title 18, United States Code" and inserting "the accused"; and

(B) by inserting at the end of paragraph (3) the following: "An order admitting evidence under this paragraph shall explain the reasoning leading to the finding of relevance, and the basis of the finding that the probative value of the evidence outweighs the danger of unfair prejudice notwithstanding the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased inferences."; and

(5) in subdivision (d), by striking "an offense under chapter 109A of title 18, United States Code" and inserting "the conduct proscribed by chapter 109A of title 18, United States Code,".

(b) INTERLOCUTORY APPEAL. -- Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following:

"An appeal by the United States before trial shall lie to a court of appeals from an order of a district court admitting evidence of an alleged victim's past sexual behavior in a criminal case in which the defendant is charged with an offense involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison."

SEC. 123. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 415 (as added by section 121) the following:

"Rule 416. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases.

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This Rule does not limit the admission of evidence of

consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these Rules."

SEC. 124. 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 activity or 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 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 where disclosure is required by law. A lawyer shall also disclose such information to the extent necessary to prevent --

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

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

"(c) 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. 125. 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. 126. VICTIM'S RIGHT OF ALLOCATION IN SENTENCING.

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

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS. -- For purposes of this rule --

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocation under subdivision (a)(1)(D) may be exercised instead by --

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

"(B) 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."

Subtitle C -- Safe Campuses

SEC. 131. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) **STUDY.** -- The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) **REPORT.** -- Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of --

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of --

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT. -- The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) DEFINITION. -- For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATION. -- There is authorized to be appropriated \$200,000 to carry out the study required by this section.

Subtitle D -- Assistance to States and Localities

SEC. 141. SEXUAL VIOLENCE GRANT PROGRAM.

(a) **PURPOSE.** -- The purpose of this section is to strengthen and improve State and local efforts to prevent and punish sexual violence, and to assist and protect the victims of sexual violence.

(b) **AUTHORIZATION OF GRANTS.** -- The Attorney General, through the Bureau of Justice Assistance, the Office for Victims of Crime, and the Bureau of Justice Statistics, may make grants to support projects and programs relating to sexual violence, including support of --

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of sexual violence;

(2) law enforcement and prosecutorial units and teams that target sexual violence;

(3) victim services programs for victims of sexual violence;

(4) educational and informational programs relating to sexual violence;

(5) improved systems for collecting, keeping, and disseminating records and data concerning sexual violence and offenders who engage in sexual violence;

(6) background check systems that enable employers to determine whether employees and applicants for employment have criminal histories involving sexual violence, in relation to employment positions for which a person may be unsuitable on the basis of such a history, such as child care positions and positions involving access to people's homes;

(7) registration systems which require persons convicted of sexual violence to keep law enforcement authorities informed of their addresses or locations;

(8) security measures in parks, public transportation systems, public buildings and facilities, and other public places which reduce the risk that acts of sexual violence will occur in such places;

(9) programs addressing campus sexual assaults, as defined in section 131 of this Act;

(10) programs assisting runaway and homeless children who have been subjected to or at risk of sexual violence or sexual

exploitation;

(11) training programs for judges and court personnel in relation to cases involving sexual violence; and

(12) treatment programs in a correctional setting for offenders who engage in sexual violence, which may include aftercare components, and which shall include an evaluation component to determine the effectiveness of the treatment in reducing recidivism.

(c) FORMULA GRANTS. -- Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d) --

(1) 0.25 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS. -- Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS. -- To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Attorney General a plan for addressing sexual violence in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include --

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, has been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS. --

(1) MATCHING FUNDS. -- Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project of program funded.

(2) DURATION OF GRANTS. -- Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of four years.

(3) LIMIT ON ADMINISTRATIVE COSTS. -- Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(4) PAYMENT OF COST OF FORENSIC MEDICAL EXAMINATIONS. -- It is a condition of eligibility for grants under subsection (c) that a State pay the cost of forensic medical examinations for victims of sexual violence.

(5) POLICIES AGAINST CAMPUS SEXUAL ASSAULTS. -- For an institution of postsecondary education seeking a grant under subsection (d), it is a condition of eligibility that the institution articulate and communicate to its students a clear policy that sexual violence will not be tolerated by the institution.

(g) EVALUATION. -- The National Institute of Justice shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the National Institute of Justice.

(h) COORDINATION. -- The Attorney General may utilize the Office of Justice Programs to coordinate the administration of grants under this section. The coordination of grants under this section shall include prescribing consistent program requirements for grantees, allocating functions and the administration of particular grants among the components that participate in the administration of the program under this section, coordinating the program under this section with the Domestic Violence and Family Support Grant Program established by section 409, and coordinating the program under this section with other grant programs administered by components of the Department of Justice.

(i) DEFINITION. -- For purposes of this section, "sexual violence" includes non-consensual sex offenses and sex offenses involving victims who are not able to give legally effective consent because of age or incompetency.

(j) REPORT. -- The Attorney General shall submit an annual

report to Congress concerning the operation and effectiveness of the program under this section.

(k) **AUTHORIZATION OF APPROPRIATIONS.** -- There are authorized to be appropriated, in fiscal year 1994, \$ 25,000,000 to carry out this section, and such sums as may be necessary in each fiscal year thereafter.

SEC. 142. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) **SUPPLEMENTARY GRANTS.** -- The Attorney-General may, in each fiscal year, authorize the award to a State of an aggregate amount of up to \$1 million under the Sexual Violence Grant Program established by section 141, in addition to any funds that are otherwise authorized under that program. The authority to award additional funding under this section is conditional on certification by the Attorney General that the State has laws relating to sexual violence that exceed or are reasonably comparable to the provisions of federal law (including changes in federal law adopted by this Act) in the following areas:

(1) Authorization of pre-trial detention of defendants in sexual assault cases where prevention of flight or the safety of others cannot be reasonably assured by other means, and denial of release pending appeal for persons convicted of sexual assault offenses who have been sentenced to imprisonment.

(2) Authorization of severe penalties for sexual assault offenses.

(3) Pre-trial testing for the human immunodeficiency virus of persons charged with sexual assault offenses, with disclosure of test results to the victim.

(4) Payment of the cost of medical examinations and the cost of testing for the human immunodeficiency virus for victims of sexual assaults.

(5) According the victim of a sexual assault the right to be present at judicial proceedings in the case.

(6) Protection of victims from inquiry into unrelated sexual behavior in sexual assault cases.

(7) Rules of professional conduct for lawyers that protect victims from unwarranted cross-examination and impeachment, dilatory tactics, and other abuses in sexual assault cases.

(8) Authorization of admission and consideration in sexual assault cases of evidence that the defendant has committed sexual assaults on other occasions.

(9) Authorization of the victim in sexual assault cases to address the court concerning the sentence to be imposed.

(10) Authorization of the award of restitution to victims of sexual assaults as part of a criminal sentence.

(b) AUTHORIZATION OF APPROPRIATIONS. -- There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out this section.

SEC. 143. REMOVAL OF CAP ON CRIME VICTIMS FUND.

(a) ELIMINATION OF FUND CEILINGS AND SUNSET PROVISION. -- Section 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is repealed.

(b) ALLOCATIONS. --

(1) GENERALLY. -- Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the total deposited in the Fund during a particular fiscal year --

"(i) the first \$10,000,000 shall be available for grants under section 1404A;

"(ii) the next sums deposited, up to the reserved portion (as described in subparagraph (C)), shall be made available to the judicial branch for administrative costs to carry out the functions of that branch under sections 3611 and 3612 of title 18, United States Code; and

"(iii) of the sums remaining after the allocations under clauses (i) and (ii) --

"(I) 4 percent shall be available for grants under section 1404(c)(1); and

"(II) 96 percent shall be available in equal amounts for grants under sections 1403 and 1404(a).

"(B) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed \$20,000,000.

"(C) The reserved portion referred to in subparagraph (A) is \$6,200,000 in each of fiscal years 1992 through 1995 and \$3,000,000 in each fiscal year thereafter."

(2) CONFORMING CROSS-REFERENCE. -- Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(iv)" and inserting "(i)."

(c) AMOUNTS AWARDED AND UNSPENT. -- Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended --

(1) in paragraph (1) --

(A) by striking "(1) Except as provided in paragraph (2), any" and inserting "Any";

(B) by striking "succeeding fiscal year" and inserting "2 succeeding fiscal years";

(C) by striking "which year" and inserting "which period"; and

(D) by striking "the general fund of the Treasury" and inserting "the Fund"; and

(2) by striking paragraph (2).

Subtitle E -- National Task Force on Violence against Women

SEC. 151. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the "National Task Force on Violence Against Women" (referred to in this subtitle as the "task force").

SEC. 152. DUTIES OF TASK FORCE.

(a) GENERAL PURPOSE OF TASK FORCE. -- The task force shall recommend Federal, State, and local strategies aimed at protecting women against violent crime, punishing persons who commit such crimes, and enhancing the rights of victims of such crimes.

(b) DUTIES OF TASK FORCE. -- The task force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the task force, including --

(1) considering the reports and recommendations of past Federal and State studies of violent crime, family violence, and the treatment of crime victims, including the Report of

the Attorney General to the President on Combating Violent Crime (1992), the Report of the Attorney General's Task Force on Family Violence (1984), the Report of the President's Task Force on Victims of Crime (1982), and the reports and recommendations of the task forces and commissions established by the States of Alabama, Alaska, Arkansas, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, Minnesota, Nebraska, New Mexico, New York, North Carolina, Rhode Island, Virginia, Texas, and Wyoming;

(2) developing strategies for Federal, State, and local law enforcement designed to protect women against violent crime, and to prosecute and punish those responsible for such crime;

(3) evaluating the adequacy of rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, and making recommendations for the improvement of such rules;

(4) evaluating the adequacy of pre-trial release, sentencing, incarceration, and post-conviction release in relation to violent offenders against women, and making recommendations designed to ensure that such offenders are restrained from causing further harm to the victim and others and receive appropriate punishment, including means of ensuring that the efficacy of criminal sanctions will not be undermined by parole or other early release mechanisms;

(5) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for the effective use of such orders to protect women from violence;

(6) assessing the problem of stalking and persistent menacing of women, and recommending effective means of response to the problem; and

(7) generally evaluating the treatment of women as victims of violent crime in the criminal justice system, and making recommendations designed to improve such treatment.

SEC. 153. MEMBERSHIP.

(a) **IN GENERAL.** -- The task force shall consist of up to 10 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this Act.

(b) **CHAIRMAN.** -- The Attorney General or the Attorney General's designee shall serve as chairman of the task force.

SEC. 154. PAY.

(a) NO ADDITIONAL COMPENSATION. -- Members of the task force who are officers or employees of a governmental agency shall receive no additional compensation by reason of their service on the task force.

(b) PER DIEM. -- While away from their homes or regular places of business in the performance of duties for the task force, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 155. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR. --

(1) APPOINTMENT. -- The task force shall have an Executive Director who shall be appointed by the Attorney General not later than 30 days after the task force is fully constituted under section 303.

(2) COMPENSATION. -- The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF. -- With the approval of the task force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the task force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS. -- The Executive Director and the additional personnel of the task force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS. -- Subject to such rules as may be prescribed by the task force, the Executive Director may procure temporary intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$ 200 per day.

SEC. 156. POWERS OF TASK FORCE.

(a) HEARINGS. -- For the purpose of carrying out this title, the task force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such

evidence, as the task force considers appropriate. The task force may administer oaths before the task force.

(b) DELEGATION. -- Any member or employee of the task force may, if authorized by the task force, take any action that the task force is authorized to take under this title.

(c) ACCESS TO INFORMATION. -- The task force may secure directly from any executive department or agency such information as may be necessary to enable the task force to carry out this subtitle, to the extent access to such information is permitted by law. On request of the Attorney General, the head of such a department or agency shall furnish such permitted information to the task force.

(d) MAIL. -- The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 157. REPORT.

Not later than 1 year after the date on which the task force is fully constituted under section 303, the Attorney General shall submit a detailed report to the Congress on the findings and recommendations of the task force.

SEC. 158. AUTHORIZATION OF APPROPRIATION.

There is authorized to be appropriated for fiscal year 1993, \$ 500,000 to carry out the purposes of this title.

SEC. 159. TERMINATION.

The task force shall cease to exist 30 days after the date on which the Attorney General's report is submitted under section 157. The Attorney General may extend the life of the task force for a period of not to exceed one year.

TITLE II -- GANGS AND JUVENILES

SEC. 201. SHORT TITLE.

This title may be cited as the "Anti-gang and Youth Protection Act of 1992".

SEC. 202. CRIMINAL STREET GANGS OFFENSES.

(a) OFFENSE. -- Title 18, United States Code, is amended by inserting after chapter 93 the following:

**"CHAPTER 94 -- PROHIBITED PARTICIPATION IN CRIMINAL STREET GANGS
AND GANG CRIME**

"Sec.

"1930. Crimes in furtherance of gangs.

"1931. Prohibited activity.

"1932. Penalties.

"1933. Investigative authority.

"§ 1930. Crimes in furtherance of gangs

"(a) FINDINGS. -- The Congress makes the following findings:

"(1) Criminal street gangs have become increasingly prevalent and entrenched in our society in the last several decades. In many areas of the country, these gangs exert considerable control over other members of their community, particularly through the use of violence and drugs. Criminal street gangs have also become more national in scope, extending their influence beyond the urban areas in which they originated.

"(2) The major activities of criminal street gangs are crimes of violence and the distribution and use of illegal drugs. It is through these activities that criminal street gangs directly affect interstate and foreign commerce, even when their particular activities, viewed in isolation, appear to be purely intrastate in character.

"(b) BASIS FOR CHAPTER. -- On the basis of the findings stated in subsection (a), the Congress determines that the provisions of this chapter are necessary and proper for the purpose of carrying into execution the powers of Congress to regulate commerce and to establish criminal law.

"§ 1931. Prohibited activity.

"(a) DEFINITIONS. -- As used in this chapter --

"(1) 'predicate gang crime' means --

"(A) any act or threat, or attempted act or threat, which is chargeable under Federal or State law and punishable by imprisonment for more than one year, involving murder, assault, kidnapping, robbery, extortion, burglary, arson, property damage or destruction, obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or manufacturing, importing, receiving, concealing, purchasing, selling, possessing, or otherwise dealing in a controlled substance or controlled substance analogue (as those terms are

defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(B) any act, punishable by imprisonment for more than one year, which is indictable under any of the following provisions of title 18, United States Code: sections 922 and 924(a)(2), (b), (c), (g), or (h) (relating to receipt, possession, and transfer of firearms); section 1503 (relating to obstruction of justice); section 1510 (relating to obstruction of criminal investigations); section 1512 (relating to tampering with a witness, victim, or informant); section 1513 (relating to retaliating against a witness, victim, or informant); or

"(C) any act indictable under subsection (b)(5) of this section;

"(2) 'criminal street gang' means any organization, or group, or five or more individuals, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of thirty days, with a purpose that any of those individuals alone, or in any combination, commit or will commit, two or more predicate gang crimes, one of which must occur after the enactment of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior predicate gang crime;

"(3) 'participate in a criminal street gang' means to act in concert with a criminal street gang with intent to commit, or that any other individual associated with the criminal street gang will commit, one or more predicate gang crimes; and

"(4) 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(b) It shall be unlawful --

"(1) to commit, or to attempt to commit a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang;

"(2) to participate, or attempt to participate, in criminal street gang, or conspire to do so;

"(3) to command, counsel, persuade, induce, entice, or coerce, any individual to participate in a criminal street gang;

"(4) to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to commit, cause to commit, or facilitate the commission of, a predicate gang crime, with intent to promote the activities of a criminal street gang or for the

purpose of gaining entrance to or maintaining or increasing position in such a gang; or

"(5) to use any communication facility, as defined in section 403(b) of the Controlled Substance Act (21 U.S.C. 843(b)), in causing or facilitating the commission, or attempted commission, or a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang. Each separate use of a communication facility shall be a separate offense under this subsection.

"§ 1932. Penalties

"(a) PENALTIES OF UP TO TWENTY YEARS OR LIFE IMPRISONMENT. -- Any person who violates section 1931(b)(1) or (2) shall be punished by imprisonment for not more than twenty years, or by imprisonment for any term of years or for life if the violation is based on a predicate gang crime for which the maximum penalty includes life imprisonment, and if any person commits such a violation after one or more prior convictions for such a predicate gang crime, that is not part of the instant violation, such person shall be sentenced to a term of imprisonment which shall not be less than ten years and which may be for any term of years exceeding ten years or for life.

"(b) MANDATORY PENALTIES OF FIVE OR TEN YEARS. -- Any person who violates section 1931(b)(3) or (b)(4) shall be sentenced to imprisonment for not less than five and not more than ten years, and if the individual who was the subject of the act was less than eighteen years of age, such person shall be imprisoned for ten years. A term of imprisonment under this subsection shall run consecutively to any other term of imprisonment, including that imposed for any other violation of this chapter.

"(c) PENALTIES OF UP TO FIVE YEARS. -- Any person who violates section 1931(b)(5) shall be punished by imprisonment for not more than five years.

"(d) ADDITIONAL PENALTIES. -- In addition to the other penalties set forth in this section --

"(1) any person who violates section 1931(b)(1) or (2), one of whose predicate gang crimes involves murder or conspiracy to commit murder which results in the taking of a life, and who commits, counsels, commands, induces, procures, or causes that murder, shall be punished by death or by imprisonment for life;

"(2) any person who violates section 1931(b)(1) or (2), one of whose predicate gang crimes involves attempted murder or conspiracy to commit murder, shall be sentenced to a term of imprisonment which shall not be less than twenty years and which

may be for any term of years exceeding twenty years or for life; and

"(3) any person who violates section 1931(b)(1) or (2), and who at the time of the offense occupied a position of organizer or supervisor, or other position of management in that street gang, shall be sentenced to a term of imprisonment which shall not be less than fifteen years and which may be for any term of years exceeding fifteen years or for life.

For purposes of paragraph (3) of this subsection, if it is shown that the defendant counseled, commanded, induced, or procured five or more individuals to participate in a street gang, there shall be a rebuttable presumption that the defendant occupied a position of organizer or supervisor, or other position of management in the gang.

"(e) FORFEITURE. -- Whoever violates section 1931(b)(1) or (2) shall, in addition to any other penalty and irrespective of any provision of State law, forfeit to the United States --

"(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation; and

"(2) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation.

The provisions of section 413(b), (c), and (e) through (p) of the Controlled Substances Act (21 U.S.C. 853(b), (c), and (e) through (p)) shall apply to a forfeiture under this section."

"§ 1933. Investigative authority.

"The Attorney General and the Secretary of the Treasury shall have the authority to investigate offenses under this chapter pursuant to an agreement which shall be entered into by the Attorney General and the Secretary of the Treasury."

(b) CLERICAL AMENDMENT. -- The table of chapters for Part I of title 18, United States Code, is amended by inserting after the item for chapter 93 the following:

"94. Prohibited participation in criminal street gangs and gang crimes.....1930".

(c) SENTENCING GUIDELINES INCREASE FOR GANG CRIMES. -- The United States Sentencing Commission shall at the earliest opportunity amend the sentencing guidelines to increase by at least four levels the offense level for any felony committed for the purpose of gaining entrance into, or maintaining or

increasing position in, a criminal street gang. For purposes of this subsection, "criminal street gang" means any organization or group, of five or more individuals, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of thirty days, with the intent that any of those individuals alone, or in any combination, commit or will commit, two or more acts punishable under State or Federal law by imprisonment for more than one year.

SEC. 203. CRIMES INVOLVING THE USE OF MINORS AS RICO PREDICATES.

Paragraph (1) of section 1961 of title 18, United States Code, is amended by --

(1) striking "or" before "(E)"; and

(2) by inserting before the semicolon at the end of the paragraph the following: ", or (F) any offense against the United States that is punishable by imprisonment for more than one year and that involved the use of a person below the age of 18 years in the commission of the offense."

SEC. 204. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended --

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting "or"; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 205. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended --

(1) in the first undesignated paragraph --

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3))," and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than

5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), or (3), or 963); and

(B) by striking "922(p)" and inserting "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph --

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844 or 846), section 1002(a), 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b)(1), (2), or (3), or 963), or section 924(b), (g), or (h) of this title,"; and

(B) by striking "subsection (b)(1)(A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3))" and inserting "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1)(A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), (B), or (C), (d), or (e), 844 or 846) or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), or (3), or 963); and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer."

SEC. 206. INCREASED PENALTIES FOR USING MINORS IN DRUG TRAFFICKING AND DRUG DISTRIBUTION TO MINORS.

(a) DRUG DISTRIBUTION TO MINOR BY RECIDIVIST. -- Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting "3 years".

(b) USE OF MINOR IN TRAFFICKING BY RECIDIVIST. -- Section 420(c) of the Controlled Substances Act (21 U.S.C. 861(b)) is amended by striking "one year" and inserting "3 years".

(c) CONCURRENT VIOLATION OF PROHIBITION OF USE OF MINORS AND TRAFFICKING NEAR SCHOOLS. -- Section 419(b) of the Controlled Substances Act (21 U.S.C. 860(b)) is amended by inserting ", or under circumstances involving a violation of section 420(a)," before "is punishable".

SEC. 207. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR SCHOOLS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended --

(1) in subsection (a) by striking "one year" and inserting "3 years"; and

(2) in subsection (b) by striking "three years" each place it appears and inserting "5 years".

SEC. 208. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR PUBLIC HOUSING.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended --

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 209. INCREASED PENALTIES FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE AND CONSPIRACY TO COMMIT CONTRACT KILLINGS.

(a) TRAVEL ACT PENALTIES. -- Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than \$10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform --

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than twenty years, or both, and if death results shall be imprisoned for any term of years or for life."

(b) MURDER CONSPIRACY PENALTIES. -- Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 210. OFFENSE OF INDUCING MINORS OR OTHER PERSONS TO USE STEROIDS.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following new subsection:

"(b) (1) Whoever, being a physical trainer or adviser to a person, attempts to persuade or induce the person to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, imprisoned not more than 2 years (or if the person attempted to be persuaded or induced was less than 18 years of age at the time of the offense, 5 years), or both.

"(2) As used in this subsection, the term 'physical trainer or adviser' means a professional or amateur coach, manager, trainer, instructor, or other such person who provides athletic or physical instruction, training, advice, assistance, or any other such service to any person."

Sec. 211. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

-- (a) Section 5038 of title 18, United States Code, is amended

- (1) by striking subsections (d) and (f);
- (2) by redesignating subsection (e) as subsection (d); and
- (3) by adding at the end the following new subsections:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter

was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure or availability of records or information, if the law of the state in which a federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure or availability is permitted under this section whenever the same circumstances exist."

(b) Section 3607 of Title 18, United States Code, is repealed, and the corresponding item in the chapter analysis for chapter 229 of title 18 is deleted.

(c) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking the words "and section 3607 of Title 18".

SEC. 212. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended --

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs."

TITLE III -- CARJACKING

SEC. 301. SHORT TITLE.

This title may be cited as the "Anti-carjacking Act of 1992".

SEC. 302. CARJACKING OFFENSE.

(a) OFFENSE. -- Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

"§ 2119. Robbery of motor vehicles

"(a) OFFENSE. -- Whoever, in a circumstance described in subsection (b), obtains or attempts to obtain a motor vehicle by force or the threat of force, shall be punished as provided in subsection (c).

"(b) BASIS OF JURISDICTION. -- The circumstance referred to in subsection (a) is that the motor vehicle involved in the offense has been transported, shipped, or received in interstate or foreign commerce, or has otherwise moved at any time in interstate or foreign commerce.

"(c) PENALTIES. -- An offense under this section shall be punished --

"(1) if death results, by death or imprisonment for any term of years or for life;

"(2) if the offense involves attempted murder, kidnaping or attempted kidnaping, or the infliction of serious bodily injury, by imprisonment for any term of years or for life; and

"(3) in any other case, by imprisonment for up to twenty years."

(b) CLERICAL AMENDMENT. -- The table of sections for chapter 103 of title 18, United States Code, is amended by adding at the end the following:

"2119. Robbery of motor vehicles."

SEC. 303. ADDITION OF CARJACKING PREVENTION AS BYRNE GRANT PROGRAM FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 212, is further amended --

(1) in paragraph (21) by striking "and" at the end;

(2) in paragraph (22) by striking the period and inserting "; and"; and

(3) by inserting after paragraph (22) the following new paragraph:

"(23) task forces, teams, and programs that target or take

preventive measures in relation to the robbery or theft of motor vehicles."

SEC. 304. TASK FORCE ON CARJACKING PREVENTION.

(a) **ESTABLISHMENT AND PURPOSE OF TASK FORCE.** -- The Attorney General and the Secretary of Transportation shall convene an interagency task force to examine the feasibility and desirability of including disabling devices or other security devices or features in motor vehicles to inhibit or prevent the robbery and theft of motor vehicles. The Attorney General and the Secretary of Transportation or their designees shall jointly chair the task force. The task force, on completion of its work, and within a time period specified by the Attorney General and the Secretary of Transportation, shall issue a report setting out its conclusions and recommendations.

(b) **ASSIGNMENT TO TASK FORCE.** -- Employees of the Department of Justice and the Department of Transportation may be assigned to the task force by the Attorney General and the Secretary of Transportation. Employees of other departments and agencies of the Federal Government may be assigned to the task force by the Attorney General and the Secretary of Transportation with the concurrence of the heads of those departments and agencies.

(c) **SUPPORT SERVICES AND CONSULTANTS.** -- The Attorney General and the Secretary of Transportation may utilize personnel, facilities, and services available within or obtained by the Department of Justice and the Department of Transportation to support and assist the work of the task force, including the temporary services of consultants and experts representing state and local law enforcement and the manufacturers of motor vehicles. The Attorney General and the Secretary of Transportation may utilize personnel, facilities, and services of other departments and agencies of the Federal Government to support and assist the work of the task force with the concurrence of the heads of those departments and agencies.

TITLE IV -- DOMESTIC VIOLENCE, STALKING, AND OFFENSES AGAINST THE FAMILY

Subtitle A -- Domestic Violence and Stalking

SEC. 401. SHORT TITLE.

This subtitle may be cited as the "Safe Homes and Streets Act of 1992".

SEC. 402. INTERSTATE TRAVEL TO COMMIT SPOUSE ABUSE OR TO VIOLATE PROTECTIVE ORDER; INTERSTATE STALKING.

(a) OFFENSE. -- Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"CHAPTER 110A -- DOMESTIC VIOLENCE AND OFFENSES AGAINST THE FAMILY

"Sec.

"2261. Domestic violence and stalking.

"§ 2261. Domestic violence and stalking

"(a) OFFENSE. -- Whoever causes or attempts to cause bodily injury to, engages in sexual abuse against, or violates a protective order in relation to, another shall be punished --

"(1) if death results, by death or by imprisonment for any term of years or for life;

"(2) if permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years;

"(3) if serious bodily injury results, or if a firearm, knife, or other dangerous weapon is possessed, carried, or used during the commission of the offense, by imprisonment for not more than 10 years; and

"(4) in any other case, by imprisonment for not more than five years.

If, however, the defendant engages in sexual abuse and the penalty authorized for such conduct under chapter 109A exceeds the penalty which would otherwise be authorized under this subsection, then the penalty authorized for such conduct under chapter 109A shall apply.

"(b) MANDATORY PENALTIES. -- A sentence under this section shall include at least three months of imprisonment if the offense involves the infliction of bodily injury on or the commission of sexual abuse against the victim. A sentence under this section shall include at least six months of imprisonment if the offense involves the violation of a protective order and the defendant has previously violated a protective order in relation to the same victim.

"(c) JURISDICTION. -- There is Federal jurisdiction to prosecute an offense under this section if the defendant traveled in interstate or foreign commerce, or transported or caused another to move in interstate or foreign commerce, with the intention of committing or in furtherance of committing the offense, and --

"(1) the victim was a spouse or former spouse of the defendant, was cohabiting with or had cohabited with the defendant, or had a child in common with the defendant; or

"(2) the defendant on two or more occasions --

"(A) has caused or attempted or threatened to cause death or serious bodily injury to or engaged in sexual abuse in relation to the victim; or

"(B) has engaged in any conduct that caused or was intended to cause apprehension by the victim that the victim would be subjected to death, serious bodily injury, or sexual abuse.

"(d) DEFINITIONS. -- For purposes of this section --

"(1) 'protective order' means an order issued by a court of a State prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person;

"(2) 'sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison;

"(3) 'serious bodily injury' and 'bodily injury' have the meanings given in section 1365(g); and

"(4) 'State' has the meaning given in section 513(c)(5)."

(b) CLERICAL AMENDMENT. -- The analysis for Part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Domestic violence and offenses against the family..... 2261".

(c) MANDATORY RESTITUTION. -- Section 3663 of title 18, United States Code, as amended by section 109, is amended by striking "or chapter 110" and inserting ", chapter 110, or section 2261" in each of subsection (b)(2) and subsection (d).

(d) INTERIM PROTECTION. -- Section 3156(a)(4)(C) of title 18, United States Code, as added by section 101, is amended by striking "or chapter 110" and inserting ", chapter 110, or section 2261".

(e) DEATH PENALTY PROCEDURES. -- Section 1118 of title 18, United States Code, as enacted by section 102, is amended in

paragraph (1) of subsection (e) by inserting "or section 2261" after "117".

SEC. 403. FULL FAITH AND CREDIT FOR PROTECTIVE ORDERS.

(a) REQUIREMENT OF FULL FAITH AND CREDIT. -- Chapter 110A of title 18, United States Code, as enacted by section 402, is amended by adding at the end the following:

"§ 2262. Full Faith and Credit for Protective Orders

"(a) A protective order issued by a court of a State shall have the same full faith and credit in a court in another State that it would have in a court of the State in which issued, and shall be enforced by the courts of any State as if it were issued in that State.

"(b) For purposes of this section --

"(1) 'protective order' means an order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person; and

"(2) 'State' has the meaning given in section 513(c)(5).".

(b) CLERICAL AMENDMENT. -- The chapter analysis for chapter 110A of title 18, United States Code, as enacted by section 402, is amended by inserting at the end the following:

"§ 2262. Full Faith and Credit for Protective Orders."

SEC. 404. PRESUMPTION AGAINST CHILD CUSTODY FOR SPOUSE ABUSERS.

(a) The Congress finds that --

(1) courts fail to recognize the detrimental effects of having as a custodial parent an individual who physically abuses his or her spouse, insofar as they do not hear or weigh evidence of domestic violence in child custody litigation;

(2) joint custody forced upon hostile parents can create a damaging psychological environment for a child;

(3) physical abuse of a spouse is relevant to the likelihood of child abuse in child custody disputes;

(4) the effects on children of physical abuse of a spouse include --

(A) traumatization and psychological damage to children

resulting from observation of the abuse and the climate of violence and fear existing in a home where abuse takes place;

(B) the risk that children may become targets of physical abuse when they attempt to intervene on behalf of an abused parent; and

(C) the negative effects on children of exposure to an inappropriate role model, in that witnessing an aggressive parent may communicate to children that violence is an acceptable means of dealing with others; and

(5) the harm to children from spouse abuse may be compounded by award of exclusive or joint custody to an abuser because further abuse may occur when the abused spouse is forced to have contact with the abuser as a result of the custody arrangement, and because the child or children may be exposed to abuse committed by the abuser against a subsequent spouse or partner.

(b) SENSE OF CONGRESS. -- It is the sense of the Congress that, for purposes of determining child custody, evidence establishing that a parent engages in physical abuse of a spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse.

SEC. 405. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT. -- The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) COMPONENTS OF REPORT. -- The report described in subsection (a) shall include --

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 406. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF

DOMESTIC VIOLENCE.

(a) The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including --

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) The Attorney General may utilize the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 407. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine --

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 408. ANTI-STALKING LEGISLATION.

(a) FINDINGS AND DECLARATIONS. -- The Congress finds and declares that --

(1) the criminal act of stalking other persons is a problem of deep concern;

(2) previously available legal recourses against stalking, such as restraining orders, have proven to be inadequate;

(3) anti-stalking legislation has been enacted or proposed in several States;

(4) the constitutionality of State anti-stalking statutes may be challenged by defendants; and

(5) the Congress has an interest in assisting the States in enacting anti-stalking legislation that is effective, constitutional, and enforceable.

(b) EVALUATION AND REPORT. -- The Attorney General shall --

(1) evaluate enacted and proposed anti-stalking legislation in the States;

(2) develop model anti-stalking legislation that is effective, constitutional, and enforceable;

(3) prepare and disseminate to State authorities the findings of the evaluation under this subsection and the model anti-stalking legislation; and

(4) not later than 1 year after the date of enactment of this Act, submit a report to the Congress containing the findings of the evaluation and the model legislation, and any recommendations the Attorney General may have concerning the need for or appropriateness of further action by the Federal Government.

(c) NATIONAL INSTITUTE OF JUSTICE. -- The Attorney General may utilize the National Institute of Justice in carrying out this section.

SEC. 409. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) PURPOSE. -- The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) AUTHORIZATION OF GRANTS. -- The Attorney General, through the Bureau of Justice Assistance, the Office for Victims of Crime, and the Bureau of Justice Statistics, may make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of --

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) shelters that provide services for victims of domestic violence and related programs;

(8) educational and informational programs relating to domestic violence;

(9) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(10) coalitions of domestic violence service providers, agencies, and programs;

(11) training programs for judges and court personnel in relation to cases involving domestic violence; and

(12) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements, and programs involving the assignment of prosecutors or other personnel to concentrate on or devote full-time efforts to child support enforcement.

(c) FORMULA GRANTS. -- Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d) --

(1) 0.25 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS. -- Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a

discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS. -- To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Attorney General a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include --

(1) certification that the Federal funding provided will be use to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, has been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS. --

(1) MATCHING FUNDS. -- Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) DURATION OF GRANTS. -- Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of four years.

(3) LIMIT ON ADMINISTRATIVE COSTS. -- Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(g) EVALUATION. -- The National Institute of Justice shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the National Institute of Justice.

(h) COORDINATION. -- The Attorney General may utilize the

Office of Justice Programs to coordinate the administration of grants under this section. The coordination of grants under this section shall include prescribing consistent program requirements for grantees, allocating functions and the administration of particular grants among the components that participate in the administration of the program under this section, coordinating the program under this section with the Sexual Violence Grant Program established by section 141, and coordinating the program under this section with other grant programs administered by components of the Department of Justice.

(i) DEFINITION. -- For purposes of this section, "domestic violence" includes any act of criminal violence in which the offender and the victim are members of the same household or relatives, or in which the offender and the victim are present or former spouses or cohabitators or have a child in common.

(j) REPORT. -- The Attorney General shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(k) AUTHORIZATION OF APPROPRIATIONS. -- There are authorized to be appropriated, in fiscal year 1994, \$ 25,000,000 to carry out this section, and such sums as may be necessary in each fiscal year thereafter.

Subtitle B -- Child Support Enforcement

SEC. 411. SHORT TITLE.

This subtitle may be cited as the "Child Support Enforcement Act of 1992".

SEC. 412. OFFENSE OF NON-COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS IN INTERSTATE CASES.

(a) OFFENSE. -- Chapter 110A of title 18, United States Code, as enacted by sections 402 and 403, is amended by adding at the end the following:

"§ 2263. Non-compliance with child support obligations.

"(a) OFFENSE. -- Whoever --

"(1) leaves or remains outside a State with intent to avoid payment of a child support obligation; or

"(2) fails to pay a major child support obligation, as defined in subsection (e), with respect to a child who resides in another State, despite having the financial resources to pay the obligation or the ability to

acquire such resources through reasonable diligence;
shall be punished as provided in subsection (c).

"(b) PRESUMPTION. -- In relation to an offense charged under paragraph (1) of subsection (a), the absence of the defendant from the State for an aggregate period of six months without payment of the child support obligation shall create a rebuttable presumption that the intent existed to avoid payment of the obligation.

"(c) PENALTY. -- A person convicted of an offense under this section shall be punished by imprisonment for up to six months, and on a second or subsequent conviction, by imprisonment for up to two years.

"(d) RESTITUTION. -- In addition to any restitution that may be ordered pursuant to section 3663, a sentence for an offense under this section shall include an order of restitution in an amount equal to the past due support obligation as it exists at the time of sentencing. Subsections (e)-(i) of section 3663 shall apply to an order of restitution pursuant to this subsection.

"(e) DEFINITIONS. -- For purposes of this section --

"(1) 'child support obligation' means an amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support of a child or of a child and the parent with whom the child is living;

"(2) 'major child support obligation' means a child support obligation that has remained unpaid for a period exceeding one year, or that is greater than \$5,000;

"(3) 'past due support obligation' means a child support obligation that is unpaid at the time of sentencing for an offense under this section; and

"(4) 'State' has the meaning given in section 513(c)(5)."

(b) CLERICAL AMENDMENT. -- The chapter analysis for chapter 110A of title 18, United States Code, as enacted by sections 402 and 403, is amended by inserting at the end the following:

"2263. Non-compliance with child support obligations."

(c) CONDITION OF PROBATION AND SUPERVISED RELEASE. -- Section 3563 of title 18, United States Code, is amended in subsection (b)(1) by inserting before the semicolon:
", including compliance with any court order or administrative

order under the law of a State (as defined in section 513(c)(5)) requiring payments for the support of a child or of a child and the parent with whom the child is living".

SEC. 413. INTERSTATE ENFORCEMENT OF CHILD SUPPORT ORDERS

(a) FINDINGS, STATEMENT OF POLICY, AND PURPOSES. --

(1) FINDINGS.-- The Congress finds that --

(A) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

(B) the laws by which the courts of these jurisdictions determine their authority to establish child support orders are not uniform;

(C) those laws, along with the limits imposed by the Federal system on the authority of each jurisdiction to take certain actions outside its own boundaries --

(I) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

(II) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequalities in child support payment levels which are based solely on the noncustodial parent's choice of residence;

(III) encourage a disregard of court orders resulting in massive arrearages nationwide;

(IV) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

(V) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusion, waste of judicial resources, disrespect for

the courts, and a diminution of public confidence in the rule of law; and

(D) among the results of these conditions are the failure of the courts of the States to give full faith and credit to the judicial proceedings of other States, the deprivation of rights of liberty and property without due process of law, burdens on commerce among the States, and harm to the welfare of children and their parents and other custodians.

(2) STATEMENT OF POLICY.-- For the reasons set forth in paragraph (1), it is necessary to establish national standards under which the courts of different States will determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of the other States.

(3) PURPOSES.-- The purposes of this section are to --

(A) facilitate the enforcement of child support orders among the States;

(B) discourage continuing interstate controversies over child support in the interest of greater financial stability and secure family relationships for the child; and

(C) avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.

(b) IN GENERAL. -- Chapter 115 of title 28, United States Code, is amended by inserting after section 1738A the following new section:

"§1738B. Full faith and credit given to child support orders.

"(a) GENERAL RULE. --The appropriate authorities of each State shall enforce according to its terms, and shall not modify except as provided in subsection (e), any child support order made consistently with the provisions of this section by a court of another State.

"(b) DEFINITIONS. -- As used in this section, the term --

"(1) 'child' means any person under the age of 18, and includes an individual 18 or more years of age for whom a child support order has been issued pursuant to the laws of a State;

"(2) 'child's State' means the State in which a child currently resides;

"(3) 'child support order' means a judgement, decree, or order of a court requiring the payment of money, or the provision of a benefit, including health insurance, whether in periodic amounts or lump sum, for the support of a child and includes permanent and temporary orders, initial orders and modifications, ongoing support, and arrearages;

"(4) 'contestant' includes any person, including a parent, who claims or asserts a right to receive child support or against whom a right to receive child support is claimed or asserted; and the term 'contestant' includes States and political subdivisions to whom the right to obtain a child support order has been assigned;

"(5) 'court' means a court, administrative process, or quasi-judicial process of a State which is authorized by State law to establish the amount of support payable by a contestant or to modify the amount of support payable by a contestant;

"(6) 'modification' and 'modify' refer to a change in a child support order which affects the amount, scope, or duration of such order and modifies, replaces, supersedes, or otherwise is made subsequent to such child support order, whether or not made by the same court as such child support order; and

"(7) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country as defined in section 1151 of title 18.

"(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.-- A child support order made by a court of a State is consistent with the provisions of this section only if --

"(1) the court, pursuant to the laws of the State in which the court is located, had jurisdiction to hear the matter and enter such an order and had personal jurisdiction over the contestants; and

"(2) reasonable notice and opportunity to be heard was given to the contestants.

"(d) CONTINUING JURISDICTION.-- A court of a State which has made a child support order consistently with the provisions of this section has continuing, exclusive jurisdiction of that order when such State is the child's State or the residence of any contestant unless another State, acting in accordance with subsection (e), has modified that order.

"(e) AUTHORITY TO MODIFY ORDERS.-- A court of a State may

modify a child support order with respect to a child that is made by a court of another State, if--

"(1) it has jurisdiction to make such a child support order; and

"(2) the court of the other State no longer has continuing, exclusive jurisdiction because such State no longer is the child's State or the residence of any contestant, or each contestant has filed written consent for the State to modify the order and assume continuing, exclusive jurisdiction of the order.

"(f) ENFORCEMENT OF PRIOR ORDER.-- A court of a State which no longer has continuing, exclusive jurisdiction over a child support order may enforce the order with respect to unsatisfied obligations which accrued before the date on which a modification of the order is made under subsection (e)."

(d) CLERICAL AMENDMENT.-- The chapter analysis for chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738A the following new item:

"1738B. Full faith and credit given to child support orders."

SEC. 414. LEGAL ASSISTANCE

Section 1010 of the Economic Opportunity Act of 1964 (42 U.S.C. 2996i) is amended by inserting after subsection (d) the following new subsection:

"(e) The Legal Services Corporation shall require by regulation that grantees provide adequate legal assistance for the purpose of enforcing child support orders. Adequate assistance shall be defined by the Corporation, but shall amount to not less than 10% of the grantee's annual funding unless the Corporation provides a waiver."

TITLE V -- FIREARMS

SEC. 501. SHORT TITLE.

This title may be cited as the "Firearms Violence Prevention Act of 1992".

SEC. 502. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) Section 924(c) of title 18, United States Code, is amended by inserting ", or semiautomatic firearm," after "short barreled shotgun".

(b) Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge."

SEC. 503. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "20".

SEC. 504. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING OR VIOLENT CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) Whoever, with the intent to engage in or to promote conduct that --

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section);

smuggles or knowingly brings into the United States a firearm, or attempts to so, shall be imprisoned for not more than ten years, fined under this title, or both."

SEC. 505. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS. -- Section 924 of title 18, United States Code, as amended by section 504, is amended by adding at the end the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 nor more than 10 years, fined in accordance with this title, or both."

(b) EXPLOSIVES. -- Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not less than two nor more than 10 years, fined in accordance with this title, or both."

SEC. 506. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN FIREARMS PURCHASE FROM LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended --

- (1) in paragraph (1)(B), by striking "(a)(6),"; and
- (2) in paragraph (2), by inserting "(a)(6)," after "subsection".

SEC. 507. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended --

- (1) by inserting "(1)" before "Any"; and
- (2) by adding at the end the following new paragraphs:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that--

- (A) the property has not been used or involved in a violation of law; or

(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed."

SEC. 508. ELIMINATION OF OUTMODED PAROLE LANGUAGE.

-- (a) Section 924 of title 18, United States Code, is amended

(1) in subsection (c)(1) by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1) by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

SEC. 509. ENHANCED PENALTIES FOR USE OF FIREARMS IN CONNECTION WITH COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25," after "United States,".

SEC. 510. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) ONE PRIOR CONVICTION. -- Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years" before the period.

(b) TWO PRIOR CONVICTIONS. -- Section 924 of title 18, United States Code, as amended by sections 504 and 505, is amended by adding at the end the following new subsection:

"(k)(1) Notwithstanding subsection (a)(2), any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and

not more than 20 years, or both.

"(2) Notwithstanding any other law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) with respect to the conviction under section 922(g)."

SEC. 511. RECEIPT OF FIREARMS BY NONRESIDENT.

-- Section 922(a) of title 18, United States Code, is amended --

- (1) in paragraph (7)(C) by striking "and";
- (2) in paragraph (8)(C) by striking the period and inserting "; and"; and
- (3) by adding at the end the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes."

SEC. 512. CONSPIRACY TO VIOLATE FEDERAL FIREARMS OR EXPLOSIVES LAWS.

(a) FIREARMS. -- Section 924 of title 18, United States Code, as amended by sections 504, 505, and 510, is amended by adding at the end the following new subsection:

"(1) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy."

(b) EXPLOSIVES. -- Section 844 of title 18, United States Code, as amended by section 505(b), is amended by adding at the end the following new subsection:

"(1) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy."

SEC. 513. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS. -- Section 924 of title 18, United States Code, as amended by sections 504, 505, 510, and 512, is amended by adding at the end the following new subsection:

"(m) Whoever steals any firearm from a licensed importer,

licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than 10 years, or both."

(b) EXPLOSIVES. -- Section 844 of title 18, United States Code, as amended by sections 505(b) and 512(b), is amended by adding at the end the following new subsection:

"(m) Whoever steals any explosive materials from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both."

SEC. 514. PROHIBITION AGAINST DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 515. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by sections 504, 505, 510, 512, and 513, is amended by adding at the end the following new subsection:

"(n) Whoever, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years."

SEC. 516. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

SEC. 517. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 518. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

Section 844(h) of title 18, United States Code, is amended

--

(1) by striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) by striking "used or carried" and inserting "used, carried, or possessed".

SEC. 519. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) DISPOSAL. -- In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof --

"(1) The Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) If the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell the firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed of pursuant to paragraphs (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review."

SEC. 520. DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony (as defined in section 924(e)(2)(B)) involving the threatened or actual use of a firearm or explosive or was for a serious drug offense (as defined in section 924(e)(2)(A)), the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights."

SEC. 521. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, is amended --

- (1) by striking "or" at the end of clause (i);
- (2) by adding "or" at the end of clause (ii); and
- (3) by adding at the end the following new clause:

"(iii) an offense under State law that, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) as that Act provided at the time of the offense, would have been punishable by a maximum term of 10 years or more;".

SEC. 522. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL ACT.

Section 924(e)(2) of title 18, United States Code, is amended --

- (1) by striking "and" at the end of subparagraph (B);
- (2) by striking the period at the end of subparagraph (C) and inserting "; and"; and
- (3) by adding at the end the following new subparagraph:

"(D) the term 'burglary' means a crime that --

"(i) consists of entering or remaining surreptitiously within a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year."

SEC. 523. REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF FIREARM IN VIOLATION OF RELEASE CONDITION.

Section 3583 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) **Mandatory revocation for possession of a firearm.** -- If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision."

TITLE VI -- DRUG TESTING

SEC. 601. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE.

(a) **DRUG TESTING PROGRAM.** -- (1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3608. **Drug testing of Federal offenders on post-conviction release.**

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine to be necessary to ensure the reliability and accuracy of the drug testing program. In each district where it is feasible to do so, the Chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title."

(2) The chapter analysis for chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3608. **Drug testing of Federal offenders on post-conviction release.**"

(b) DRUG TESTING CONDITION. --

(1) CONDITIONS OF PROBATION. -- Section 3563(a) of title 18, United States Code, is amended --

(A) in paragraph (2) by striking "and";

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. In addition, the court may decline to impose this condition for any individual defendant, if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant. A defendant who tests positive may be detained pending verification of a test result."

(2) DRUG TESTING FOR SUPERVISED RELEASE. -- Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4), the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4)."

(3) DRUG TESTING IN CONNECTION WITH PAROLE. -- Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4), the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4)."

(c) REVOCATION OF RELEASE. --

(1) REVOCATION OF PROBATION. -- Section 3565(a) of title 18, United States Code, is amended by inserting in the final sentence after "3563(a)(3)," the following: "or unlawfully uses a controlled substance or refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),".

(2) REVOCATION OF SUPERVISED RELEASE. -- Section 3583(g) of title 18, United States Code, is amended by inserting after "substance" the following: "or unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of supervised release,".

(3) REVOCATION OF PAROLE. -- Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

TITLE VII -- CRIMES AGAINST THE ELDERLY

SEC. 701. INCREASED PENALTIES FOR CRIMES AGAINST THE ELDERLY.

(a) SENTENCING GUIDELINES INCREASE FOR CRIMES AGAINST ELDERLY VICTIMS INVOLVING VIOLENCE OR FRAUD. -- The United States Sentencing Commission shall amend the sentencing guidelines to increase by at least four levels the offense level of any felony committed against a victim who was at least 65 years of age at the time of the offense and that involved the use or threatened or attempted use of force against the victim, or obtaining or attempting to obtain property of the victim by deception or misrepresentation.

(B) REVIEW OF GUIDELINES. -- The United States Sentencing Commission shall review the Sentencing Guidelines and make any other changes that are warranted to ensure that the objectives of sentencing are adequately achieved in relation to crimes against the elderly, including adequate deterrence, incapacitation, and punishment. In conducting the review required by this subsection, the Sentencing Commission shall consider the particular vulnerability of elderly persons to criminal victimization, and the severity of resulting physical and psychological injury and the difficulty of recovery for elderly crime victims.

VIOLENT CRIME CONTROL ACT OF 1992
SUMMARY AND DERIVATION OF PROVISIONS

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Introduction

This bill, the "Violent Crime Control Act of 1992," addresses several of the most significant current threats to public safety. It includes new tools for fighting sexual violence, anti-carjacking provisions, provisions for combatting domestic violence, anti-gang amendments, new laws for child support enforcement, increased penalties for crimes against the elderly, and new crimes and penalties for the criminal use of firearms.

Passage of this bill, in addition to the crime bill transmitted by the President to Congress last year, "The Comprehensive Violent Crime Control Act of 1991," will have a major impact on many of the most serious crime problems facing Americans.

The remainder of this analysis summarizes and explains the various provisions of the proposal. At the end of each section listed there is a description of the source of the provision. For a key to the various sources, turn to the last page.

TITLE I -- SEXUAL ASSAULT PREVENTION ACT

Sec. 100. Short title.

Designates title I of the bill as the "Sexual Assault Prevention Act of 1992". [Source: Uses the same name as the Molinari-Kyl bill. This title of the bill is based on titles I and III of the Molinari-Kyl bill. The provisions of title II of the Molinari-Kyl bill are generally incorporated in title IV of this bill.]

Subtitle A -- Penalties and Remedies

Sec. 101. Pre-trial detention in sex offense cases.

Amends definition of "crime of violence" in pre-trial release laws to include all felony sexual assault and sexual exploitation offenses. Effect is to make pre-trial detention consistently available in serious sex offense cases where government proves that no lesser measures can reasonably assure prevention of flight and safety of others. [Source: Molinari-Kyl bill.]

Sec. 102. Death penalty for murders committed by sex offenders.

Authorizes death penalty for murders committed by sex offenders. Includes all necessary standards and procedures for imposing, reviewing, and carrying out death sentences. [Source: Molinari-Kyl bill.]

Sec. 103. Increased penalties for recidivist sex offenders.

Doubles maximum penalty for recidivists convicted of sexual assaults. [Source: Passed by House in House crime bill. Passed by Senate in S. 1970 of 101st Congress. Included in Molinari-Kyl bill, original President's bill, and Thurmond-Gramm bill.]

Sec. 104. Increased penalties for sex offenses against victims below the age of 16.

Increases penalties for many sex offenses committed against victims below the age of 16 by broadening the definition of "sexual act" in relation to crimes committed against such victims. [Source: Passed by House in House crime bill. Passed by Senate in S. 1970 of 101st Congress. Included in Molinari-Kyl bill, President's bill, and Thurmond-Gramm bill.]

Sec. 105. Sentencing guidelines increase for sex offenses.

Directs Sentencing Commission to increase base offense level for the most serious sexual assault crimes by four levels. [Source: Molinari-Kyl bill.]

Sec. 106. HIV testing and penalty enhancement in sex offense cases.

Requires pre-trial testing and follow-up testing of persons accused of sexual assaults for the human immunodeficiency virus, with disclosure of test results to victim. Directs Sentencing Commission to enhance penalties for such offenders who risk infection of victims. [Source: Passed by House in House crime bill. Also in Molinari-Kyl bill, original President's bill, Thurmond-Gramm bill.]

Sec. 107. Payment of cost of HIV testing for victims in sex offense cases.

Requires government payment of cost of HIV testing for victims of sexual assaults. [Source: Molinari-Kyl bill. Similar provision passed by House in House crime bill, and included in President's bill and Thurmond-Gramm bill.]

Sec. 108. Increased penalties for drug distribution to pregnant women.

Up to twice normal maximum penalties and minimum penalty of at least one year imprisonment for drug distribution to pregnant women. [Source: Passed by House in House crime bill. Included in Molinari-Kyl bill, original President's bill, and Thurmond-Gramm bill.]

Sec. 109. Extension and strengthening of restitution.

Extends restitution statute to cover all sexual assault and child sexual exploitation cases, whether or not bodily injury results. Extends scope of restitution to include lost income, child care, transportation, and other necessary expenses to victim resulting from participation in investigation or prosecution or attendance at proceedings. Makes restitution mandatory in sexual assault and child sexual exploitation cases. [Source: Molinari-Kyl bill. Mostly based on earlier provisions passed by House in House crime bill, which are included in the original President's bill and the Thurmond-Gramm bill.]

Sec. 110. Enforcement of restitution orders through suspension of federal benefits.

Allows court to suspend eligibility for federal grants, contracts, loans, and licenses to enforce compliance with restitution orders. [Source: Passed by House in House crime

bill. Included in Molinari-Kyl bill, original President's bill, and Thurmond-Gramm bill.]

Sec. 111. Civil remedy for victims of sexual violence.

Provides civil cause of action against person who commits a sexual assault in violation of federal law. [Source: Molinari-Kyl bill.]

Subtitle B -- Rules of Evidence, Practice, and Procedure

Sec. 121. Admissibility of evidence of similar crimes in sex offense cases.

General rule of admissibility in sexual assault cases for evidence that defendant has committed offenses of the same type on other occasions. [Source: Molinari-Kyl bill, original President's bill, H.R. 3463 (sponsored by Rep. Sensenbrenner).]

Sec. 122. Extension and strengthening of rape victim shield law.

Extends scope of rape victim shield law, F.R.E. 412, to all criminal and civil sexual assault cases. (Current version of law only applies to chapter 109A cases.) Requires judge to articulate reasons if evidence of victim's sexual behavior is admitted under narrow circumstances allowed by the rule. Authorizes interlocutory appeal by government of judge's decision to admit such evidence. [Source: Molinari-Kyl bill.]

Sec. 123. Inadmissibility of evidence to show provocation or invitation by victim in sex offense cases.

Clarifies that "invitation" or "provocation" by victim of commission of offense -- as opposed to consent -- is not a defense in sexual assault cases, by barring admission of evidence for purpose of proving invitation or provocation. Does not limit admission of evidence legitimately relevant and otherwise admissible on issue of consent. [Source: Molinari-Kyl bill.]

Sec. 124. Right of the victim to fair treatment in legal proceedings.

Defines standards of attorney conduct to prevent abuse of victims and others in legal proceedings. Includes inter alia prohibition of attempting to discredit witness who is known to be telling the truth, and prohibition of delaying tactics by

lawyers. [Source: Molinari-Kyl bill.]

Sec. 125. Right of the victim to an impartial jury.

Protects victim's right to an impartial jury by equalizing at 6 the number of peremptory challenges accorded to the defense and the prosecution in felony cases. (Current law gives the defense 10 and the government 6.) [Source: Passed by House in House crime bill. Included in Molinari-Kyl bill and Thurmond-Gramm bill. A provision equalizing defense and prosecution peremptories was passed by the Senate in S. 1970 of the 101st Congress.]

Sec. 126. Victim's right of allocution in sentencing.

Gives victims of sexual assaults and other violent crimes the right to address the court concerning the sentence to be imposed. (Current law only gives this right to the convicted criminal.) [Source: Passed by House in House crime bill. Included in Molinari-Kyl bill, original President's bill, and Thurmond-Gramm bill.]

Subtitle C -- Safe Campuses

Sec. 131. National baseline study on campus sexual assault.

Directs Attorney General to carry out study of campus sexual assaults and pertinent legal and institutional policies, and to identify effective means of addressing the problem. [Source: Based on provision passed by House in House crime bill and incorporated in Thurmond-Gramm bill.]

Subtitle D -- Assistance to States and Localities

Sec. 141. Sexual violence grant program.

Establishes comprehensive new grant program to combat sexual violence, to be administered by the Department of Justice. No new bureaucracy would be required to carry out the program; existing components of the Justice Department -- Bureau of Justice Assistance (BJA) Office for Victims of Crime, Bureau of Justice Statistics, etc. -- would be utilized. The program includes both formula and discretionary grants. States seeking grants would be required to submit state plan to address sexual violence including identification of intended use of funds. [Source: Molinari-Kyl bill. Modeled on existing BJA Byrne Grant

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Program. Funding objectives of program encompass substantially all the funding and authorization objectives of programs relating to sexual violence proposed in pending bills.]

Sec. 142. Supplementary grants for states adopting effective laws relating to sexual violence.

Authorizes the Attorney General to increase by aggregate amount of up to \$1 million grants to states that adopt laws relating to sexual violence that exceed or are reasonably comparable to federal law, including changes in federal law adopted by the Violent Crime Control Act of 1992. [Source: Molinari-Kyl bill. Implements philosophy of recent Violent Crime Report, which encourages states to bring their laws up to the level of federal laws.]

Sec. 143. Removal of cap on crime victims fund.

Removes current cap of \$150 million on the crime victims fund. Effect is that federal funding at higher level may be available for victim compensation and victim assistance under program administered by the Office for Victims of Crime. [Source: Passed by House in House crime bill. Provision removing cap on fund in different formulation was also passed by Senate in the Senate crime bill.]

Subtitle E -- National Task Force on Violence against Women

Secs. 151-59. Establishment; duties of task force; membership; pay; executive director and staff; powers of task force; report; authorization of appropriations; termination.

Directs Attorney General to establish a task force to study and make recommendations for combating violence against women, with primary emphasis on law enforcement, law reform, and victim-oriented measures. The task force would be chaired by the Attorney General or the Attorney General's designee, and would have up to ten members appointed by the Attorney General. The task force would exist for a year and submit a report of its findings and recommendations to Congress. The Attorney General would have the option of extending the task force for up to an additional year. [Source: Molinari-Kyl bill.]

TITLE II -- GANGS AND JUVENILES

Sec. 201. Short title.

Designates title II of the bill as the "Anti-Gang and Youth Protection Act of 1992."

Sec. 202. Criminal street gangs offenses.

Creates new federal offense providing severe penalties for criminal activities of gangs. Also increases sentencing guidelines for gang-related offenses. [Source: New provision responsive to increased problem of gang violence and drug trafficking. More limited criminal street gangs offense passed by House in House crime bill and included in Thurmond-Gramm bill.]

Sec. 203. Crimes involving the use of minors as RICO predicates.

Adds to the list of predicate offenses for the Racketeer Influenced and Corrupt Organizations provisions all federal felonies involving the use of a minor in the commission of the offense. Effect of the section is to make RICO more consistently available for use against criminal enterprises that use minors in carrying out their criminal activities. [Source: New provision responsive to increased problem of use of minors in the commission of serious crimes.]

Sec. 204. Serious juvenile drug offenses as Armed Career Criminal Act predicates.

Adds as predicates for Armed Career Criminal purposes juvenile convictions for drug crimes carrying maximum terms of ten years or more. (The Armed Career Criminal provisions provide a mandatory fifteen year prison term for possession of a firearm by a person with at least three prior convictions for violent felonies or serious drug offenses.) The effect of the section is to make relevant, in adult sentencing of offenders under the Armed Career Criminal provisions, convictions of the offender as a juvenile for highly serious drug offenses. This produces closer conformity to the treatment of juvenile convictions for serious violent crimes, which are broadly included as Armed Career Criminal predicates under existing law. [Source: Original President's bill. A more limited provision including juvenile convictions for certain highly serious drug crimes as Armed Career Criminal predicates was passed by the Senate in the Senate crime bill and is included in the Thurmond-Gramm bill.]

Sec. 205. Adult prosecution of serious juvenile offenders.

Broadens adult prosecution of serious juvenile offenders, including a presumption in favor of adult prosecution for the leaders of gangs that engage in drug offenses or the use of firearms. [Passed by Senate in S. 1970 of the 101st Congress and included in the original President's bill. Overlapping provisions concerning adult prosecution of juvenile offenders also passed by Senate in Senate crime bill and included in Thurmond-Gramm bill.]

Sec. 206. Increased penalties for using minors in drug trafficking and drug distribution to minors.

Increases from one year to three years mandatory prison terms for second conviction of distributing drugs to minors or using minors in drug trafficking. Additional enhancement of penalties for using minors in trafficking near schools. [Source: Based on several provisions passed by Senate in Senate crime bill, and included in Thurmond-Gramm bill, which increase penalties for drug offenses involving exploitation or endangerment of minors.]

Sec. 207. Increased penalties for drug trafficking near schools.

Increases mandatory prison term for drug trafficking near schools from one year to three years on first conviction, and from three years to five years on second conviction. [Source: Passed by House in House crime bill and included in Thurmond-Gramm bill.]

Sec. 208. Increased penalties for drug trafficking near public housing.

Applies "drug-free zone" enhanced and mandatory penalties to trafficking near public housing. [Source: Passed by Senate in Senate crime bill; similar provision passed by House in House crime bill. Included in Thurmond-Gramm bill.]

Sec. 209. Increased penalties for travel act crimes involving violence and conspiracy to commit contract killings.

Increases penalties for "Travel Act" crimes that involve violence. (The "Travel Act" applies to cases with interstate elements involving various types of offenses that are likely to be committed as part of organized crime activities.) Increases the maximum penalty for conspiracy to commit murder for hire. [Source: Travel Act part passed by Senate in Senate crime bill

and by House in House crime bill. Murder conspiracy part passed by Senate in Senate crime bill. Both parts included in original President's bill and Thurmond-Gramm bill.]

Sec. 210. Offense of inducing minors or other persons to use steroids.

Makes it an offense for any physical trainer or adviser -- including coaches, managers, instructors, etc. -- to attempt to persuade or induce a person to unlawfully use or possess steroids. Punishable by up to five years of imprisonment if the person subjected to the persuasion or inducement is a minor, and by up to two years of imprisonment in other cases. [Source: Passed by House in House crime bill and included in the Thurmond-Gramm bill.]

Sec. 211. Amendments concerning records of crimes committed by juveniles.

Provides for retention and availability of records of federally prosecuted juveniles who are convicted of felony crimes of violence and drug trafficking crimes. (Current law limits such retention and availability of juvenile records to second convictions for such crimes.) Also authorizes retention and disclosure of juvenile records under circumstances permitted by the law of the state in which a federal juvenile delinquency proceeding takes place. Makes same rules apply to records of drug possession offenses that currently apply in relation to other offenses of comparable penalty grades (no special expungement rules). [Source: Original President's bill.]

Sec. 212. Addition of anti-gang Byrne grant funding objective.

Adds as funding objective in the general justice assistance program support of "law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs." [Source: Byrne grant program funding may currently be used for anti-gang programs on the basis of their relationship to other funding objectives which are not primarily or exclusively concerned with gangs, but there is no comprehensive anti-gang objective. This section provides a clear statutory basis for the application of federal justice assistance funding to all types of enforcement and prevention measures addressing gangs and the involvement of youth in gangs.]

TITLE III -- CARJACKING

Sec. 301. Short title.

Designates title III of the bill as the "Anti-carjacking Act of 1992."

Sec. 302. Carjacking offense.

New federal offense that covers obtaining or attempting to obtain motor vehicle by force or threat of force. Punishable by imprisonment up to twenty years. Authorizes higher penalties up to life imprisonment if the offense involves attempted murder, kidnapping, or infliction of serious bodily injury. Authorizes the death penalty if the victim is killed. [Source: New provision responsive to increasing menace of carjacking. More limited carjacking offense proposed in H.R. 4542.]

Sec. 303. Addition of carjacking prevention as Byrne grant funding objective.

Adds as objective in the general justice assistance program support of "task forces, teams, and programs that target or take preventive measures in relation to the robbery or theft of motor vehicles." Effect is to permit the use of funding received under the program for anti-carjacking efforts. [Source: New provision responsive to increasing menace of carjacking.]

Sec. 304. Task force on carjacking prevention.

Directs Attorney General and Secretary of Transportation to convene task force to examine desirability and feasibility of including disabling devices or other security devices in motor vehicles to prevent or inhibit the robbery and theft of motor vehicles. [Source: New provision responsive to increasing menace of carjacking.]

TITLE IV -- DOMESTIC VIOLENCE AND OFFENSES AGAINST THE
FAMILY

Subtitle A -- Domestic Violence and Stalking

Sec. 401. Short title.

Designates subtitle A of title IV of the bill as the "Safe Homes and Streets Act of 1992." [Source: Name reflects focus of subtitle on domestic violence and stalking.]

Sec. 402. Interstate travel to commit spouse abuse or to violate protective order; interstate stalking.

Creates offense of engaging in spouse abuse or violating protective order, with federal jurisdiction if interstate travel is involved. Also covers stalking cases involving interstate travel. [Source: Molinari-Kyl bill.]

Sec. 403. Full faith and credit for protective orders.

Requires full faith and credit and enforcement in all states of protective orders issued by state courts. [Source: Molinari-Kyl bill.]

Sec. 404. Presumption against child custody for spouse abusers.

States sense of Congress that states should recognize a presumption against awarding child custody to a physically abusive spouse. [Source: Molinari-Kyl bill.]

Sec. 405. Report on battered women's syndrome.

Directs Attorney General to carry out study of battered women's syndrome and the role it has played in criminal trials. [Source: Molinari-Kyl bill. Based on provision passed by Senate in Senate crime bill and incorporated in Thurmond-Gramm bill.]

Sec. 406. Report on confidentiality of addresses for victims of domestic violence.

Directs Attorney General to carry out study of (1) means by which abusers can find out addresses or locations of estranged or former spouses, and (2) the feasibility of creating effective means of protecting the confidentiality of addresses and

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locations of victims of abuse while preserving access to this information for legitimate purposes. [Source: Molinari-Kyl bill.]

Sec. 407. Report on recordkeeping relating to domestic violence.

Directs Attorney General to carry out study and submit to Congress report on recordkeeping of criminal complaints involving domestic violence. [Source: Molinari-Kyl bill.]

Sec. 408. Anti-stalking legislation.

Directs Attorney General to evaluate state anti-stalking laws and to prepare model anti-stalking legislation. [Source: Molinari-Kyl bill, incorporating proposal of S. 2922 (sponsored by Senator Cohen)].

Sec. 409. Domestic violence and family support grant program.

Establishes grant program to combat domestic violence -- parallel to sexual violence grant program established by section 141 of the bill -- to be administered by Department of Justice. The program would focus primarily on domestic violence in the ordinary sense, but the funding objectives would also include other criminal justice issues that particularly affect women -- e.g., "stalking" -- and enforcement of child support obligations. States seeking grants would be required to submit state plan to address domestic violence, etc., including identification of intended use of funds. [Source: Molinari-Kyl bill. Modeled on BJA Byrne Grant Program. Funding objectives of program encompass substantially all the funding and authorization objectives of programs relating to domestic violence in pending bills.]

Subtitle B -- Child Support Enforcement

Sec. 411. Short title.

Designates subtitle B of title IV of the bill as the "Child Support Enforcement Act of 1992."

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Sec. 412. Offense of non-compliance with child support obligations in interstate cases.

Creates federal offense of refusing to pay child support obligations in certain circumstances where the defendant resides in a different state from the child or has left a state to evade

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the support obligation. [Source: Combines Hyde and Schumer versions of H.R. 1241.]

Sec. 413. Interstate enforcement of child support orders.

Requires courts and other authorities in all states to enforce child support orders issued in any state. Effect is to prevent persons from evading child support obligations by leaving the state, and to eliminate obstacles to child support enforcement resulting from modification of orders and conflicting orders in different states. [Source: H.R. 5304.]

Sec. 414. Legal assistance

Provides that Legal Services Corporation grantees must devote adequate resources to enforcement of child support orders. Amount committed to child support enforcement must include at least 10% of grantee's annual funding, unless the Corporation provides a waiver. [Source: New provision responsive to problems of custodial parents who cannot bear costs of child support enforcement.]

TITLE V -- FIREARMS

Sec. 501. Short title.

Designates title V of the bill as the "Firearms Violence Prevention Act of 1992."

Sec. 502. Enhanced penalty for use of semiautomatic firearm during a crime of violence or drug trafficking offense.

Increases mandatory prison term for using semiautomatic firearm in a federal crime of violence or drug trafficking crime from five years to ten. [Source: Passed by House in House crime bill. Included in original President's bill.]

Sec. 503. Increased penalty for second offense of using an explosive to commit a felony.

Increases mandatory prison term from ten years to twenty for second conviction for using fire or explosive in the commission of a felony. This conforms the required penalty for a second conviction of criminal use of fire or explosives to the corresponding penalty for a second conviction of criminal use of a firearm. [Source: Passed by House in House crime bill and

included in Thurmond-Gramm bill. Included in original President's bill.]

Sec. 504. Smuggling firearms in aid of drug trafficking or violent crimes.

New federal offense, punishable by up to ten years of imprisonment, that covers smuggling firearms into the United States in furtherance of violent crimes or drug crimes. [Source: Passed by House in House crime bill and by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 505. Prohibition against theft of firearms or explosives.

Creates new federal offenses of stealing firearms or explosives, punishable by between two and ten years of imprisonment. [Source: Passed by House in House crime bill and by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 506. Increased penalty for knowingly false, material statement in firearms purchase from licensed dealer.

Increases from five years to ten years the maximum penalty for a person who knowingly makes a false, material statement to a firearms dealer bearing on the lawfulness of selling the person a firearm. [Source: Passed by House in House crime bill and by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 507. Summary destruction of explosives subject to forfeiture.

Permits summary destruction of explosives subject to forfeiture if the explosives cannot be safely moved or stored. [Source: Passed by House in House crime bill and by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 508. Elimination of outmoded parole language.

Technical amendment eliminating "no-parole" language in firearms laws which is unnecessary and obsolete because parole has been abolished in all federal cases by the Sentencing Reform Act of 1984. [Source: Passed by House in House crime bill and by Senate in Senate crime bill. Included in original President's

bill and Thurmond-Gramm bill.]

Sec. 509. Enhanced penalties for use of firearms in connection with counterfeiting or forgery.

Adds felonies involving counterfeiting or forgery to the class of offenses subject to a mandatory prison term of five years if firearms are used or possessed in connection with the offense. This provision is responsive to the frequent use of armed guards and possession of firearms by criminals involved in conducting counterfeiting operations, the transfer of large quantities of counterfeit money, or motor vehicle "chop shop" operations that involve altering or removing motor vehicle identification numbers. [Source: Passed by House in House crime bill and by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 510. Mandatory penalties for firearms possession by violent felons and serious drug offenders.

Requires five year prison term for possession of firearm by person who has a prior conviction for a violent felony or serious drug offense. Requires prison term of between ten and twenty years for possession of firearm by person with two prior convictions for violent felonies or serious drug crimes. (Current law provides mandatory prison term of fifteen years for firearms possession by person with three prior convictions for violent felonies or serious drug offenses, but does not have any mandatory terms for firearms possession by person with one or two prior convictions of this type.) [Source: Passed by House in House crime bill and in part by Senate in Senate crime bill. Included in Thurmond-Gramm bill and in part in original President's bill.]

Sec. 511. Receipt of firearms by nonresident.

Closes loophole by barring receipt of firearm by person who does not reside in any state (unless the receipt is for lawful sporting purposes). [Source: Passed by Senate in Senate crime bill and included in Thurmond-Gramm bill. Similar provision from original President's bill passed by House in House crime bill.]

Sec. 512. Conspiracy to violate Federal firearms or explosives laws.

Provides penalties for conspiracies to violate federal firearms laws which are equal to the penalties provided for the offenses which are the objects of the conspiracy. [Source:

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Passed by House in House crime bill and by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 513. Theft of firearms or explosives from licensee.

Creates offenses of stealing firearms or explosives from dealers, punishable by up to ten years of imprisonment. [Source: Passed by House in House crime bill and by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 514. Prohibition against disposing of explosives to prohibited persons.

Prohibits distribution by anyone of explosives to convicted felons and other legally disqualified persons. Current law only prohibits such distribution by dealers. [Source: Passed by House in House crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 515. Increased penalty for interstate gun trafficking.

Offense covering interstate travel to obtain firearms for use in unlawful firearms trafficking, punishable by up to ten years of imprisonment. [Source: Passed by House in House crime bill. Included in Thurmond-Gramm bill.]

Sec. 516. Prohibitions against transactions involving stolen firearms which have moved in interstate or foreign commerce.

Broadened offense covering possession or dealing in firearms which a person knows or has reasonable cause to believe are stolen. [Source: Passed by House in House crime bill and in part by Senate in Senate crime bill. Included in Thurmond-Gramm bill and in part in original President's bill.]

Sec. 517. Possession of explosives by felons and others.

Clear prohibition of possession of explosives by felons and other legally disqualified persons. (Current law only prohibits shipping, transportation, or receiving of explosives by such persons.) [Source: Passed by House in House crime bill and by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

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Sec. 518. Possession of an explosive during the commission of a felony.

Clear prohibition of using, carrying, or otherwise possessing explosive in connection with commission of a felony. (Current law only prohibits using explosive to commit felony and carrying explosive during felony.) [Source: Passed by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 519. Disposition of forfeited firearms.

Allows the Treasury Department to retain forfeited firearms for government use, or to sell to the public certain forfeited firearms of unusual value or interest, rather than destroying such firearms. [Source: Passed by Senate in Senate crime bill. Included in original President's bill and Thurmond-Gramm bill.]

Sec. 520. Definition of conviction.

Provides that convictions for purposes of federal firearms laws include all convictions for violent felonies involving firearms and serious drug offenses, notwithstanding any state pardon, setting aside, expunction, or restoration of civil rights. Effect is that offenders in these categories would have to apply to federal authorities for restoration of firearms rights. [Source: Passed by Senate in Senate crime bill. Included in original President's bill.]

Sec. 521. Definition of serious drug offense.

Provides that "serious drug offense" for purposes of Armed Career Criminal provision includes state offenses that would have been punishable by imprisonment for ten years or more if prosecuted under federal law. [Source: Passed by Senate in Senate crime bill. Included in Thurmond-Gramm bill.]

Sec. 522. Definition of burglary under the Armed Career Criminal Act.

Provides statutory definition of "burglary" for purposes of the Armed Career Criminal provisions. [Source: Passed by Senate in Senate crime bill. Included in Thurmond-Gramm bill.]

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Sec. 523. Revocation of supervised release for possession of firearm in violation of release condition.

Mandates revocation of release for convicted offenders on supervised release who possess firearms in violation of release condition imposed by the court. [Source: Included in original President's bill and passed by Senate in Senate crime bill. Provision with same effect passed by House in House crime bill and included in Thurmond-Gramm bill.]

TITLE VI -- DRUG TESTING

Sec. 601. Drug testing of federal offenders on post-conviction release.

Generally requires drug-testing of federal offenders on probation, parole, or post-imprisonment supervised release. [Source: Passed by the House in the House crime bill, and included in the Thurmond-Gramm bill. Based on provisions of the original President's bill.]

TITLE VII -- CRIMES AGAINST THE ELDERLY

Sec. 701. Increased penalties for crimes against the elderly.

Requires amendment to sentencing guidelines increasing by at least four levels the offense level for felonies committed against elderly victims involving violence or fraud. Also requires general review of sentencing guidelines to ensure adequacy of penalties for crimes against the elderly. [Source: Suggested by provision increasing penalties for violent felonies against elderly victims which was passed by the Senate in the Senate crime bill and included in the Thurmond-Gramm bill.]

KEY:

"Original President's bill" = S. 635 & H.R. 1400 (transmitted to Congress by the President in March of 1991).

"Thurmond-Gramm bill" = S. 2305 (includes the pro-law enforcement measures passed by either House of Congress in the general crime bills passed in 1991).

"House crime bill" = the original version of H.R. 3371 passed by the House of Representatives in 1991.

"Senate crime bill" = S. 1241 as passed by the Senate in 1991.

"Molinari-Kyl bill" = H.R. 5960 (most provisions of this bill were originally introduced in an earlier Dole-Molinari bill, S. 472 and H.R. 1149, and have been before Congress since February of 1991).

