

107TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. DASCHLE (for himself, Mr. LOTT, Mr. LEAHY, Mr. HATCH, Mr. GRAHAM, Mr. SHELBY, and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Uniting and Strengthening America Act” or the “USA
6 Act of 2001”.

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Construction; severability.

TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

- Sec. 101. Counterterrorism fund.
- Sec. 102. Sense of Congress condemning discrimination against Arab and Muslim Americans.
- Sec. 103. Increased funding for the technical support center at the Federal Bureau of Investigation.
- Sec. 104. Requests for military assistance to enforce prohibition in certain emergencies.
- Sec. 105. Expansion of national electronic crime task force initiative.
- Sec. 106. Presidential authority.

TITLE II—ENHANCED SURVEILLANCE PROCEDURES

- Sec. 201. Authority to intercept wire, oral, and electronic communications relating to terrorism.
- Sec. 202. Authority to intercept wire, oral, and electronic communications relating to computer fraud and abuse offenses.
- Sec. 203. Authority to share criminal investigative information.
- Sec. 204. Clarification of intelligence exceptions from limitations on interception and disclosure of wire, oral, and electronic communications.
- Sec. 205. Employment of translators by the Federal Bureau of Investigation.
- Sec. 206. Roving surveillance authority under the Foreign Intelligence Surveillance Act of 1978.
- Sec. 207. Duration of FISA surveillance of non-United States persons who are agents of a foreign power.
- Sec. 208. Designation of judges.
- Sec. 209. Seizure of voice-mail messages pursuant to warrants.
- Sec. 210. Scope of subpoenas for records of electronic communications.
- Sec. 211. Clarification of scope.
- Sec. 212. Emergency disclosure of electronic communications to protect life and limb.
- Sec. 213. Authority for delaying notice of the execution of a warrant.
- Sec. 214. Pen register and trap and trace authority under FISA.
- Sec. 215. Access to records and other items under the Foreign Intelligence Surveillance Act.
- Sec. 216. Modification of authorities relating to use of pen registers and trap and trace devices.
- Sec. 217. Interception of computer trespasser communications.
- Sec. 218. Foreign intelligence information.
- Sec. 219. Single-jurisdiction search warrants for terrorism.
- Sec. 220. Nationwide service of search warrants for electronic evidence.
- Sec. 221. Trade sanctions.
- Sec. 222. Assistance to law enforcement agencies.

TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT
AND ANTI-TERRORIST FINANCING ACT OF 2001

- Sec. 301. Short title.
- Sec. 302. Findings and purposes.
- Sec. 303. 4-Year congressional review-expedited consideration.

SUBTITLE A—INTERNATIONAL COUNTER MONEY LAUNDERING AND
RELATED MEASURES

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- Sec. 311. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.
- Sec. 312. Special due diligence for correspondent accounts and private banking accounts.
- Sec. 313. Prohibition on United States correspondent accounts with foreign shell banks.
- Sec. 314. Cooperative efforts to deter money laundering.
- Sec. 315. Inclusion of foreign corruption offenses as money laundering crimes.
- Sec. 316. Anti-terrorist forfeiture protection.
- Sec. 317. Long-arm jurisdiction over foreign money launderers.
- Sec. 318. Laundering money through a foreign bank.
- Sec. 319. Forfeiture of funds in United States interbank accounts.
- Sec. 320. Proceeds of foreign crimes.
- Sec. 321. Exclusion of aliens involved in money laundering.
- Sec. 322. Corporation represented by a fugitive.
- Sec. 323. Enforcement of foreign judgments.
- Sec. 324. Increase in civil and criminal penalties for money laundering.
- Sec. 325. Report and recommendation.
- Sec. 326. Report on effectiveness.
- Sec. 327. Concentration accounts at financial institutions.

SUBTITLE B—CURRENCY TRANSACTION REPORTING AMENDMENTS AND
RELATED IMPROVEMENTS

- Sec. 331. Amendments relating to reporting of suspicious activities.
- Sec. 332. Anti-money laundering programs.
- Sec. 333. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders.
- Sec. 334. Anti-money laundering strategy.
- Sec. 335. Authorization to include suspicions of illegal activity in written employment references.
- Sec. 336. Bank Secrecy Act advisory group.
- Sec. 337. Agency reports on reconciling penalty amounts.
- Sec. 338. Reporting of suspicious activities by securities brokers and dealers.
- Sec. 339. Special report on administration of Bank Secrecy provisions.
- Sec. 340. Bank Secrecy provisions and anti-terrorist activities of United States intelligence agencies.
- Sec. 341. Reporting of suspicious activities by hawala and other underground banking systems.
- Sec. 342. Use of Authority of the United States Executive Directors.

SUBTITLE D—CURRENCY CRIMES

- Sec. 351. Bulk cash smuggling.

SUBTITLE E—ANTICORRUPTION MEASURES

- Sec. 361. Corruption of foreign governments and ruling elites.
- Sec. 362. Support for the financial action task force on money laundering.
- Sec. 363. Terrorist funding through money laundering.

TITLE IV—PROTECTING THE BORDER

Subtitle A—Protecting the Northern Border

- Sec. 401. Ensuring adequate personnel on the northern border.

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- Sec. 402. Northern border personnel.
- Sec. 403. Access by the Department of State and the INS to certain identifying information in the criminal history records of visa applicants and applicants for admission to the United States.
- Sec. 404. Limited authority to pay overtime.
- Sec. 405. Report on the integrated automated fingerprint identification system for points of entry and overseas consular posts.

Subtitle B—Enhanced Immigration Provisions

- Sec. 411. Definitions relating to terrorism.
- Sec. 412. Mandatory detention of suspected terrorists; habeas corpus; judicial review.
- Sec. 413. Multilateral cooperation against terrorists.

TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM

- Sec. 501. Professional Standards for Government Attorneys Act of 2001.
- Sec. 502. Attorney General's authority to pay rewards to combat terrorism.
- Sec. 503. Secretary of State's authority to pay rewards.
- Sec. 504. DNA identification of terrorists and other violent offenders.
- Sec. 505. Coordination with law enforcement.
- Sec. 506. Miscellaneous national security authorities.
- Sec. 507. Extension of Secret Service jurisdiction.
- Sec. 508. Disclosure of educational records.
- Sec. 509. Disclosure of information from NCES surveys.

TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

Subtitle A—Aid to Families of Public Safety Officers

- Sec. 611. Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack.
- Sec. 612. Technical correction with respect to expedited payments for heroic public safety officers.
- Sec. 613. Public Safety Officers Benefit Program payment increase.
- Sec. 614. Office of justice programs.

Subtitle B—Amendments to the Victims of Crime Act of 1984

- Sec. 621. Crime Victims Fund.
- Sec. 622. Crime victim compensation.
- Sec. 623. Crime victim assistance.
- Sec. 624. Victims of terrorism.

TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION

- Sec. 711. Expansion of regional information sharing system to facilitate Federal-State-local law enforcement response related to terrorist attacks.

TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM

- Sec. 801. Terrorist attacks and other acts of violence against mass transportation systems.
- Sec. 802. Expansion of the biological weapons statute.
- Sec. 803. Definition of domestic terrorism.
- Sec. 804. Prohibition against harboring terrorists.
- Sec. 805. Jurisdiction over crimes committed at U.S. facilities abroad.
- Sec. 806. Material support for terrorism.
- Sec. 807. Assets of terrorist organizations.
- Sec. 808. Technical clarification relating to provision of material support to terrorism.
- Sec. 809. Definition of Federal crime of terrorism.
- Sec. 810. No statute of limitation for certain terrorism offenses.
- Sec. 811. Alternate maximum penalties for terrorism offenses.
- Sec. 812. Penalties for terrorist conspiracies.
- Sec. 813. Post-release supervision of terrorists.
- Sec. 814. Inclusion of acts of terrorism as racketeering activity.
- Sec. 815. Deterrence and prevention of cyberterrorism.
- Sec. 816. Additional defense to civil actions relating to preserving records in response to government requests.
- Sec. 817. Development and support of cybersecurity forensic capabilities.

TITLE IX—IMPROVED INTELLIGENCE

- Sec. 901. Responsibilities of Director of Central Intelligence regarding foreign intelligence collected under Foreign Intelligence Surveillance Act of 1978.
- Sec. 902. Inclusion of international terrorist activities within scope of foreign intelligence under National Security Act of 1947.
- Sec. 903. Sense of Congress on the establishment and maintenance of intelligence relationships to acquire information on terrorists and terrorist organizations.
- Sec. 904. Temporary authority to defer submittal to Congress of reports on intelligence and intelligence-related matters.
- Sec. 905. Disclosure to director of central intelligence of foreign intelligence-related information with respect to criminal investigations.
- Sec. 906. Foreign terrorist asset tracking center.
- Sec. 907. National virtual translation center.
- Sec. 908. Training of government officials regarding identification and use of foreign intelligence.

1 **SEC. 2. CONSTRUCTION; SEVERABILITY.**

2 Any provision of this Act held to be invalid or unen-

3 forceable by its terms, or as applied to any person or cir-

4 cumstance, shall be construed so as to give it the max-

5 imum effect permitted by law, unless such holding shall

6 be one of utter invalidity or unenforceability, in which

7 event such provision shall be deemed severable from this

1 Act and shall not affect the remainder thereof or the appli-
2 cation of such provision to other persons not similarly situ-
3 ated or to other, dissimilar circumstances.

4 **TITLE I—ENHANCING DOMESTIC**
5 **SECURITY AGAINST TERRORISM**

6 **SEC. 101. COUNTERTERRORISM FUND.**

7 (a) ESTABLISHMENT; AVAILABILITY.—There is here-
8 by established in the Treasury of the United States a sepa-
9 rate fund to be known as the “Counterterrorism Fund”,
10 amounts in which shall remain available without fiscal
11 year limitation—

12 (1) to reimburse any Department of Justice
13 component for any costs incurred in connection
14 with—

15 (A) reestablishing the operational capa-
16 bility of an office or facility that has been dam-
17 aged or destroyed as the result of any domestic
18 or international terrorism incident;

19 (B) providing support to counter, inves-
20 tigate, or prosecute domestic or international
21 terrorism, including, without limitation, paying
22 rewards in connection with these activities; and

23 (C) conducting terrorism threat assess-
24 ments of Federal agencies and their facilities;
25 and

1 (2) to reimburse any department or agency of
2 the Federal Government for any costs incurred in
3 connection with detaining in foreign countries indi-
4 viduals accused of acts of terrorism that violate the
5 laws of the United States.

6 (b) NO EFFECT ON PRIOR APPROPRIATIONS.—Sub-
7 section (a) shall not be construed to affect the amount
8 or availability of any appropriation to the
9 Counterterrorism Fund made before the date of enact-
10 ment of this Act.

11 **SEC. 102. SENSE OF CONGRESS CONDEMNING DISCRIMINA-**
12 **TION AGAINST ARAB AND MUSLIM AMERI-**
13 **CANS.**

14 (a) FINDINGS.—Congress makes the following find-
15 ings:

16 (1) Arab Americans, Muslim Americans, and
17 Americans from South Asia play a vital role in our
18 Nation and are entitled to nothing less than the full
19 rights of every American.

20 (2) The acts of violence that have been taken
21 against Arab and Muslim Americans since the Sep-
22 tember 11, 2001, attacks against the United States
23 should be and are condemned by all Americans who
24 value freedom.

1 (3) The concept of individual responsibility for
2 wrongdoing is sacrosanct in American society, and
3 applies equally to all religious, racial, and ethnic
4 groups.

5 (4) When American citizens commit acts of vio-
6 lence against those who are, or are perceived to be,
7 of Arab or Muslim descent, they should be punished
8 to the full extent of the law.

9 (5) Muslim Americans have become so fearful
10 of harassment that many Muslim women are chang-
11 ing the way they dress to avoid becoming targets.

12 (6) Many Arab Americans and Muslim Ameri-
13 cans have acted heroically during the attacks on the
14 United States, including Mohammed Salman
15 Hamdani, a 23-year-old New Yorker of Pakistani
16 descent, who is believed to have gone to the World
17 Trade Center to offer rescue assistance and is now
18 missing.

19 (b) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that—

21 (1) the civil rights and civil liberties of all
22 Americans, including Arab Americans, Muslim
23 Americans, and Americans from South Asia, must
24 be protected, and that every effort must be taken to
25 preserve their safety;

1 (2) any acts of violence or discrimination
2 against any Americans be condemned; and

3 (3) the Nation is called upon to recognize the
4 patriotism of fellow citizens from all ethnic, racial,
5 and religious backgrounds.

6 **SEC. 103. INCREASED FUNDING FOR THE TECHNICAL SUP-**
7 **PORT CENTER AT THE FEDERAL BUREAU OF**
8 **INVESTIGATION.**

9 There are authorized to be appropriated for the Tech-
10 nical Support Center established in section 811 of the
11 Antiterrorism and Effective Death Penalty Act of 1996
12 (Public Law 104–132) to help meet the demands for ac-
13 tivities to combat terrorism and support and enhance the
14 technical support and tactical operations of the FBI,
15 \$200,000,000 for each of the fiscal years 2002, 2003, and
16 2004.

17 **SEC. 104. REQUESTS FOR MILITARY ASSISTANCE TO EN-**
18 **FORCE PROHIBITION IN CERTAIN EMER-**
19 **GENCIES.**

20 Section 2332e of title 18, United States Code, is
21 amended—

22 (1) by striking “2332e” and inserting “2332a”;

23 and

24 (2) by striking “chemical”.

1 **SEC. 105. EXPANSION OF NATIONAL ELECTRONIC CRIME**
2 **TASK FORCE INITIATIVE.**

3 The Director of the United States Secret Service
4 shall take appropriate actions to develop a national net-
5 work of electronic crime task forces, based on the New
6 York Electronic Crimes Task Force model, throughout the
7 United States, for the purpose of preventing, detecting,
8 and investigating various forms of electronic crimes, in-
9 cluding potential terrorist attacks against critical infra-
10 structure and financial payment systems.

11 **SEC. 106. PRESIDENTIAL AUTHORITY.**

12 Section 203 of the International Emergency Powers
13 Act (50 U.S.C. 1702) is amended—

14 (1) in subsection (a)(1)—

15 (A) at the end of subparagraph (A) (flush
16 to that subparagraph), by striking “; and” and
17 inserting a comma and the following:

18 “by any person, or with respect to any property,
19 subject to the jurisdiction of the United States;”;

20 (B) in subparagraph (B)—

21 (i) by inserting “, block during the
22 pendency of an investigation” after “inves-
23 tigate”; and

24 (ii) by striking “interest;” and insert-
25 ing “interest by any person, or with re-

1 spect to any property, subject to the juris-
2 diction of the United States; and”]; and
3 (C) by inserting at the end the following:
4 “(C) when the United States is engaged in
5 armed hostilities or has been attacked by a for-
6 eign country or foreign nationals, confiscate any
7 property, subject to the jurisdiction of the
8 United States, of any foreign person, foreign
9 organization, or foreign country that he deter-
10 mines has planned, authorized, aided, or en-
11 gaged in such hostilities or attacks against the
12 United States; and all right, title, and interest
13 in any property so confiscated shall vest, when,
14 as, and upon the terms directed by the Presi-
15 dent, in such agency or person as the President
16 may designate from time to time, and upon
17 such terms and conditions as the President may
18 prescribe, such interest or property shall be
19 held, used, administered, liquidated, sold, or
20 otherwise dealt with in the interest of and for
21 the benefit of the United States, and such des-
22 ignated agency or person may perform any and
23 all acts incident to the accomplishment or fur-
24 therance of these purposes.”]; and
25 (2) by inserting at the end the following:

1 “(c) CLASSIFIED INFORMATION.—In any judicial re-
2 view of a determination made under this section, if the
3 determination was based on classified information (as de-
4 fined in section 1(a) of the Classified Information Proce-
5 dures Act) such information may be submitted to the re-
6 viewing court ex parte and in camera. This subsection does
7 not confer or imply any right to judicial review.”.

8 **TITLE II—ENHANCED**
9 **SURVEILLANCE PROCEDURES**

10 **SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND**
11 **ELECTRONIC COMMUNICATIONS RELATING**
12 **TO TERRORISM.**

13 Section 2516(1) of title 18, United States Code, is
14 amended—

15 (1) by redesignating paragraph (p), as so redesi-
16 gnated by section 434(2) of the Antiterrorism and
17 Effective Death Penalty Act of 1996 (Public Law
18 104–132; 110 Stat. 1274), as paragraph (r); and

19 (2) by inserting after paragraph (p), as so re-
20 designating by section 201(3) of the Illegal Immigra-
21 tion Reform and Immigrant Responsibility Act of
22 1996 (division C of Public Law 104–208; 110 Stat.
23 3009–565), the following new paragraph:

24 “(q) any criminal violation of section 229 (relating
25 to chemical weapons); or sections 2332, 2332a, 2332b,

1 2332d, 2339A, or 2339B of this title (relating to ter-
2 rorism); or”.

3 **SEC. 202. AUTHORITY TO INTERCEPT WIRE, ORAL, AND**
4 **ELECTRONIC COMMUNICATIONS RELATING**
5 **TO COMPUTER FRAUD AND ABUSE OF-**
6 **FENSES.**

7 Section 2516(1)(e) of title 18, United States Code,
8 is amended by striking “and section 1341 (relating to mail
9 fraud),” and inserting “section 1341 (relating to mail
10 fraud), a felony violation of section 1030 (relating to com-
11 puter fraud and abuse),”.

12 **SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE**
13 **INFORMATION.**

14 (a) **AUTHORITY TO SHARE GRAND JURY INFORMA-**
15 **TION.—**

16 (1) **IN GENERAL.—**Rule 6(e)(3)(C) of the Fed-
17 eral Rules of Criminal Procedure is amended—

18 (A) in clause (iii), by striking “or” at the
19 end;

20 (B) in clause (iv), by striking the period at
21 the end and inserting “; or”; and

22 (C) by inserting at the end the following:

23 “(v) when the matters involve foreign
24 intelligence or counterintelligence (as de-
25 fined in section 3 of the National Security

1 Act of 1947 (50 U.S.C. 401a)), or foreign
2 intelligence information (as defined in Rule
3 6(e)(3)(C)(ii)) to any other Federal law en-
4 forcement, intelligence, protective, immi-
5 gration, national defense, or national secu-
6 rity official in order to assist the official
7 receiving that information in the perform-
8 ance of his official duties.

9 Any Federal official who receives information
10 pursuant to clause (v) may use that information
11 only as necessary in the conduct of that per-
12 son's official duties subject to any limitations
13 on the unauthorized disclosure of such informa-
14 tion.”.

15 (2) DEFINITION.—Rule 6(e)(3)(C) of the Fed-
16 eral Rules of Criminal Procedure, as amended by
17 paragraph (1), is amended by—

18 (A) inserting “(i)” after “(C)”;

19 (B) redesignating clauses (i) through (v)
20 as subclauses (I) through (IV), respectively; and

21 (C) inserting at the end the following:

22 “(ii) In this subparagraph, the term ‘for-
23 eign intelligence information’ means—

24 “(I) information, whether or not con-
25 cerning a United States person, that re-

1 lates to the ability of the United States to
2 protect against—

3 “(aa) actual or potential attack
4 or other grave hostile acts of a foreign
5 power or an agent of a foreign power;

6 “(bb) sabotage or international
7 terrorism by a foreign power or an
8 agent of a foreign power; or

9 “(cc) clandestine intelligence ac-
10 tivities by an intelligence service or
11 network of a foreign power or by an
12 agent of a foreign power; or

13 “(II) information, whether or not con-
14 cerning a United States person, with re-
15 spect to a foreign power or foreign terri-
16 tory that relates to—

17 “(aa) the national defense or the
18 security of the United States; or

19 “(bb) the conduct of the foreign
20 affairs of the United States.”.

21 (b) AUTHORITY TO SHARE ELECTRONIC, WIRE, AND

22 ORAL INTERCEPTION INFORMATION.—

23 (1) LAW ENFORCEMENT.—Section 2517 of title
24 18, United States Code, is amended by inserting at
25 the end the following:

1 “(6) Any investigative or law enforcement officer, or
2 attorney for the Government, who by any means author-
3 ized by this chapter, has obtained knowledge of the con-
4 tents of any wire, oral, or electronic communication, or
5 evidence derived therefrom, may disclose such contents to
6 any other Federal law enforcement, intelligence, protec-
7 tive, immigration, national defense, or national security of-
8 ficial to the extent that such contents include foreign intel-
9 ligence or counterintelligence (as defined in section 3 of
10 the National Security Act of 1947 (50 U.S.C. 401a)), or
11 foreign intelligence information (as defined in subsection
12 (19) of section 2510 of this title), to assist the official
13 who is to receive that information in the performance of
14 his official duties. Any Federal official who receives infor-
15 mation pursuant to this provision may use that informa-
16 tion only as necessary in the conduct of that person’s offi-
17 cial duties subject to any limitations on the unauthorized
18 disclosure of such information.”.

19 (2) DEFINITION.—Section 2510 of title 18,
20 United States Code, is amended by—

21 (A) in paragraph (17), by striking “and”
22 after the semicolon;

23 (B) in paragraph (18), by striking the pe-
24 riod and inserting “; and”; and

25 (C) by inserting at the end the following:

1 “(19) ‘foreign intelligence information’ means—

2 “(A) information, whether or not con-
3 cerning a United States person, that relates to
4 the ability of the United States to protect
5 against—

6 “(i) actual or potential attack or other
7 grave hostile acts of a foreign power or an
8 agent of a foreign power;

9 “(ii) sabotage or international ter-
10 rorism by a foreign power or an agent of
11 a foreign power; or

12 “(iii) clandestine intelligence activities
13 by an intelligence service or network of a
14 foreign power or by an agent of a foreign
15 power; or

16 “(B) information, whether or not con-
17 cerning a United States person, with respect to
18 a foreign power or foreign territory that relates
19 to—

20 “(i) the national defense or the secu-
21 rity of the United States; or

22 “(ii) the conduct of the foreign affairs
23 of the United States.”.

24 (c) PROCEDURES.—The Attorney General shall es-
25 tablish procedures for the disclosure of information pursu-

1 ant to section 2517(6) and Rule 6(e)(3)(C)(v) of the Fed-
2 eral Rules of Criminal Procedure that identifies a United
3 States person, as defined in section 101 of the Foreign
4 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

5 (d) FOREIGN INTELLIGENCE INFORMATION.—

6 (1) IN GENERAL.—Notwithstanding any other
7 provision of law, it shall be lawful for foreign intel-
8 ligence or counterintelligence (as defined section 3 of
9 the National Security Act of 1947 (50 U.S.C.
10 401a)) or foreign intelligence information obtained
11 as part of a criminal investigation to be disclosed to
12 any Federal law enforcement, intelligence, protective,
13 immigration, national defense, or national security
14 official in order to assist the official receiving that
15 information in the performance of his official duties.
16 Any Federal official who receives information pursu-
17 ant to this provision may use that information only
18 as necessary in the conduct of that person’s official
19 duties subject to any limitations on the unauthorized
20 disclosure of such information.

21 (2) DEFINITION.—In this subsection, the term
22 “foreign intelligence information” means—

23 (A) information, whether or not concerning
24 a United States person, that relates to the abil-
25 ity of the United States to protect against—

1 (i) actual or potential attack or other
2 grave hostile acts of a foreign power or an
3 agent of a foreign power;

4 (ii) sabotage or international ter-
5 rorism by a foreign power or an agent of
6 a foreign power; or

7 (iii) clandestine intelligence activities
8 by an intelligence service or network of a
9 foreign power or by an agent of a foreign
10 power; or

11 (B) information, whether or not concerning
12 a United States person, with respect to a for-
13 eign power or foreign territory that relates to—

14 (i) the national defense or the security
15 of the United States; or

16 (ii) the conduct of the foreign affairs
17 of the United States.

18 **SEC. 204. CLARIFICATION OF INTELLIGENCE EXCEPTIONS**
19 **FROM LIMITATIONS ON INTERCEPTION AND**
20 **DISCLOSURE OF WIRE, ORAL, AND ELEC-**
21 **TRONIC COMMUNICATIONS.**

22 Section 2511(2)(f) of title 18, United States Code,
23 is amended—

1 (1) by striking “this chapter or chapter 121”
2 and inserting “this chapter or chapter 121 or 206
3 of this title”; and

4 (2) by striking “wire and oral” and inserting
5 “wire, oral, and electronic”.

6 **SEC. 205. EMPLOYMENT OF TRANSLATORS BY THE FED-**
7 **ERAL BUREAU OF INVESTIGATION.**

8 (a) **AUTHORITY.**—The Director of the Federal Bu-
9 reau of Investigation is authorized to expedite the employ-
10 ment of personnel as translators to support
11 counterterrorism investigations and operations without re-
12 gard to applicable Federal personnel requirements and
13 limitations.

14 (b) **SECURITY REQUIREMENTS.**—The Director of the
15 Federal Bureau of Investigation shall establish such secu-
16 rity requirements as are necessary for the personnel em-
17 ployed as translators under subsection (a).

18 (c) **REPORT.**—The Attorney General shall report to
19 the Committees on the Judiciary of the House of Rep-
20 resentatives and the Senate on—

21 (1) the number of translators employed by the
22 FBI and other components of the Department of
23 Justice;

24 (2) any legal or practical impediments to using
25 translators employed by other Federal, State, or

1 local agencies, on a full, part-time, or shared basis;
2 and

3 (3) the needs of the FBI for specific translation
4 services in certain languages, and recommendations
5 for meeting those needs.

6 **SEC. 206. ROVING SURVEILLANCE AUTHORITY UNDER THE**
7 **FOREIGN INTELLIGENCE SURVEILLANCE ACT**
8 **OF 1978.**

9 Section 105(c)(2)(B) of the Foreign Intelligence Sur-
10 veillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amend-
11 ed by inserting “, or in circumstances where the Court
12 finds that the actions of the target of the application may
13 have the effect of thwarting the identification of a speci-
14 fied person, such other persons,” after “specified person”.

15 **SEC. 207. DURATION OF FISA SURVEILLANCE OF NON-**
16 **UNITED STATES PERSONS WHO ARE AGENTS**
17 **OF A FOREIGN POWER.**

18 (a) DURATION.—

19 (1) SURVEILLANCE.—Section 105(d)(1) of the
20 Foreign Intelligence Surveillance Act of 1978 (50
21 U.S.C. 1805(d)(1)) is amended by—

22 (A) inserting “(A)” after “except that”;

23 and

24 (B) inserting before the period the fol-
25 lowing: “, and (B) an order under this Act for

1 a surveillance targeted against an agent of a
2 foreign power, as defined in section 101(b)(A)
3 may be for the period specified in the applica-
4 tion or for 120 days, whichever is less”.

5 (2) PHYSICAL SEARCH.—Section 304(d)(1) of the
6 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
7 1824(d)(1)) is amended by—

8 (A) striking “forty-five” and inserting “90”;

9 (B) inserting “(A)” after “except that”; and

10 (C) inserting before the period the following: “,
11 and (B) an order under this section for a physical
12 search targeted against an agent of a foreign power
13 as defined in section 101(b)(A) may be for the pe-
14 riod specified in the application or for 120 days,
15 whichever is less”.

16 (b) EXTENSION.—

17 (1) IN GENERAL.—Section 105(d)(2) of the
18 Foreign Intelligence Surveillance Act of 1978 (50
19 U.S.C. 1805(d)(2)) is amended by—

20 (A) inserting “(A)” after “except that”;

21 and

22 (B) inserting before the period the fol-
23 lowing: “, and (B) an extension of an order
24 under this Act for a surveillance targeted
25 against an agent of a foreign power as defined

1 in section 101(b)(1)(A) may be for a period not
2 to exceed 1 year”.

3 (2) **DEFINED TERM.**—Section 304(d)(2) of the
4 Foreign Intelligence Surveillance Act of 1978 (50
5 U.S.C. 1824(d)(2) is amended by inserting after
6 “not a United States person,” the following: “or
7 against an agent of a foreign power as defined in
8 section 101(b)(1)(A)”.

9 **SEC. 208. DESIGNATION OF JUDGES.**

10 Section 103(a) of the Foreign Intelligence Surveil-
11 lance Act of 1978 (50 U.S.C. 1803(a)) is amended by—

12 (1) striking “seven district court judges” and
13 inserting “11 district court judges”; and

14 (2) inserting “of whom no less than 3 shall re-
15 side within 20 miles of the District of Columbia”
16 after “circuits”.

17 **SEC. 209. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT**
18 **TO WARRANTS.**

19 Title 18, United States Code, is amended—

20 (1) in section 2510—

21 (A) in paragraph (1), by striking beginning
22 with “and such” and all that follows through
23 “communication”; and

24 (B) in paragraph (14), by inserting “wire
25 or” after “transmission of”; and

1 (2) in subsections (a) and (b) of section 2703—

2 (A) by striking “CONTENTS OF ELEC-
3 TRONIC” and inserting “CONTENTS OF WIRE OR
4 ELECTRONIC” each place it appears;

5 (B) by striking “contents of an electronic”
6 and inserting “contents of a wire or electronic”
7 each place it appears; and

8 (C) by striking “any electronic” and in-
9 serting “any wire or electronic” each place it
10 appears.

11 **SEC. 210. SCOPE OF SUBPOENAS FOR RECORDS OF ELEC-**
12 **TRONIC COMMUNICATIONS.**

13 Section 2703(c)(2) of title 18, United States Code,
14 as redesignated by section 212, is amended—

15 (1) by striking “entity the name, address, local
16 and long distance telephone toll billing records, tele-
17 phone number or other subscriber number or iden-
18 tity, and length of service of the subscriber” and in-
19 serting the following: “entity the—

20 “(A) name;

21 “(B) address;

22 “(C) local and long distance telephone connec-
23 tion records, or records of session times and dura-
24 tions;

1 “(D) length of service (including start date)
2 and types of service utilized;

3 “(E) telephone or instrument number or other
4 subscriber number or identity, including any tempo-
5 rarily assigned network address; and

6 “(F) means and source of payment (including
7 any credit card or bank account number),
8 of a subscriber”; and

9 (2) by striking “and the types of services the
10 subscriber or customer utilized,”.

11 **SEC. 211. CLARIFICATION OF SCOPE.**

12 Section 631 of the Communications Act of 1934 (47
13 U.S.C. 551) is amended—

14 (1) in subsection (c)(2)—

15 (A) in subparagraph (B), by striking “or”;

16 (B) in subparagraph (C), by striking the
17 period at the end and inserting”; or”; and

18 (C) by inserting at the end the following:

19 “(D) authorized under chapters 119, 121, or
20 206 of title 18, United States Code, except that such
21 disclosure shall not include records revealing cus-
22 tomer cable television viewing activity.”; and

23 (2) in subsection (h) by striking “A govern-
24 mental entity” and inserting “Except as provided in
25 subsection (c)(2)(D), a governmental entity”.

1 **SEC. 212. EMERGENCY DISCLOSURE OF ELECTRONIC COM-**
2 **MUNICATIONS TO PROTECT LIFE AND LIMB.**

3 (a) DISCLOSURE OF CONTENTS.—

4 (1) IN GENERAL.—Section 2702 of title 18,
5 United States Code, is amended—

6 (A) by striking the section heading and in-
7 serting the following:

8 **“§ 2702. Voluntary disclosure of customer commu-**
9 **nications or records”;**

10 (B) in subsection (a)—

11 (i) in paragraph (2)(A), by striking
12 “and” at the end;

13 (ii) in paragraph (2)(B), by striking
14 the period and inserting “; and”; and

15 (iii) by inserting after paragraph (2)
16 the following:

17 “(3) a provider of remote computing service or
18 electronic communication service to the public shall
19 not knowingly divulge a record or other information
20 pertaining to a subscriber to or customer of such
21 service (not including the contents of communica-
22 tions covered by paragraph (1) or (2)) to any gov-
23 ernmental entity.”;

24 (C) in subsection (b), by striking “EXCEP-
25 TIONS.—A person or entity” and inserting “EX-
26 CEPTIONS FOR DISCLOSURE OF COMMUNICA-

1 TIONS.— A provider described in subsection
2 (a)”;

3 (D) in subsection (b)(6)—

4 (i) in subparagraph (A)(ii), by strik-
5 ing “or”;

6 (ii) in subparagraph (B), by striking
7 the period and inserting “; or”; and

8 (iii) by adding after subparagraph (B)
9 the following:

10 “(C) if the provider reasonably believes
11 that an emergency involving immediate danger
12 of death or serious physical injury to any per-
13 son requires disclosure of the information with-
14 out delay.”; and

15 (E) by inserting after subsection (b) the
16 following:

17 “(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER

18 RECORDS.—A provider described in subsection (a) may di-
19 vulge a record or other information pertaining to a sub-

20 scribe to or customer of such service (not including the
21 contents of communications covered by subsection (a)(1)

22 or (a)(2))—

23 “(1) as otherwise authorized in section 2703;

24 “(2) with the lawful consent of the customer or
25 subscriber;

1 “(3) as may be necessarily incident to the ren-
2 dition of the service or to the protection of the rights
3 or property of the provider of that service;

4 “(4) to a governmental entity, if the provider
5 reasonably believes that an emergency involving im-
6 mediate danger of death or serious physical injury to
7 any person justifies disclosure of the information; or

8 “(5) to any person other than a governmental
9 entity.”.

10 (2) TECHNICAL AND CONFORMING AMEND-
11 MENT.—The table of sections for chapter 121 of
12 title 18, United States Code, is amended by striking
13 the item relating to section 2702 and inserting the
14 following:

 “2702. Voluntary disclosure of customer communications or records.”.

15 (b) REQUIREMENTS FOR GOVERNMENT ACCESS.—

16 (1) IN GENERAL.—Section 2703 of title 18,
17 United States Code, is amended—

18 (A) by striking the section heading and in-
19 serting the following:

20 **“§ 2703. Required disclosure of customer communica-**
21 **tions or records”;**

22 (B) in subsection (c) by redesignating
23 paragraph (2) as paragraph (3);

24 (C) in subsection (c)(1)—

1 (i) by striking “(A) Except as pro-
2 vided in subparagraph (B), a provider of
3 electronic communication service or remote
4 computing service may” and inserting “A
5 governmental entity may require a provider
6 of electronic communication service or re-
7 mote computing service to”;

8 (ii) by striking “covered by subsection
9 (a) or (b) of this section) to any person
10 other than a governmental entity.

11 “(B) A provider of electronic communica-
12 tion service or remote computing service shall
13 disclose a record or other information per-
14 taining to a subscriber to or customer of such
15 service (not including the contents of commu-
16 nications covered by subsection (a) or (b) of
17 this section) to a governmental entity” and in-
18 serting “);”;

19 (iii) by redesignating subparagraph
20 (C) as paragraph (2);

21 (iv) by redesignating clauses (i), (ii),
22 (iii), and (iv) as subparagraphs (A), (B),
23 (C), and (D), respectively;

1 (v) in subparagraph (D) (as redesignig-
2 nated) by striking the period and inserting
3 “; or”; and

4 (vi) by inserting after subparagraph
5 (D) (as redesignated) the following:

6 “(E) seeks information under paragraph
7 (2).”; and

8 (D) in paragraph (2) (as redesignated) by
9 striking “subparagraph (B)” and insert “para-
10 graph (1)”.

11 (2) TECHNICAL AND CONFORMING AMEND-
12 MENT.—The table of sections for chapter 121 of
13 title 18, United States Code, is amended by striking
14 the item relating to section 2703 and inserting the
15 following:

“2703. Required disclosure of customer communications or records.”.

16 **SEC. 213. AUTHORITY FOR DELAYING NOTICE OF THE EXE-**
17 **CUTION OF A WARRANT.**

18 Section 3103a of title 18, United States Code, is
19 amended—

20 (1) by inserting “(a) IN GENERAL.—” before
21 “In addition”; and

22 (2) by adding at the end the following:

23 “(b) DELAY.—With respect to the issuance of any
24 warrant or court order under this section, or any other
25 rule of law, to search for and seize any property or mate-

1 rial that constitutes evidence of a criminal offense in viola-
2 tion of the laws of the United States, any notice required,
3 or that may be required, to be given may be delayed if—

4 “(1) the court finds reasonable cause to believe
5 that providing immediate notification of the execu-
6 tion of the warrant may have an adverse result (as
7 defined in section 2705);

8 “(2) the warrant prohibits the seizure of any
9 tangible property, any wire or electronic communica-
10 tion (as defined in section 2510), or, except as ex-
11 pressly provided in chapter 121, any stored wire or
12 electronic information, except where the court finds
13 reasonable necessity for the seizure; and

14 “(3) the warrant provides for the giving of such
15 notice within a reasonable period of its execution,
16 which period may thereafter be extended by the
17 court for good cause shown.”.

18 **SEC. 214. PEN REGISTER AND TRAP AND TRACE AUTHOR-**
19 **ITY UNDER FISA.**

20 (a) APPLICATIONS AND ORDERS.—Section 402 of the
21 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1842) is amended—

23 (1) in subsection (a)(1), by striking “for any in-
24 vestigation to gather foreign intelligence information
25 or information concerning international terrorism”

1 and inserting “for any investigation to protect
2 against international terrorism or clandestine intel-
3 lligence activities, provided that such investigation of
4 a United States person is not conducted solely upon
5 the basis of activities protected by the first amend-
6 ment to the Constitution”;

7 (2) by amending subsection (c)(2) to read as
8 follows:

9 “(2) a certification by the applicant that the in-
10 formation likely to be obtained is relevant to an on-
11 going investigation to protect against international
12 terrorism or clandestine intelligence activities, pro-
13 vided that such investigation of a United States per-
14 son is not conducted solely upon the basis of activi-
15 ties protected by the first amendment to the Con-
16 stitution.”;

17 (3) by striking subsection (c)(3); and

18 (4) by amending subsection (d)(2)(A) to read
19 as follows:

20 “(A) shall specify—

21 “(i) the identity, if known, of the per-
22 son who is the subject of the investigation;

23 “(ii) the identity, if known, of the per-
24 son to whom is leased or in whose name is
25 listed the telephone line or other facility to

1 which the pen register or trap and trace
2 device is to be attached or applied;

3 “(iii) the attributes of the communica-
4 tions to which the order applies, such as
5 the number or other identifier, and, if
6 known, the location of the telephone line or
7 other facility to which the pen register or
8 trap and trace device is to be attached or
9 applied and, in the case of a trap and trace
10 device, the geographic limits of the trap
11 and trace order.”.

12 (b) AUTHORIZATION DURING EMERGENCIES.—Sec-
13 tion 403 of the Foreign Intelligence Surveillance Act of
14 1978 (50 U.S.C. 1843) is amended—

15 (1) in subsection (a), by striking “foreign intel-
16 ligence information or information concerning inter-
17 national terrorism” and inserting “information to
18 protect against international terrorism or clandestine
19 intelligence activities, provided that such investiga-
20 tion of a United States person is not conducted sole-
21 ly upon the basis of activities protected by the first
22 amendment to the Constitution”; and

23 (2) in subsection (b)(1), by striking “foreign in-
24 telligence information or information concerning
25 international terrorism” and inserting “information

1 to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution”.

6 **SEC. 215. ACCESS TO RECORDS AND OTHER ITEMS UNDER**
7 **THE FOREIGN INTELLIGENCE SURVEIL-**
8 **LANCE ACT.**

9 Title V of the Foreign Intelligence Surveillance Act
10 of 1978 (50 U.S.C. 1861 et seq.) is amended by striking
11 sections 501 through 503 and inserting the following:

12 **“SEC. 501. ACCESS TO CERTAIN BUSINESS RECORDS FOR**
13 **FOREIGN INTELLIGENCE AND INTER-**
14 **NATIONAL TERRORISM INVESTIGATIONS.**

15 “(a)(1) The Director of the Federal Bureau of Inves-
16 tigation or a designee of the Director (whose rank shall
17 be no lower than Assistant Special Agent in Charge) may
18 make an application for an order requiring the production
19 of any tangible things (including books, records, papers,
20 documents, and other items) for an investigation to pro-
21 tect against international terrorism or clandestine intel-
22 ligence activities, provided that such investigation of a
23 United States person is not conducted solely upon the
24 basis of activities protected by the first amendment to the
25 Constitution.

1 “(2) An investigation conducted under this section
2 shall—

3 “(A) be conducted under guidelines approved by
4 the Attorney General under Executive Order 12333
5 (or a successor order); and

6 “(B) not be conducted of a United States per-
7 son solely upon the basis of activities protected by
8 the first amendment to the Constitution of the
9 United States.

10 “(b) Each application under this section—

11 “(1) shall be made to—

12 “(A) a judge of the court established by
13 section 103(a); or

14 “(B) a United States Magistrate Judge
15 under chapter 43 of title 28, United States
16 Code, who is publicly designated by the Chief
17 Justice of the United States to have the power
18 to hear applications and grant orders for the
19 production of tangible things under this section
20 on behalf of a judge of that court; and

21 “(2) shall specify that the records concerned
22 are sought for an authorized investigation conducted
23 in accordance with subsection (a)(2) to protect
24 against international terrorism or clandestine intel-
25 ligence activities.

1 “(c)(1) Upon an application made pursuant to this
2 section, the judge shall enter an ex parte order as re-
3 quested, or as modified, approving the release of records
4 if the judge finds that the application meets the require-
5 ments of this section.

6 “(2) An order under this subsection shall not disclose
7 that it is issued for purposes of an investigation described
8 in subsection (a).

9 “(d) No person shall disclose to any other person
10 (other than those persons necessary to produce the tan-
11 gible things under this section) that the Federal Bureau
12 of Investigation has sought or obtained tangible things
13 under this section.

14 “(e) A person who, in good faith, produces tangible
15 things under an order pursuant to this section shall not
16 be liable to any other person for such production. Such
17 production shall not be deemed to constitute a waiver of
18 any privilege in any other proceeding or context.

19 **“SEC. 502. CONGRESSIONAL OVERSIGHT.**

20 “(a) On a semiannual basis, the Attorney General
21 shall fully inform the Permanent Select Committee on In-
22 telligence of the House of Representatives and the Select
23 Committee on Intelligence of the Senate concerning all re-
24 quests for the production of tangible things under section
25 402.

1 “(b) On a semiannual basis, the Attorney General
2 shall provide to the Committees on the Judiciary of the
3 House of Representatives and the Senate a report setting
4 forth with respect to the preceding 6-month period—

5 “(1) the total number of applications made for
6 orders approving requests for the production of tan-
7 gible things under section 402; and

8 “(2) the total number of such orders either
9 granted, modified, or denied.”.

10 **SEC. 216. MODIFICATION OF AUTHORITIES RELATING TO**
11 **USE OF PEN REGISTERS AND TRAP AND**
12 **TRACE DEVICES.**

13 (a) GENERAL LIMITATIONS.—Section 3121(c) of title
14 18, United States Code, is amended—

15 (1) by inserting “or trap and trace device”
16 after “pen register”;

17 (2) by inserting “, routing, addressing,” after
18 “dialing”; and

19 (3) by striking “call processing” and inserting
20 “the processing and transmitting of wire or elec-
21 tronic communications so as not to include the con-
22 tents of any wire or electronic communications”.

23 (b) ISSUANCE OF ORDERS.—

24 (1) IN GENERAL.—Section 3123(a) of title 18,
25 United States Code, is amended to read as follows:

1 “(a) IN GENERAL.—

2 “(1) ATTORNEY FOR THE GOVERNMENT.—

3 Upon an application made under section 3122(a)(1),
4 the court shall enter an ex parte order authorizing
5 the installation and use of a pen register or trap and
6 trace device anywhere within the United States, if
7 the court finds that the attorney for the Government
8 has certified to the court that the information likely
9 to be obtained by such installation and use is rel-
10 evant to an ongoing criminal investigation. The
11 order, upon service of that order, shall apply to any
12 person or entity providing wire or electronic commu-
13 nication service in the United States whose assist-
14 ance may facilitate the execution of the order.
15 Whenever such an order is served on any person or
16 entity not specifically named in the order, upon re-
17 quest of such person or entity, the attorney for the
18 Government or law enforcement or investigative offi-
19 cer that is serving the order shall provide written or
20 electronic certification that the order applies to the
21 person or entity being served.

22 “(2) STATE INVESTIGATIVE OR LAW ENFORCE-
23 MENT OFFICER.—Upon an application made under
24 section 3122(a)(2), the court shall enter an ex parte
25 order authorizing the installation and use of a pen

1 register or trap and trace device within the jurisdic-
2 tion of the court, if the court finds that the State
3 law enforcement or investigative officer has certified
4 to the court that the information likely to be ob-
5 tained by such installation and use is relevant to an
6 ongoing criminal investigation.”.

7 (2) CONTENTS OF ORDER.—Section 3123(b)(1)
8 of title 18, United States Code, is amended—

9 (A) in subparagraph (A)—

10 (i) by inserting “or other facility”
11 after “telephone line”; and

12 (ii) by inserting before the semicolon
13 at the end “or applied”; and

14 (B) by striking subparagraph (C) and in-
15 serting the following:

16 “(C) the attributes of the communications
17 to which the order applies, including the num-
18 ber or other identifier and, if known, the loca-
19 tion of the telephone line or other facility to
20 which the pen register or trap and trace device
21 is to be attached or applied, and, in the case of
22 an order authorizing installation and use of a
23 trap and trace device under subsection (a)(2),
24 the geographic limits of the order; and”.

1 (3) NONDISCLOSURE REQUIREMENTS.—Section
2 3123(d)(2) of title 18, United States Code, is
3 amended—

4 (A) by inserting “or other facility” after
5 “the line”; and

6 (B) by striking “, or who has been ordered
7 by the court” and inserting “or applied, or who
8 is obligated by the order”.

9 (c) DEFINITIONS.—

10 (1) COURT OF COMPETENT JURISDICTION.—
11 Section 3127(2) of title 18, United States Code, is
12 amended by striking subparagraph (A) and inserting
13 the following:

14 “(A) any district court of the United
15 States (including a magistrate judge of such a
16 court) or any United States court of appeals
17 having jurisdiction over the offense being inves-
18 tigated; or”.

19 (2) PEN REGISTER.—Section 3127(3) of title
20 18, United States Code, is amended—

21 (A) by striking “electronic or other im-
22 pulses” and all that follows through “is at-
23 tached” and inserting “dialing, routing, ad-
24 dressing, or signaling information transmitted
25 by an instrument or facility from which a wire

1 or electronic communication is transmitted, pro-
2 vided, however, that such information shall not
3 include the contents of any communication”;
4 and

5 (B) by inserting “or process” after “de-
6 vice” each place it appears.

7 (3) TRAP AND TRACE DEVICE.—Section
8 3127(4) of title 18, United States Code, is
9 amended—

10 (A) by striking “of an instrument” and all
11 that follows through the semicolon and insert-
12 ing “or other dialing, routing, addressing, and
13 signaling information reasonably likely to iden-
14 tify the source of a wire or electronic commu-
15 nication, provided, however, that such informa-
16 tion shall not include the contents of any com-
17 munication;” and

18 (B) by inserting “or process” after “a de-
19 vice”.

20 (4) CONFORMING AMENDMENT.—Section
21 3127(1) of title 18, United States Code, is
22 amended—

23 (A) by striking “and”; and

24 (B) by inserting “, and ‘contents’” after
25 “electronic communication service”.

1 (5) TECHNICAL AMENDMENT.—Section 3124(d)
2 of title 18, United States Code, is amended by strik-
3 ing “the terms of”.

4 **SEC. 217. INTERCEPTION OF COMPUTER TRESPASSER COM-**
5 **MUNICATIONS.**

6 Chapter 119 of title 18, United States Code, is
7 amended—

8 (1) in section 2510—

9 (A) in paragraph (17), by striking “and”
10 at the end;

11 (B) in paragraph (18), by striking the pe-
12 riod and inserting a semicolon; and

13 (C) by inserting after paragraph (18) the
14 following:

15 “(19) ‘protected computer’ has the meaning set
16 forth in section 1030; and

17 “(20) ‘computer trespasser’—

18 “(A) means a person who accesses a pro-
19 tected computer without authorization and thus
20 has no reasonable expectation of privacy in any
21 communication transmitted to, through, or from
22 the protected computer; and

23 “(B) does not include a person known by
24 the owner or operator of the protected computer
25 to have an existing contractual relationship with

1 the owner or operator of the protected computer
2 for access to all or part of the protected com-
3 puter.”; and

4 (2) in section 2511(2), by inserting at the end
5 the following:

6 “(i) It shall not be unlawful under this chapter for
7 a person acting under color of law to intercept the wire
8 or electronic communications of a computer trespasser,
9 if—

10 “(i) the owner or operator of the protected com-
11 puter authorizes the interception of the computer
12 trespasser’s communications on the protected com-
13 puter;

14 “(ii) the person acting under color of law is
15 lawfully engaged in an investigation;

16 “(iii) the person acting under color of law has
17 reasonable grounds to believe that the contents of
18 the computer trespasser’s communications will be
19 relevant to the investigation; and

20 “(iv) such interception does not acquire commu-
21 nications other than those transmitted to or from
22 the computer trespasser.”.

23 **SEC. 218. FOREIGN INTELLIGENCE INFORMATION.**

24 Sections 104(a)(7)(B) and section 303(a)(7)(B) (50
25 U.S.C. 1804(a)(7)(B) and 1823(a)(7)(B)) of the Foreign

1 Intelligence Surveillance Act of 1978 are each amended
2 by striking “the purpose” and inserting “a significant pur-
3 pose”.

4 **SEC. 219. SINGLE-JURISDICTION SEARCH WARRANTS FOR**
5 **TERRORISM.**

6 Rule 41(a) of the Federal Rules of Criminal Proce-
7 dure is amended by inserting after “executed” the fol-
8 lowing: “and (3) in an investigation of domestic terrorism
9 or international terrorism (as defined in section 2331 of
10 title 18, United States Code), by a Federal magistrate
11 judge in any district in which activities related to the ter-
12 rorism may have occurred, for a search of property or for
13 a person within or outside the district”.

14 **SEC. 220. NATIONWIDE SERVICE OF SEARCH WARRANTS**
15 **FOR ELECTRONIC EVIDENCE.**

16 Chapter 121 of title 18, United States Code, is
17 amended—

18 (1) in section 2703, by striking “under the
19 Federal Rules of Criminal Procedure” every place it
20 appears and inserting “using the procedures de-
21 scribed in the Federal Rules of Criminal Procedure
22 by a court with jurisdiction over the offense under
23 investigation”; and

24 (2) in section 2711—

25 (A) in paragraph (1), by striking “and”;

1 (B) in paragraph (2), by striking the pe-
2 riod and inserting “; and”; and

3 (C) by inserting at the end the following:

4 “(3) the term ‘court of competent jurisdiction’
5 has the meaning assigned by section 3127, and in-
6 cludes any Federal court within that definition,
7 without geographic limitation.”.

8 **SEC. 221. TRADE SANCTIONS.**

9 (a) IN GENERAL.—The Trade Sanctions Reform and
10 Export Enhancement Act of 2000 (Public Law 106–387;
11 114 Stat. 1549A–67) is amended—

12 (1) by amending section 904(2)(C) to read as
13 follows:

14 “(C) used to facilitate the design, develop-
15 ment, or production of chemical or biological
16 weapons, missiles, or weapons of mass destruc-
17 tion.”;

18 (2) in section 906(a)(1)—

19 (A) by inserting “, the Taliban or the ter-
20 ritory of Afghanistan controlled by the
21 Taliban,” after “Cuba”; and

22 (B) by inserting “, or in the territory of
23 Afghanistan controlled by the Taliban,” after
24 “within such country”; and

1 (3) in section 906(a)(2), by inserting “, or to
2 any other entity in Syria or North Korea” after
3 “Korea”.

4 (b) APPLICATION OF THE TRADE SANCTIONS RE-
5 FORM AND EXPORT ENHANCEMENT ACT.—Nothing in the
6 Trade Sanctions Reform and Export Enhancement Act of
7 2000 shall limit the application or scope of any law estab-
8 lishing criminal or civil penalties, including any executive
9 order or regulation promulgated pursuant to such laws (or
10 similar or successor laws), for the unlawful export of any
11 agricultural commodity, medicine, or medical device to—

12 (1) a foreign organization, group, or person
13 designated pursuant to Executive Order 12947 of
14 June 25, 1995;

15 (2) a Foreign Terrorist Organization pursuant
16 to the Antiterrorism and Effective Death Penalty
17 Act of 1996 (Public Law 104–132);

18 (3) a foreign organization, group, or person
19 designated pursuant to Executive Order 13224 (Sep-
20 tember 23, 2001);

21 (4) any narcotics trafficking entity designated
22 pursuant to Executive Order 12978 (October 21,
23 1995) or the Foreign Narcotics Kingpin Designation
24 Act (Public Law 106–120); or

1 (5) any foreign organization, group, or persons
2 subject to any restriction for its involvement in
3 weapons of mass destruction or missile proliferation.

4 **SEC. 222. ASSISTANCE TO LAW ENFORCEMENT AGENCIES.**

5 Nothing in this Act shall impose any additional tech-
6 nical obligation or requirement on a provider of wire or
7 electronic communication service or other person to fur-
8 nish facilities or technical assistance. A provider of a wire
9 or electronic communication service, landlord, custodian,
10 or other person who furnishes facilities or technical assist-
11 ance pursuant to section 216 shall be reasonably com-
12 pensated for such reasonable expenditures incurred in pro-
13 viding such facilities or assistance.

14 **TITLE III—INTERNATIONAL**
15 **MONEY LAUNDERING ABATE-**
16 **MENT AND ANTI-TERRORIST**
17 **FINANCING ACT OF 2001.**

18 **SEC. 301. SHORT TITLE.**

19 This title may be cited as the “International Money
20 Laundering Abatement and Anti-Terrorist Financing Act
21 of 2001”.

22 **SEC. 302. FINDINGS AND PURPOSES.**

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

24 (1) money laundering, estimated by the Inter-
25 national Monetary Fund to amount to between 2

1 and 5 percent of global gross domestic product,
2 which is at least \$600,000,000,000 annually, pro-
3 vides the financial fuel that permits transnational
4 criminal enterprises to conduct and expand their op-
5 erations to the detriment of the safety and security
6 of American citizens;

7 (2) money laundering, and the defects in finan-
8 cial transparency on which money launderers rely,
9 are critical to the financing of global terrorism and
10 the provision of funds for terrorist attacks;

11 (3) money launderers subvert legitimate finan-
12 cial mechanisms and banking relationships by using
13 them as protective covering for the movement of
14 criminal proceeds and the financing of crime and
15 terrorism, and, by so doing, can threaten the safety
16 of United States citizens and undermine the integ-
17 rity of United States financial institutions and of the
18 global financial and trading systems upon which
19 prosperity and growth depend;

20 (4) certain jurisdictions outside of the United
21 States that offer “offshore” banking and related fa-
22 cilities designed to provide anonymity, coupled with
23 special tax advantages and weak financial super-
24 visory and enforcement regimes, provide essential
25 tools to disguise ownership and movement of crimi-

1 nal funds, derived from, or used to commit, offenses
2 ranging from narcotics trafficking, terrorism, arms
3 smuggling, and trafficking in human beings, to fi-
4 nancial frauds that prey on law-abiding citizens;

5 (5) transactions involving such offshore jurisdic-
6 tions make it difficult for law enforcement offi-
7 cials and regulators to follow the trail of money
8 earned by criminals, organized international criminal
9 enterprises, and global terrorist organizations;

10 (6) correspondent banking facilities are one of
11 the banking mechanisms susceptible in some cir-
12 cumstances to manipulation by foreign banks to per-
13 mit the laundering of funds by hiding the identity of
14 real parties in interest to financial transactions;

15 (7) private banking services can be susceptible
16 to manipulation by money launderers, for example
17 corrupt foreign government officials, particularly if
18 those services include the creation of offshore ac-
19 counts and facilities for large personal funds trans-
20 fers to channel funds into accounts around the
21 globe;

22 (8) United States anti-money laundering efforts
23 are impeded by outmoded and inadequate statutory
24 provisions that make investigations, prosecutions,
25 and forfeitures more difficult, particularly in cases

1 in which money laundering involves foreign persons,
2 foreign banks, or foreign countries;

3 (9) the ability to mount effective counter-meas-
4 ures to international money launderers requires na-
5 tional, as well as bilateral and multilateral action,
6 using tools specially designed for that effort; and

7 (10) the Basle Committee on Banking Regula-
8 tion and Supervisory Practices and the Financial
9 Action Task Force on Money Laundering, of both of
10 which the United States is a member, have each
11 adopted international anti-money laundering prin-
12 ciples and recommendations.

13 (b) PURPOSES.—The purposes of this title are—

14 (1) to increase the strength of United States
15 measures to prevent, detect, and prosecute inter-
16 national money laundering and the financing of ter-
17 rorism;

18 (2) to ensure that—

19 (A) banking transactions and financial re-
20 lationships and the conduct of such transactions
21 and relationships, do not contravene the pur-
22 poses of subchapter II of chapter 53 of title 31,
23 United States Code, section 21 of the Federal
24 Deposit Insurance Act, or chapter 2 of title I

1 of Public Law 91–508 (84 Stat. 1116), or fa-
2 cilitate the evasion of any such provision; and

3 (B) the purposes of such provisions of law
4 continue to be fulfilled, and that such provisions
5 of law are effectively and efficiently adminis-
6 tered;

7 (3) to strengthen the provisions put into place
8 by the Money Laundering Control Act of 1986 (18
9 U.S.C. 981 note), especially with respect to crimes
10 by non-United States nationals and foreign financial
11 institutions;

12 (4) to provide a clear national mandate for sub-
13 jecting to special scrutiny those foreign jurisdictions,
14 financial institutions operating outside of the United
15 States, and classes of international transactions that
16 pose particular, identifiable opportunities for crimi-
17 nal abuse;

18 (5) to provide the Secretary of the Treasury (in
19 this title referred to as the “Secretary”) with broad
20 discretion, subject to the safeguards provided by the
21 Administrative Procedures Act under title 5, United
22 States Code, to take measures tailored to the par-
23 ticular money laundering problems presented by spe-
24 cific foreign jurisdictions, financial institutions oper-

1 ating outside of the United States, and classes of
2 international transactions;

3 (6) to ensure that the employment of such
4 measures by the Secretary permits appropriate op-
5 portunity for comment by affected financial institu-
6 tions;

7 (7) to provide guidance to domestic financial in-
8 stitutions on particular foreign jurisdictions, finan-
9 cial institutions operating outside of the United
10 States, and classes of international transactions that
11 are of primary money laundering concern to the
12 United States Government;

13 (8) to ensure that the forfeiture of any assets
14 in connection with the anti-terrorist efforts of the
15 United States permits for adequate challenge con-
16 sistent with providing due process rights;

17 (9) to clarify the terms of the safe harbor from
18 civil liability for filing suspicious activity reports;

19 (10) to strengthen the authority of the Sec-
20 retary to issue and administer geographic targeting
21 orders, and to clarify that violations of such orders
22 or any other requirement imposed under the author-
23 ity contained in chapter 2 of title I of Public Law
24 91-508 and subchapters II and III of chapter 53 of

1 title 31, United States Code, may result in criminal
2 and civil penalties;

3 (11) to ensure that all appropriate elements of
4 the financial services industry are subject to appro-
5 priate requirements to report potential money laun-
6 dering transactions to proper authorities, and that
7 jurisdictional disputes do not hinder examination of
8 compliance by financial institutions with relevant re-
9 porting requirements;

10 (12) to fix responsibility for high level coordina-
11 tion of the anti-money laundering efforts of the De-
12 partment of the Treasury;

13 (13) to strengthen the ability of financial insti-
14 tutions to maintain the integrity of their employee
15 population; and

16 (14) to strengthen measures to prevent the use
17 of the United States financial system for personal
18 gain by corrupt foreign officials and to facilitate the
19 repatriation of any stolen assets to the citizens of
20 countries to whom such assets belong.

21 **SEC. 303. 4-YEAR CONGRESSIONAL REVIEW-EXPEDITED**
22 **CONSIDERATION.**

23 (a) IN GENERAL.—Effective on and after the first
24 day of fiscal year 2005, the provisions of this title and
25 the amendments made by this title shall terminate if the

1 Congress enacts a joint resolution, the text after the re-
2 solving clause of which is as follows: “That provisions of
3 the International Money Laundering Abatement and Anti-
4 Terrorist Financing Act of 2001, and the amendments
5 made thereby, shall no longer have the force of law.”.

6 (b) EXPEDITED CONSIDERATION.—Any joint resolu-
7 tion submitted pursuant to this section shall be considered
8 in the Senate in accordance with the provisions of section
9 601(b) of the International Security Assistance and Arms
10 Control Act of 1976. For the purpose of expediting the
11 consideration and enactment of a joint resolution under
12 this section, a motion to proceed to the consideration of
13 any such joint resolution after it has been reported by the
14 appropriate committee, shall be treated as highly privi-
15 leged in the House of Representatives.

16 **Subtitle A—International Counter**
17 **Money Laundering and Related**
18 **Measures**

19 **SEC. 311. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-**
20 **CIAL INSTITUTIONS, OR INTERNATIONAL**
21 **TRANSACTIONS OF PRIMARY MONEY LAUN-**
22 **DERING CONCERN.**

23 (a) IN GENERAL.—Subchapter II of chapter 53 of
24 title 31, United States Code, is amended by inserting after
25 section 5318 the following new section:

1 **“SEC. 5318A. SPECIAL MEASURES FOR JURISDICTIONS, FI-**
2 **NANCIAL INSTITUTIONS, OR INTERNATIONAL**
3 **TRANSACTIONS OF PRIMARY MONEY LAUN-**
4 **DERING CONCERN.**

5 “(a) INTERNATIONAL COUNTER-MONEY LAUN-
6 DERING REQUIREMENTS.—

7 “(1) IN GENERAL.—The Secretary may require
8 domestic financial institutions and domestic financial
9 agencies to take 1 or more of the special measures
10 described in subsection (b) if the Secretary finds
11 that reasonable grounds exist for concluding that a
12 jurisdiction outside of the United States, 1 or more
13 financial institutions operating outside of the United
14 States, 1 or more classes of transactions within, or
15 involving, a jurisdiction outside of the United States,
16 or 1 or more types of accounts is of primary money
17 laundering concern, in accordance with subsection
18 (c).

19 “(2) FORM OF REQUIREMENT.—The special
20 measures described in—

21 “(A) subsection (b) may be imposed in
22 such sequence or combination as the Secretary
23 shall determine;

24 “(B) paragraphs (1) through (4) of sub-
25 section (b) may be imposed by regulation,
26 order, or otherwise as permitted by law; and

1 “(C) subsection (b)(5) may be imposed
2 only by regulation.

3 “(3) DURATION OF ORDERS; RULEMAKING.—
4 Any order by which a special measure described in
5 paragraphs (1) through (4) of subsection (b) is im-
6 posed (other than an order described in section
7 5326)—

8 “(A) shall be issued together with a notice
9 of proposed rulemaking relating to the imposi-
10 tion of such special measure; and

11 “(B) may not remain in effect for more
12 than 120 days, except pursuant to a rule pro-
13 mulgated on or before the end of the 120-day
14 period beginning on the date of issuance of
15 such order.

16 “(4) PROCESS FOR SELECTING SPECIAL MEAS-
17 URES.—In selecting which special measure or meas-
18 ures to take under this subsection, the Secretary—

19 “(A) shall consult with the Chairman of
20 the Board of Governors of the Federal Reserve
21 System, any other appropriate Federal banking
22 agency, as defined in section 3 of the Federal
23 Deposit Insurance Act, the Securities and Ex-
24 change Commission, the National Credit Union
25 Administration Board, and in the sole discre-

1 tion of the Secretary such other agencies and
2 interested parties as the Secretary may find to
3 be appropriate; and

4 “(B) shall consider—

5 “(i) whether similar action has been
6 or is being taken by other nations or multi-
7 lateral groups;

8 “(ii) whether the imposition of any
9 particular special measure would create a
10 significant competitive disadvantage, in-
11 cluding any undue cost or burden associ-
12 ated with compliance, for financial institu-
13 tions organized or licensed in the United
14 States; and

15 “(iii) the extent to which the action or
16 the timing of the action would have a sig-
17 nificant adverse systemic impact on the
18 international payment, clearance, and set-
19 tlement system, or on legitimate business
20 activities involving the particular jurisdic-
21 tion, institution, or class of transactions.

22 “(5) NO LIMITATION ON OTHER AUTHORITY.—

23 This section shall not be construed as superseding or
24 otherwise restricting any other authority granted to

1 the Secretary, or to any other agency, by this sub-
2 chapter or otherwise.

3 “(b) SPECIAL MEASURES.—The special measures re-
4 ferred to in subsection (a), with respect to a jurisdiction
5 outside of the United States, financial institution oper-
6 ating outside of the United States, class of transaction
7 within, or involving, a jurisdiction outside of the United
8 States, or 1 or more types of accounts are as follows:

9 “(1) RECORDKEEPING AND REPORTING OF
10 CERTAIN FINANCIAL TRANSACTIONS.—

11 “(A) IN GENERAL.—The Secretary may re-
12 quire any domestic financial institution or do-
13 mestic financial agency to maintain records, file
14 reports, or both, concerning the aggregate
15 amount of transactions, or concerning each
16 transaction, with respect to a jurisdiction out-
17 side of the United States, 1 or more financial
18 institutions operating outside of the United
19 States, 1 or more classes of transactions within,
20 or involving, a jurisdiction outside of the United
21 States, or 1 or more types of accounts if the
22 Secretary finds any such jurisdiction, institu-
23 tion, or class of transactions to be of primary
24 money laundering concern.

1 “(B) FORM OF RECORDS AND REPORTS.—

2 Such records and reports shall be made and re-
3 tained at such time, in such manner, and for
4 such period of time, as the Secretary shall de-
5 termine, and shall include such information as
6 the Secretary may determine, including—

7 “(i) the identity and address of the
8 participants in a transaction or relation-
9 ship, including the identity of the origi-
10 nator of any funds transfer;

11 “(ii) the legal capacity in which a par-
12 ticipant in any transaction is acting;

13 “(iii) the identity of the beneficial
14 owner of the funds involved in any trans-
15 action, in accordance with such procedures
16 as the Secretary determines to be reason-
17 able and practicable to obtain and retain
18 the information; and

19 “(iv) a description of any transaction.

20 “(2) INFORMATION RELATING TO BENEFICIAL
21 OWNERSHIP.—In addition to any other requirement
22 under any other provision of law, the Secretary may
23 require any domestic financial institution or domes-
24 tic financial agency to take such steps as the Sec-
25 retary may determine to be reasonable and prac-

1 ticable to obtain and retain information concerning
2 the beneficial ownership of any account opened or
3 maintained in the United States by a foreign person
4 (other than a foreign entity whose shares are subject
5 to public reporting requirements or are listed and
6 traded on a regulated exchange or trading market),
7 or a representative of such a foreign person, that in-
8 volves a jurisdiction outside of the United States, 1
9 or more financial institutions operating outside of
10 the United States, 1 or more classes of transactions
11 within, or involving, a jurisdiction outside of the
12 United States, or 1 or more types of accounts if the
13 Secretary finds any such jurisdiction, institution, or
14 transaction to be of primary money laundering con-
15 cern.

16 “(3) INFORMATION RELATING TO CERTAIN PAY-
17 ABLE-THROUGH ACCOUNTS.—If the Secretary finds
18 a jurisdiction outside of the United States, 1 or
19 more financial institutions operating outside of the
20 United States, or 1 or more classes of transactions
21 within, or involving, a jurisdiction outside of the
22 United States to be of primary money laundering
23 concern, the Secretary may require any domestic fi-
24 nancial institution or domestic financial agency that
25 opens or maintains a payable-through account in the

1 United States for a foreign financial institution in-
2 volving any such jurisdiction or any such financial
3 institution operating outside of the United States, or
4 a payable through account through which any such
5 transaction may be conducted, as a condition of
6 opening or maintaining such account—

7 “(A) to identify each customer (and rep-
8 resentative of such customer) of such financial
9 institution who is permitted to use, or whose
10 transactions are routed through, such payable-
11 through account; and

12 “(B) to obtain, with respect to each such
13 customer (and each such representative), infor-
14 mation that is substantially comparable to that
15 which the depository institution obtains in the
16 ordinary course of business with respect to its
17 customers residing in the United States.

18 “(4) INFORMATION RELATING TO CERTAIN COR-
19 RESPONDENT ACCOUNTS.—If the Secretary finds a
20 jurisdiction outside of the United States, 1 or more
21 financial institutions operating outside of the United
22 States, or 1 or more classes of transactions within,
23 or involving, a jurisdiction outside of the United
24 States to be of primary money laundering concern,
25 the Secretary may require any domestic financial in-

1 stitution or domestic financial agency that opens or
2 maintains a correspondent account in the United
3 States for a foreign financial institution involving
4 any such jurisdiction or any such financial institu-
5 tion operating outside of the United States, or a cor-
6 respondent account through which any such trans-
7 action may be conducted, as a condition of opening
8 or maintaining such account—

9 “(A) to identify each customer (and rep-
10 representative of such customer) of any such finan-
11 cial institution who is permitted to use, or
12 whose transactions are routed through, such
13 correspondent account; and

14 “(B) to obtain, with respect to each such
15 customer (and each such representative), infor-
16 mation that is substantially comparable to that
17 which the depository institution obtains in the
18 ordinary course of business with respect to its
19 customers residing in the United States.

20 “(5) PROHIBITIONS OR CONDITIONS ON OPEN-
21 ING OR MAINTAINING CERTAIN CORRESPONDENT OR
22 PAYABLE-THROUGH ACCOUNTS.—If the Secretary
23 finds a jurisdiction outside of the United States, 1
24 or more financial institutions operating outside of
25 the United States, or 1 or more classes of trans-

1 actions within, or involving, a jurisdiction outside of
2 the United States to be of primary money laun-
3 dering concern, the Secretary, in consultation with
4 the Secretary of State, the Attorney General, and
5 the Chairman of the Board of Governors of the Fed-
6 eral Reserve System, may prohibit, or impose condi-
7 tions upon, the opening or maintaining in the United
8 States of a correspondent account or payable-
9 through account by any domestic financial institu-
10 tion or domestic financial agency for or on behalf of
11 a foreign banking institution, if such correspondent
12 account or payable-through account involves any
13 such jurisdiction or institution, or if any such trans-
14 action may be conducted through such cor-
15 respondent account or payable-through account.

16 “(c) CONSULTATIONS AND INFORMATION TO BE
17 CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,
18 TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRI-
19 MARY MONEY LAUNDERING CONCERN.—

20 “(1) IN GENERAL.—In making a finding that
21 reasonable grounds exist for concluding that a juris-
22 diction outside of the United States, 1 or more fi-
23 nancial institutions operating outside of the United
24 States, 1 or more classes of transactions within, or
25 involving, a jurisdiction outside of the United States,

1 or 1 or more types of accounts is of primary money
2 laundering concern so as to authorize the Secretary
3 to take 1 or more of the special measures described
4 in subsection (b), the Secretary shall consult with
5 the Secretary of State, and the Attorney General.

6 “(2) ADDITIONAL CONSIDERATIONS.—In mak-
7 ing a finding described in paragraph (1), the Sec-
8 retary shall consider in addition such information as
9 the Secretary determines to be relevant, including
10 the following potentially relevant factors:

11 “(A) JURISDICTIONAL FACTORS.—In the
12 case of a particular jurisdiction—

13 “(i) evidence that organized criminal
14 groups, international terrorists, or both,
15 have transacted business in that jurisdic-
16 tion;

17 (ii) the extent to which that jurisdic-
18 tion or financial institutions operating in
19 that jurisdiction offer bank secrecy or spe-
20 cial tax or regulatory advantages to non-
21 residents or nondomiciliaries of that juris-
22 diction;

23 “(iii) the substance and quality of ad-
24 ministration of the bank supervisory and

1 counter-money laundering laws of that ju-
2 risdiction;

3 “(iv) the relationship between the vol-
4 ume of financial transactions occurring in
5 that jurisdiction and the size of the econ-
6 omy of the jurisdiction;

7 “(v) the extent to which that jurisdic-
8 tion is characterized as a tax haven or off-
9 shore banking or secrecy haven by credible
10 international organizations or multilateral
11 expert groups;

12 “(vi) whether the United States has a
13 mutual legal assistance treaty with that ju-
14 risdiction, and the experience of United
15 States law enforcement officials, regulatory
16 officials, and tax administrators in obtain-
17 ing information about transactions origi-
18 nating in or routed through or to such ju-
19 risdiction; and

20 “(vii) the extent to which that jurisdic-
21 tion is characterized by high levels of of-
22 ficial or institutional corruption.

23 “(B) INSTITUTIONAL FACTORS.—In the
24 case of a decision to apply 1 or more of the spe-
25 cial measures described in subsection (b) only

1 to a financial institution or institutions, or to a
2 transaction or class of transactions, or to a type
3 of account, or to all 3, within or involving a
4 particular jurisdiction—

5 “(i) the extent to which such financial
6 institutions, transactions, or types of ac-
7 counts are used to facilitate or promote
8 money laundering in or through the juris-
9 diction;

10 “(ii) the extent to which such institu-
11 tions, transactions, or types of accounts
12 are used for legitimate business purposes
13 in the jurisdiction; and

14 “(iii) the extent to which such action
15 is sufficient to ensure, with respect to
16 transactions involving the jurisdiction and
17 institutions operating in the jurisdiction,
18 that the purposes of this subchapter con-
19 tinue to be fulfilled, and to guard against
20 international money laundering and other
21 financial crimes.

22 “(d) NOTIFICATION OF SPECIAL MEASURES IN-
23 VOKED BY THE SECRETARY.—Not later than 10 days
24 after the date of any action taken by the Secretary under
25 subsection (a)(1), the Secretary shall notify, in writing,

1 the Committee on Financial Services of the House of Rep-
2 resentatives and the Committee on Banking, Housing, and
3 Urban Affairs of the Senate of any such action.

4 “(e) STUDY AND REPORT ON FOREIGN NATION-
5 ALS.—

6 “(1) STUDY.—The Secretary, in consultation
7 with the appropriate Federal agencies, including the
8 Federal banking agencies (as defined in section 3 of
9 the Federal Deposit Insurance Act), shall conduct a
10 study to—

11 “(A) determine the most timely and effec-
12 tive way to require foreign nationals to provide
13 domestic financial institutions and agencies
14 with appropriate and accurate information,
15 comparable to that which is required of United
16 States nationals, concerning their identity, ad-
17 dress, and other related information necessary
18 to enable such institutions and agencies to com-
19 ply with the reporting, information gathering,
20 and other requirements of this section; and

21 “(B) consider the need for requiring for-
22 eign nationals to apply for and obtain an identi-
23 fication number, similar to what is required for
24 United States citizens through a social security
25 number or tax identification number, prior to

1 opening an account with a domestic financial
2 institution.

3 “(2) REPORT.—The Secretary shall report to
4 Congress not later than 180 days after the date of
5 enactment of this section with recommendations for
6 implementing such action referred to in paragraph
7 (1) in a timely and effective manner.

8 “(f) DEFINITIONS.—Notwithstanding any other pro-
9 vision of this subchapter, for purposes of this section, the
10 following definitions shall apply:

11 “(1) BANK DEFINITIONS.—The following defini-
12 tions shall apply with respect to a bank:

13 “(A) ACCOUNT.—The term ‘account’—

14 “(i) means a formal banking or busi-
15 ness relationship established to provide
16 regular services, dealings, and other finan-
17 cial transactions; and

18 “(ii) includes a demand deposit, sav-
19 ings deposit, or other transaction or asset
20 account and a credit account or other ex-
21 tension of credit.

22 “(B) CORRESPONDENT ACCOUNT.—The
23 term ‘correspondent account’ means an account
24 established to receive deposits from, make pay-
25 ments on behalf of a foreign financial institu-

1 tion, or handle other financial transactions re-
2 lated to such institution.

3 “(C) PAYABLE-THROUGH ACCOUNT.—The
4 term ‘payable-through account’ means an ac-
5 count, including a transaction account (as de-
6 fined in section 19(b)(1)(C) of the Federal Re-
7 serve Act), opened at a depository institution by
8 a foreign financial institution by means of
9 which the foreign financial institution permits
10 its customers to engage, either directly or
11 through a subaccount, in banking activities
12 usual in connection with the business of bank-
13 ing in the United States.

14 “(2) DEFINITIONS APPLICABLE TO INSTITU-
15 TIONS OTHER THAN BANKS.—With respect to any fi-
16 nancial institution other than a bank, the Secretary
17 shall, after consultation with the Securities and Ex-
18 change Commission, define by regulation the term
19 ‘account’, and shall include within the meaning of
20 that term, to the extent, if any, that the Secretary
21 deems appropriate, arrangements similar to payable-
22 through and correspondent accounts.

23 “(3) REGULATORY DEFINITION.—The Sec-
24 retary shall promulgate regulations defining bene-
25 ficial ownership of an account for purposes of this

1 section. Such regulations shall address issues related
2 to an individual's authority to fund, direct, or man-
3 age the account (including, without limitation, the
4 power to direct payments into or out of the ac-
5 count), and an individual's material interest in the
6 income or corpus of the account, and shall ensure
7 that the identification of individuals under this sec-
8 tion does not extend to any individual whose bene-
9 ficial interest in the income or corpus of the account
10 is immaterial.”.

11 “(4) OTHER TERMS.—The Secretary may, by
12 regulation, further define the terms in paragraphs
13 (1) and (2) and define other terms for the purposes
14 of this section, as the Secretary deems appro-
15 priate.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for subchapter II of chapter 53 of title 31, United States
18 Code, is amended by inserting after the item relating to
19 section 5318 the following new item:

“5318A. Special measures for jurisdictions, financial institutions, or inter-
national transactions of primary money laundering concern.”.

1 **SEC. 312. SPECIAL DUE DILIGENCE FOR CORRESPONDENT**
2 **ACCOUNTS AND PRIVATE BANKING AC-**
3 **COUNTS.**

4 (a) IN GENERAL.—Section 5318 of title 31, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 “(i) DUE DILIGENCE FOR UNITED STATES PRIVATE
8 BANKING AND CORRESPONDENT BANK ACCOUNTS IN-
9 VOLVING FOREIGN PERSONS.—

10 “(1) IN GENERAL.—Each financial institution
11 that establishes, maintains, administers, or manages
12 a private banking account or a correspondent ac-
13 count in the United States for a non-United States
14 person, including a foreign individual visiting the
15 United States, or a representative of a non-United
16 States person shall establish appropriate, specific,
17 and, where necessary, enhanced, due diligence poli-
18 cies, procedures, and controls to detect and report
19 instances of money laundering through those ac-
20 counts.

21 “(2) MINIMUM STANDARDS FOR COR-
22 RESPONDENT ACCOUNTS.—

23 “(A) IN GENERAL.—Subparagraph (B)
24 shall apply if a correspondent account is re-
25 quested or maintained by, or on behalf of, a
26 foreign bank operating—

1 “(i) under an offshore banking li-
2 cense; or

3 “(ii) under a banking license issued
4 by a foreign country that has been
5 designated—

6 “(I) as noncooperative with inter-
7 national anti-money laundering prin-
8 ciples or procedures by an intergov-
9 ernmental group or organization of
10 which the United States is a member;
11 or

12 “(II) by the Secretary as war-
13 ranting special measures due to
14 money laundering concerns.

15 “(B) POLICIES, PROCEDURES, AND CON-
16 TROLS.—The enhanced due diligence policies,
17 procedures, and controls required under para-
18 graph (1) shall, at a minimum, ensure that the
19 financial institution in the United States takes
20 reasonable steps—

21 “(i) to ascertain for any such foreign
22 bank, the shares of which are not publicly
23 traded, the identity of each of the owners
24 of the foreign bank, and the nature and

1 extent of the ownership interest of each
2 such owner;

3 “(ii) to conduct enhanced scrutiny of
4 such account to guard against money laun-
5 dering and report any suspicious trans-
6 actions under section 5318(g); and

7 “(iii) to ascertain whether such for-
8 eign bank provides correspondent accounts
9 to other foreign banks and, if so, the iden-
10 tity of those foreign banks and related due
11 diligence information, as appropriate under
12 paragraph (1).

13 “(3) MINIMUM STANDARDS FOR PRIVATE BANK-
14 ING ACCOUNTS.—If a private banking account is re-
15 quested or maintained by, or on behalf of, a non-
16 United States person, then the due diligence policies,
17 procedures, and controls required under paragraph
18 (1) shall, at a minimum, ensure that the financial
19 institution takes reasonable steps—

20 “(A) to ascertain the identity of the nomi-
21 nal and beneficial owners of, and the source of
22 funds deposited into, such account as needed to
23 guard against money laundering and report any
24 suspicious transactions under section 5318(g);
25 and

1 “(B) to conduct enhanced scrutiny of any
2 such account that is requested or maintained
3 by, or on behalf of, a senior foreign political fig-
4 ure, or any immediate family member or close
5 associate of a senior foreign political figure, to
6 prevent, detect, and report transactions that
7 may involve the proceeds of foreign corruption.

8 “(4) DEFINITIONS AND REGULATORY AUTHOR-
9 ITY.—

10 “(A) OFFSHORE BANKING LICENSE.—For
11 purposes of this subsection, the term ‘offshore
12 banking license’ means a license to conduct
13 banking activities which, as a condition of the
14 license, prohibits the licensed entity from con-
15 ducting banking activities with the citizens of,
16 or with the local currency of, the country which
17 issued the license.

18 “(B) REGULATORY AUTHORITY.—The Sec-
19 retary, in consultation with the appropriate
20 functional regulators of the affected financial
21 institutions, may further delineate, by regula-
22 tion the due diligence policies, procedures, and
23 controls required under paragraph (1).”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect beginning 180 days after the

1 date of enactment of this Act with respect to accounts cov-
2 ered by section 5318(i) of title 31, United States Code,
3 as added by this section, that are opened before, on, or
4 after the date of enactment of this Act.

5 **SEC. 313. PROHIBITION ON UNITED STATES COR-**
6 **RESPONDENT ACCOUNTS WITH FOREIGN**
7 **SHELL BANKS.**

8 (a) IN GENERAL.—Section 5318 of title 31, United
9 States Code, is amended by inserting after section 5318(i),
10 as added by section 312 of this title, the following:

11 “(j) PROHIBITION ON UNITED STATES COR-
12 RESPONDENT ACCOUNTS WITH FOREIGN SHELL
13 BANKS.—

14 “(1) IN GENERAL.—A financial institution de-
15 scribed in subparagraphs (A) through (F) of section
16 5312(a)(2) (in this subsection referred to as a ‘cov-
17 ered financial institution’) shall not establish, main-
18 tain, administer, or manage a correspondent account
19 in the United States for, or on behalf of, a foreign
20 bank that does not have a physical presence in any
21 country.

22 “(2) PREVENTION OF INDIRECT SERVICE TO
23 FOREIGN SHELL BANKS.—A covered financial insti-
24 tution shall take reasonable steps to ensure that any
25 correspondent account established, maintained, ad-

1 ministered, or managed by that covered financial in-
2 stitution in the United States for a foreign bank is
3 not being used by that foreign bank to indirectly
4 provide banking services to another foreign bank
5 that does not have a physical presence in any coun-
6 try. The Secretary shall, by regulation, delineate the
7 reasonable steps necessary to comply with this para-
8 graph.

9 “(3) EXCEPTION.—Paragraphs (1) and (2) do
10 not prohibit a covered financial institution from pro-
11 viding a correspondent account to a foreign bank, if
12 the foreign bank—

13 “(A) is an affiliate of a depository institu-
14 tion, credit union, or foreign bank that main-
15 tains a physical presence in the United States
16 or a foreign country, as applicable; and

17 “(B) is subject to supervision by a banking
18 authority in the country regulating the affili-
19 ated depository institution, credit union, or for-
20 eign bank described in subparagraph (A), as
21 applicable.

22 “(4) DEFINITIONS.—For purposes of this
23 subsection—

24 “(A) the term ‘affiliate’ means a foreign
25 bank that is controlled by or is under common

1 control with a depository institution, credit
2 union, or foreign bank; and

3 “(B) the term ‘physical presence’ means a
4 place of business that—

5 “(i) is maintained by a foreign bank;

6 “(ii) is located at a fixed address
7 (other than solely an electronic address) in
8 a country in which the foreign bank is au-
9 thorized to conduct banking activities, at
10 which location the foreign bank—

11 “(I) employs 1 or more individ-
12 uals on a full-time basis; and

13 “(II) maintains operating records
14 related to its banking activities; and

15 “(iii) is subject to inspection by the
16 banking authority which licensed the for-
17 eign bank to conduct banking activities.”.

18 **SEC. 314. COOPERATIVE EFFORTS TO DETER MONEY LAUN-**
19 **DERING.**

20 (a) COOPERATION AMONG FINANCIAL INSTITUTIONS,
21 REGULATORY AUTHORITIES, AND LAW ENFORCEMENT
22 AUTHORITIES.—

23 (1) REGULATIONS.—The Secretary shall, within
24 120 days after the date of enactment of this Act,
25 adopt regulations to encourage further cooperation

1 among financial institutions, their regulatory au-
2 thorities, and law enforcement authorities, with the
3 specific purpose of encouraging regulatory authori-
4 ties and law enforcement authorities to share with
5 financial institutions information regarding individ-
6 uals, entities, and organizations engaged in or rea-
7 sonably suspected based on credible evidence of en-
8 gaging in terrorist acts or money laundering activi-
9 ties.

10 (2) CONTENTS.—The regulations promulgated
11 pursuant to paragraph (1) may—

12 (A) require that each financial institution
13 designate 1 or more persons to receive informa-
14 tion concerning, and to monitor accounts of in-
15 dividuals, entities, and organizations identified,
16 pursuant to paragraph (1); and

17 (B) further establish procedures for the
18 protection of the shared information, consistent
19 with the capacity, size, and nature of the insti-
20 tution to which the particular procedures apply.

21 (3) RULE OF CONSTRUCTION.—The receipt of
22 information by a financial institution pursuant to
23 this section shall not relieve or otherwise modify the
24 obligations of the financial institution with respect
25 to any other person or account.

1 (4) USE OF INFORMATION.—Information re-
2 ceived by a financial institution pursuant to this sec-
3 tion shall not be used for any purpose other than
4 identifying and reporting on activities that may in-
5 volve terrorist acts or money laundering activities.

6 (b) COOPERATION AMONG FINANCIAL INSTITU-
7 TIONS.—Upon notice provided to the Secretary, 2 or more
8 financial institutions and any association of financial insti-
9 tutions may share information with one another regarding
10 individuals, entities, organizations, and countries sus-
11 pected of possible terrorist or money laundering activities.
12 A financial institution or association that transmits, re-
13 ceives, or shares such information for the purposes of
14 identifying and reporting activities that may involve ter-
15 rorist acts or money laundering activities shall not be lia-
16 ble to any person under any law or regulation of the
17 United States, any constitution, law, or regulation of any
18 State or political subdivision thereof, or under any con-
19 tract or other legally enforceable agreement (including any
20 arbitration agreement), for such disclosure or for any fail-
21 ure to provide notice of such disclosure to the person who
22 is the subject of such disclosure, or any other person iden-
23 tified in the disclosure, except where such transmission,
24 receipt, or sharing violates this section or regulations pro-
25 mulgated pursuant to this section.

1 (c) RULE OF CONSTRUCTION.—Compliance with the
2 provisions of this title requiring or allowing financial insti-
3 tutions and any association of financial institutions to dis-
4 close or share information regarding individuals, entities,
5 and organizations engaged in or suspected of engaging in
6 terrorist acts or money laundering activities shall not con-
7 stitute a violation of the provisions of title V of the
8 Gramm-Leach-Bliley Act (Public Law 106–102).

9 **SEC. 315. INCLUSION OF FOREIGN CORRUPTION OFFENSES**
10 **AS MONEY LAUNDERING CRIMES.**

11 Section 1956(c)(7)(B) of title 18, United States
12 Code, is amended—

13 (1) in clause (ii), by striking “or destruction of
14 property by means of explosive or fire” and inserting
15 “destruction of property by means of explosive or
16 fire, or a crime of violence (as defined in section
17 16)”;

18 (2) in clause (iii), by striking “1978” and in-
19 serting “1978”;

20 (3) by adding at the end the following:

21 “(iv) bribery of a public official, or
22 the misappropriation, theft, or embezzle-
23 ment of public funds by or for the benefit
24 of a public official;

1 “(v) smuggling or export control viola-
2 tions involving—

3 “(I) an item controlled on the
4 United States Munitions List estab-
5 lished under section 38 of the Arms
6 Export Control Act (22 U.S.C. 2778);
7 or

8 “(II) an item controlled under
9 regulations under the Export Admin-
10 istration Act of 1977 (15 C.F.R.
11 Parts 730–774);

12 “(vi) an offense with respect to which
13 the United States would be obligated by a
14 multilateral treaty, either to extradite the
15 alleged offender or to submit the case for
16 prosecution, if the offender were found
17 within the territory of the United States;
18 or

19 “(vii) the misuse of funds of, or pro-
20 vided by, the International Monetary Fund
21 in contravention of the Articles of Agree-
22 ment of the Fund or the misuse of funds
23 of, or provided by, any other international
24 financial institution (as defined in section
25 1701(c)(2) of the International Financial

1 Institutions Act (22 U.S.C. 262r(c)(2)) in
2 contravention of any treaty or other inter-
3 national agreement to which the United
4 States is a party, including any articles of
5 agreement of the members of the inter-
6 national financial institution;”.

7 **SEC. 316. ANTI-TERRORIST FORFEITURE PROTECTION.**

8 (a) **RIGHT TO CONTEST.**—An owner of property that
9 is confiscated under any provision of law relating to the
10 confiscation of assets of suspected international terrorists,
11 may contest that confiscation by filing a claim in the man-
12 ner set forth in the Federal Rules of Civil Procedure (Sup-
13 plemental Rules for Certain Admiralty and Maritime
14 Claims), and asserting as an affirmative defense that—

15 (1) the property is not subject to confiscation
16 under such provision of law; or

17 (2) the innocent owner provisions of section
18 983(d) of title 18, United States Code, apply to the
19 case.

20 (b) **EVIDENCE.**—In considering a claim filed under
21 this section, the Government may rely on evidence that
22 is otherwise inadmissible under the Federal Rules of Evi-
23 dence, if a court determines that such reliance is necessary
24 to protect the national security interests of the United
25 States.

1 (c) OTHER REMEDIES.—Nothing in this section shall
2 limit or otherwise affect any other remedies that may be
3 available to an owner of property under section 983 of
4 title 18, United States Code, or any other provision of law.

5 **SEC. 317. LONG-ARM JURISDICTION OVER FOREIGN MONEY**
6 **LAUNDERERS.**

7 Section 1956(b) of title 18, United States Code, is
8 amended—

9 (1) by redesignating paragraphs (1) and (2) as
10 subparagraphs (A) and (B), respectively, and mov-
11 ing the margins 2 ems to the right;

12 (2) by inserting after “(b)” the following:

13 “PENALTIES.—

14 “(1) IN GENERAL.—”;

15 (3) by inserting “, or section 1957” after “or
16 (a)(3)”; and

17 (4) by adding at the end the following:

18 “(2) JURISDICTION OVER FOREIGN PERSONS.—

19 For purposes of adjudicating an action filed or en-
20 forcing a penalty ordered under this section, the dis-
21 trict courts shall have jurisdiction over any foreign
22 person, including any financial institution authorized
23 under the laws of a foreign country, against whom
24 the action is brought, if service of process upon the
25 foreign person is made under the Federal Rules of

1 Civil Procedure or the laws of the country in which
2 the foreign person is found, and—

3 “(A) the foreign person commits an offense
4 under subsection (a) involving a financial trans-
5 action that occurs in whole or in part in the
6 United States;

7 “(B) the foreign person converts, to his or
8 her own use, property in which the United
9 States has an ownership interest by virtue of
10 the entry of an order of forfeiture by a court
11 of the United States; or

12 “(C) the foreign person is a financial insti-
13 tution that maintains a bank account at a fi-
14 nancial institution in the United States.

15 “(3) COURT AUTHORITY OVER ASSETS.—A
16 court described in paragraph (2) may issue a pre-
17 trial restraining order or take any other action nec-
18 essary to ensure that any bank account or other
19 property held by the defendant in the United States
20 is available to satisfy a judgment under this section.

21 “(4) FEDERAL RECEIVER.—

22 “(A) IN GENERAL.—A court described in
23 paragraph (2) may appoint a Federal Receiver,
24 in accordance with subparagraph (B) of this
25 paragraph, to collect, marshal, and take cus-

1 today, control, and possession of all assets of the
2 defendant, wherever located, to satisfy a judg-
3 ment under this section or section 981, 982, or
4 1957, including an order of restitution to any
5 victim of a specified unlawful activity.

6 “(B) APPOINTMENT AND AUTHORITY.—A
7 Federal Receiver described in subparagraph
8 (A)—

9 “(i) may be appointed upon applica-
10 tion of a Federal prosecutor or a Federal
11 or State regulator, by the court having ju-
12 risdiction over the defendant in the case;

13 “(ii) shall be an officer of the court,
14 and the powers of the Federal Receiver
15 shall include the powers set out in section
16 754 of title 28, United States Code; and

17 “(iii) shall have standing equivalent to
18 that of a Federal prosecutor for the pur-
19 pose of submitting requests to obtain infor-
20 mation regarding the assets of the
21 defendant—

22 “(I) from the Financial Crimes
23 Enforcement Network of the Depart-
24 ment of the Treasury; or

1 “(II) from a foreign country pur-
2 suant to a mutual legal assistance
3 treaty, multilateral agreement, or
4 other arrangement for international
5 law enforcement assistance, provided
6 that such requests are in accordance
7 with the policies and procedures of the
8 Attorney General.”.

9 **SEC. 318. LAUNDERING MONEY THROUGH A FOREIGN**
10 **BANK.**

11 Section 1956(c) of title 18, United States Code, is
12 amended by striking paragraph (6) and inserting the fol-
13 lowing:

14 “(6) the term ‘financial institution’ includes—

15 “(A) any financial institution, as defined in
16 section 5312(a)(2) of title 31, United States
17 Code, or the regulations promulgated there-
18 under; and

19 “(B) any foreign bank, as defined in sec-
20 tion 1 of the International Banking Act of 1978
21 (12 U.S.C. 3101).”.

1 **SEC. 319. FORFEITURE OF FUNDS IN UNITED STATES**
2 **INTERBANK ACCOUNTS.**

3 (a) FORFEITURE FROM UNITED STATES INTERBANK
4 ACCOUNT.—Section 981 of title 18, United States Code,
5 is amended by adding at the end the following:

6 “(k) INTERBANK ACCOUNTS.—

7 “(1) IN GENERAL.—

8 “(A) IN GENERAL.—For the purpose of a
9 forfeiture under this section or under the Con-
10 trolled Substances Act (21 U.S.C. 801 et seq.),
11 if funds are deposited into an account at a for-
12 eign bank, and that foreign bank has an inter-
13 bank account in the United States with a cov-
14 ered financial institution (as defined in section
15 5318A of title 31), the funds shall be deemed
16 to have been deposited into the interbank ac-
17 count in the United States, and any restraining
18 order, seizure warrant, or arrest warrant in rem
19 regarding the funds may be served on the cov-
20 ered financial institution, and funds in the
21 interbank account, up to the value of the funds
22 deposited into the account at the foreign bank,
23 may be restrained, seized, or arrested.

24 “(B) AUTHORITY TO SUSPEND.—The At-
25 torney General, in consultation with the Sec-
26 retary, may suspend or terminate a forfeiture

1 under this section if the Attorney General de-
2 termines that a conflict of law exists between
3 the laws of the jurisdiction in which the foreign
4 bank is located and the laws of the United
5 States with respect to liabilities arising from
6 the restraint, seizure, or arrest of such funds,
7 and that such suspension or termination would
8 be in the interest of justice and would not harm
9 the national interests of the United States.

10 “(2) NO REQUIREMENT FOR GOVERNMENT TO
11 TRACE FUNDS.—If a forfeiture action is brought
12 against funds that are restrained, seized, or arrested
13 under paragraph (1), it shall not be necessary for
14 the Government to establish that the funds are di-
15 rectly traceable to the funds that were deposited into
16 the foreign bank, nor shall it be necessary for the
17 Government to rely on the application of section
18 984.

19 “(3) CLAIMS BROUGHT BY OWNER OF THE
20 FUNDS.—If a forfeiture action is instituted against
21 funds restrained, seized, or arrested under para-
22 graph (1), the owner of the funds deposited into the
23 account at the foreign bank may contest the for-
24 feiture by filing a claim under section 983.

1 “(4) DEFINITIONS.—For purposes of this sub-
2 section, the following definitions shall apply:

3 “(A) INTERBANK ACCOUNT.—The term
4 ‘interbank account’ has the same meaning as in
5 section 984(c)(2)(B).

6 “(B) OWNER.—

7 “(i) IN GENERAL.—Except as pro-
8 vided in clause (ii), the term ‘owner’—

9 “(I) means the person who was
10 the owner, as that term is defined in
11 section 983(d)(6), of the funds that
12 were deposited into the foreign bank
13 at the time such funds were deposited;
14 and

15 “(II) does not include either the
16 foreign bank or any financial institu-
17 tion acting as an intermediary in the
18 transfer of the funds into the inter-
19 bank account.

20 “(ii) EXCEPTION.—The foreign bank
21 may be considered the ‘owner’ of the funds
22 (and no other person shall qualify as the
23 owner of such funds) only if—

1 “(I) the basis for the forfeiture
2 action is wrongdoing committed by
3 the foreign bank; or

4 “(II) the foreign bank estab-
5 lishes, by a preponderance of the evi-
6 dence, that prior to the restraint, sei-
7 zure, or arrest of the funds, the for-
8 eign bank had discharged all or part
9 of its obligation to the prior owner of
10 the funds, in which case the foreign
11 bank shall be deemed the owner of the
12 funds to the extent of such discharged
13 obligation.”.

14 (b) BANK RECORDS.—Section 5318 of title 31,
15 United States Code, is amended by adding at the end the
16 following:

17 “(k) BANK RECORDS RELATED TO ANTI-MONEY
18 LAUNDERING PROGRAMS.—

19 “(1) DEFINITIONS.—For purposes of this sub-
20 section, the following definitions shall apply:

21 “(A) APPROPRIATE FEDERAL BANKING
22 AGENCY.—The term ‘appropriate Federal bank-
23 ing agency’ has the same meaning as in section
24 3 of the Federal Deposit Insurance Act (12
25 U.S.C. 1813).

1 records maintained outside of the United
2 States relating to the deposit of funds into
3 the foreign bank.

4 “(ii) SERVICE OF SUMMONS OR SUB-
5 POENA.—A summons or subpoena referred
6 to in clause (i) may be served on the for-
7 eign bank in the United States if the for-
8 eign bank has a representative in the
9 United States, or in a foreign country pur-
10 suant to any mutual legal assistance trea-
11 ty, multilateral agreement, or other request
12 for international law enforcement assist-
13 ance.

14 “(B) ACCEPTANCE OF SERVICE.—

15 “(i) MAINTAINING RECORDS IN THE
16 UNITED STATES.—Any covered financial
17 institution which maintains a cor-
18 respondent account in the United States
19 for a foreign bank shall maintain records
20 in the United States identifying the owners
21 of such foreign bank and the name and ad-
22 dress of a person who resides in the United
23 States and is authorized to accept service
24 of legal process for records regarding the
25 correspondent account.

1 “(ii) LAW ENFORCEMENT REQUEST.—
2 Upon receipt of a written request from a
3 Federal law enforcement officer for infor-
4 mation required to be maintained under
5 this paragraph, the covered financial insti-
6 tution shall provide the information to the
7 requesting officer not later than 7 days
8 after receipt of the request.

9 “(C) TERMINATION OF CORRESPONDENT
10 RELATIONSHIP.—

11 “(i) TERMINATION UPON RECEIPT OF
12 NOTICE.—A covered financial institution
13 shall terminate any correspondent relation-
14 ship with a foreign bank not later than 10
15 business days after receipt of written no-
16 tice from the Secretary or the Attorney
17 General that the foreign bank has failed—

18 “(I) to comply with a summons
19 or subpoena issued under subpara-
20 graph (A); or

21 “(II) to initiate proceedings in a
22 United States court contesting such
23 summons or subpoena.

24 “(ii) LIMITATION ON LIABILITY.—A
25 covered financial institution shall not be

1 liable to any person in any court or arbi-
2 tration proceeding for terminating a cor-
3 respondent relationship in accordance with
4 this subsection.

5 “(iii) FAILURE TO TERMINATE RELA-
6 TIONSHIP.—Failure to terminate a cor-
7 respondent relationship in accordance with
8 this subsection shall render the covered fi-
9 nancial institution liable for a civil penalty
10 of up to \$10,000 per day until the cor-
11 respondent relationship is so terminated.”.

12 (c) GRACE PERIOD.—Financial institutions affected
13 by section 5333 of title 31 United States Code, as amend-
14 ed by this title, shall have 60 days from the date of enact-
15 ment of this Act to comply with the provisions of that sec-
16 tion.

17 (d) REQUESTS FOR RECORDS.—Section 3486(a)(1)
18 of title 18, United States Code, is amended by striking
19 “, or (II) a Federal offense involving the sexual exploi-
20 tation or abuse of children” and inserting “, (II) a Federal
21 offense involving the sexual exploitation or abuse of chil-
22 dren, or (III) money laundering, in violation of section
23 1956, 1957, or 1960 of this title”.

24 (e) AUTHORITY TO ORDER CONVICTED CRIMINAL TO
25 RETURN PROPERTY LOCATED ABROAD.—

1 (1) FORFEITURE OF SUBSTITUTE PROPERTY.—
2 Section 413(p) of the Controlled Substances Act (21
3 U.S.C. 853) is amended to read as follows:

4 “(p) FORFEITURE OF SUBSTITUTE PROPERTY.—

5 “(1) IN GENERAL.—Paragraph (2) of this sub-
6 section shall apply, if any property described in sub-
7 section (a), as a result of any act or omission of the
8 defendant—

9 “(A) cannot be located upon the exercise of
10 due diligence;

11 “(B) has been transferred or sold to, or
12 deposited with, a third party;

13 “(C) has been placed beyond the jurisdic-
14 tion of the court;

15 “(D) has been substantially diminished in
16 value; or

17 “(E) has been commingled with other
18 property which cannot be divided without dif-
19 ficulty.

20 “(2) SUBSTITUTE PROPERTY.—In any case de-
21 scribed in any of subparagraphs (A) through (E) of
22 paragraph (1), the court shall order the forfeiture of
23 any other property of the defendant, up to the value
24 of any property described in subparagraphs (A)
25 through (E) of paragraph (1), as applicable.

1 “(3) RETURN OF PROPERTY TO JURISDIC-
2 TION.—In the case of property described in para-
3 graph (1)(C), the court may, in addition to any
4 other action authorized by this subsection, order the
5 defendant to return the property to the jurisdiction
6 of the court so that the property may be seized and
7 forfeited.”.

8 (2) PROTECTIVE ORDERS.—Section 413(e) of
9 the Controlled Substances Act (21 U.S.C. 853(e)) is
10 amended by adding at the end the following:

11 “(4) ORDER TO REPATRIATE AND DEPOSIT.—

12 “(A) IN GENERAL.—Pursuant to its au-
13 thority to enter a pretrial restraining order
14 under this section, including its authority to re-
15 strain any property forfeitable as substitute as-
16 sets, the court may order a defendant to repa-
17 triate any property that may be seized and for-
18 feited, and to deposit that property pending
19 trial in the registry of the court, or with the
20 United States Marshals Service or the Sec-
21 retary of the Treasury, in an interest-bearing
22 account, if appropriate.

23 “(B) FAILURE TO COMPLY.—Failure to
24 comply with an order under this subsection, or
25 an order to repatriate property under sub-

1 section (p), shall be punishable as a civil or
2 criminal contempt of court, and may also result
3 in an enhancement of the sentence of the de-
4 fendant under the obstruction of justice provi-
5 sion of the Federal Sentencing Guidelines.”.

6 **SEC. 320. PROCEEDS OF FOREIGN CRIMES.**

7 Section 981(a)(1)(B) of title 18, United States Code,
8 is amended to read as follows:

9 “(B) Any property, real or personal, within the
10 jurisdiction of the United States, constituting, de-
11 rived from, or traceable to, any proceeds obtained di-
12 rectly or indirectly from an offense against a foreign
13 nation, or any property used to facilitate such an of-
14 fense, if the offense—

15 “(i) involves the manufacture, importation,
16 sale, or distribution of a controlled substance
17 (as that term is defined for purposes of the
18 Controlled Substances Act), or any other con-
19 duct described in section 1956(c)(7)(B);

20 “(ii) would be punishable within the juris-
21 diction of the foreign nation by death or impris-
22 onment for a term exceeding 1 year; and

23 “(iii) would be punishable under the laws
24 of the United States by imprisonment for a
25 term exceeding 1 year, if the act or activity con-

1 stituting the offense had occurred within the ju-
2 risdiction of the United States.”.

3 **SEC. 321. EXCLUSION OF ALIENS INVOLVED IN MONEY**
4 **LAUNDERING.**

5 Section 212(a)(2) of the Immigration and Nationality
6 Act of 1952 (8 U.S.C. 1182(a)(2)) is amended by adding
7 at the end the following:

8 “(I) MONEY LAUNDERING ACTIVITIES.—
9 Any alien who the consular officer or the Attor-
10 ney General knows or has reason to believe is
11 or has been engaged in activities which, if en-
12 gaged in within the United States would con-
13 stitute a violation of section 1956 or 1957 of
14 title 18, United States Code, or has been a
15 knowing assister, abettor, conspirator, or
16 colluder with others in any such illicit activity
17 is inadmissible.”.

18 **SEC. 322. CORPORATION REPRESENTED BY A FUGITIVE.**

19 Section 2466 of title 18, United States Code, is
20 amended by designating the present matter as subsection
21 (a), and adding at the end the following:

22 “(b) Subsection (a) may be applied to a claim filed
23 by a corporation if any majority shareholder, or individual
24 filing the claim on behalf of the corporation is a person
25 to whom subsection (a) applies.”.

1 **SEC. 323. ENFORCEMENT OF FOREIGN JUDGMENTS.**

2 Section 2467 of title 28, United States Code, is
3 amended—

4 (1) in subsection (d), by adding the following
5 after paragraph (2):

6 “(3) PRESERVATION OF PROPERTY.—To pre-
7 serve the availability of property subject to a foreign
8 forfeiture or confiscation judgment, the Government
9 may apply for, and the court may issue, a restrain-
10 ing order pursuant to section 983(j) of title 18,
11 United States Code, at any time before or after an
12 application is filed pursuant to subsection (c)(1).

13 The court, in issuing the restraining order—

14 “(A) may rely on information set forth in
15 an affidavit describing the nature of the pro-
16 ceeding investigation underway in the foreign
17 country, and setting forth a reasonable basis to
18 believe that the property to be restrained will be
19 named in a judgment of forfeiture at the con-
20 clusion of such proceeding; or

21 “(B) may register and enforce a restrain-
22 ing order has been issued by a court of com-
23 petent jurisdiction in the foreign country and
24 certified by the Attorney General pursuant to
25 subsection (b)(2).

1 No person may object to the restraining order on
2 any ground that is the subject to parallel litigation
3 involving the same property that is pending in a for-
4 eign court.”;

5 (2) in subsection (b)(1)(C), by striking “estab-
6 lishing that the defendant received notice of the pro-
7 ceedings in sufficient time to enable the defendant”
8 and inserting “establishing that the foreign nation
9 took steps, in accordance with the principles of due
10 process, to give notice of the proceedings to all per-
11 sons with an interest in the property in sufficient
12 time to enable such persons”;

13 (3) in subsection (d)(1)(D), by striking “the de-
14 fendant in the proceedings in the foreign court did
15 not receive notice” and inserting “the foreign nation
16 did not take steps, in accordance with the principles
17 of due process, to give notice of the proceedings to
18 a person with an interest in the property”; and

19 (4) in subsection (a)(2)(A), by inserting “, any
20 violation of foreign law that would constitute a viola-
21 tion of an offense for which property could be for-
22 feited under Federal law if the offense were com-
23 mitted in the United States” after “United Nations
24 Convention”.

1 **SEC. 324. INCREASE IN CIVIL AND CRIMINAL PENALTIES**
2 **FOR MONEY LAUNDERING.**

3 (a) CIVIL PENALTIES.—Section 5321(a) of title 31,
4 United States Code, is amended by adding at the end the
5 following:

6 “(7) PENALTIES FOR INTERNATIONAL
7 COUNTER MONEY LAUNDERING VIOLATIONS.—The
8 Secretary may impose a civil money penalty in an
9 amount equal to not less than 2 times the amount
10 of the transaction, but not more than \$1,000,000,
11 on any financial institution or agency that violates
12 any provision of subsection (i) or (j) of section 5318
13 or any special measures imposed under section
14 5318A.”.

15 (b) CRIMINAL PENALTIES.—Section 5322 of title 31,
16 United States Code, is amended by adding at the end the
17 following:

18 “(d) A financial institution or agency that violates
19 any provision of subsection (i) or (j) of section 5318, or
20 any special measures imposed under section 5318A, or any
21 regulation prescribed under subsection (i) or (j) of section
22 5318 or section 5318A, shall be fined in an amount equal
23 to not less than 2 times the amount of the transaction,
24 but not more than \$1,000,000.”.

1 **SEC. 325. REPORT AND RECOMMENDATION.**

2 Not later than 30 months after the date of enactment
3 of this Act, the Secretary, in consultation with the Attor-
4 ney General, the Federal banking agencies (as defined at
5 section 3 of the Federal Deposit Insurance Act), the Secu-
6 rities and Exchange Commission, and such other agencies
7 as the Secretary may determine, at the discretion of the
8 Secretary, shall evaluate the operations of the provisions
9 of this subtitle and make recommendations to Congress
10 as to any legislative action with respect to this subtitle
11 as the Secretary may determine to be necessary or advis-
12 able.

13 **SEC. 326. REPORT ON EFFECTIVENESS.**

14 The Secretary shall report annually on measures
15 taken pursuant to this subtitle, and shall submit the re-
16 port to the Committee on Banking, Housing, and Urban
17 Affairs of the Senate and to the Committee on Financial
18 Services of the House of Representatives.

19 **SEC. 327. CONCENTRATION ACCOUNTS AT FINANCIAL IN-**
20 **STITUTIONS.**

21 Section 5318(h) of title 31, United States Code, as
22 amended by section 202 of this title, is amended by adding
23 at the end the following:

24 “(3) CONCENTRATION ACCOUNTS.—The Sec-
25 retary may issue regulations under this subsection
26 that govern maintenance of concentration accounts

1 by financial institutions, in order to ensure that such
2 accounts are not used to prevent association of the
3 identity of an individual customer with the move-
4 ment of funds of which the customer is the direct or
5 beneficial owner, which regulations shall, at a
6 minimum—

7 “(A) prohibit financial institutions from al-
8 lowing clients to direct transactions that move
9 their funds into, out of, or through the con-
10 centration accounts of the financial institution;

11 “(B) prohibit financial institutions and
12 their employees from informing customers of
13 the existence of, or the means of identifying,
14 the concentration accounts of the institution;
15 and

16 “(C) require each financial institution to
17 establish written procedures governing the doc-
18 umentation of all transactions involving a con-
19 centration account, which procedures shall en-
20 sure that, any time a transaction involving a
21 concentration account commingles funds belong-
22 ing to 1 or more customers, the identity of, and
23 specific amount belonging to, each customer is
24 documented.”.

1 **Subtitle B—Currency Transaction**
2 **Reporting Amendments and Re-**
3 **lated Improvements**

4 **SEC. 331. AMENDMENTS RELATING TO REPORTING OF SUS-**
5 **PICIOUS ACTIVITIES.**

6 (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-
7 MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title
8 31, United States Code, is amended to read as follows:

9 “(3) LIABILITY FOR DISCLOSURES.—

10 “(A) IN GENERAL.—Any financial institu-
11 tion that makes a voluntary disclosure of any
12 possible violation of law or regulation to a gov-
13 ernment agency or makes a disclosure pursuant
14 to this subsection or any other authority, and
15 any director, officer, employee, or agent of such
16 institution who makes, or requires another to
17 make any such disclosure, shall not be liable to
18 any person under any law or regulation of the
19 United States, any constitution, law, or regula-
20 tion of any State or political subdivision of any
21 State, or under any contract or other legally en-
22 forceable agreement (including any arbitration
23 agreement), for such disclosure or for any fail-
24 ure to provide notice of such disclosure to the

1 person who is the subject of such disclosure or
2 any other person identified in the disclosure.

3 “(B) RULE OF CONSTRUCTION.—Subpara-
4 graph (A) shall not be construed as creating—

5 “(i) any inference that the term ‘per-
6 son’, as used in such subparagraph, may
7 be construed more broadly than its ordi-
8 nary usage so as to include any govern-
9 ment or agency of government; or

10 “(ii) any immunity against, or other-
11 wise affecting, any civil or criminal action
12 brought by any government or agency of
13 government to enforce any constitution,
14 law, or regulation of such government or
15 agency.”.

16 (b) PROHIBITION ON NOTIFICATION OF DISCLO-
17 SURES.—Section 5318(g)(2) of title 31, United States
18 Code, is amended to read as follows:

19 “(2) NOTIFICATION PROHIBITED.—

20 “(A) IN GENERAL.—If a financial institu-
21 tion or any director, officer, employee, or agent
22 of any financial institution, voluntarily or pur-
23 suant to this section or any other authority, re-
24 ports a suspicious transaction to a government
25 agency—

1 “(i) the financial institution, director,
2 officer, employee, or agent may not notify
3 any person involved in the transaction that
4 the transaction has been reported; and

5 “(ii) no officer or employee of the
6 Federal Government or of any State, local,
7 tribal, or territorial government within the
8 United States, who has any knowledge that
9 such report was made may disclose to any
10 person involved in the transaction that the
11 transaction has been reported, other than
12 as necessary to fulfill the official duties of
13 such officer or employee.

14 “(B) DISCLOSURES IN CERTAIN EMPLOY-
15 MENT REFERENCES.—

16 “(i) RULE OF CONSTRUCTION.—Not-
17 withstanding the application of subpara-
18 graph (A) in any other context, subpara-
19 graph (A) shall not be construed as prohib-
20 iting any financial institution, or any direc-
21 tor, officer, employee, or agent of such in-
22 stitution, from including information that
23 was included in a report to which subpara-
24 graph (A) applies—

1 “(I) in a written employment ref-
2 erence that is provided in accordance
3 with section 18(v) of the Federal De-
4 posit Insurance Act in response to a
5 request from another financial institu-
6 tion, except that such written ref-
7 erence may not disclose that such in-
8 formation was also included in any
9 such report or that such report was
10 made; or

11 “(II) in a written termination no-
12 tice or employment reference that is
13 provided in accordance with the rules
14 of the self-regulatory organizations
15 registered with the Securities and Ex-
16 change Commission, except that such
17 written notice or reference may not
18 disclose that such information was
19 also included in any such report or
20 that such report was made.

21 “(ii) INFORMATION NOT REQUIRED.—
22 Clause (i) shall not be construed, by itself,
23 to create any affirmative duty to include
24 any information described in clause (i) in

1 any employment reference or termination
2 notice referred to in clause (i).”.

3 **SEC. 332. ANTI-MONEY LAUNDERING PROGRAMS.**

4 Section 5318(h) of title 31, United States Code, is
5 amended to read as follows:

6 “(h) ANTI-MONEY LAUNDERING PROGRAMS.—

7 “(1) IN GENERAL.—In order to guard against
8 money laundering through financial institutions,
9 each financial institution shall establish anti-money
10 laundering programs, including, at a minimum—

11 “(A) the development of internal policies,
12 procedures, and controls;

13 “(B) the designation of a compliance offi-
14 cer;

15 “(C) an ongoing employee training pro-
16 gram; and

17 “(D) an independent audit function to test
18 programs.

19 “(2) REGULATIONS.—The Secretary may pre-
20 scribe minimum standards for programs established
21 under paragraph (1), and may exempt from the ap-
22 plication of those standards any financial institution
23 that is not subject to the provisions of the rules con-
24 tained in part 103 of title 31, of the Code of Federal
25 Regulations, or any successor rule thereto, for so

1 long as such financial institution is not subject to
2 the provisions of such rules.”.

3 **SEC. 333. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC**
4 **TARGETING ORDERS AND CERTAIN RECORD-**
5 **KEEPING REQUIREMENTS, AND LENGTH-**
6 **ENING EFFECTIVE PERIOD OF GEOGRAPHIC**
7 **TARGETING ORDERS.**

8 (a) CIVIL PENALTY FOR VIOLATION OF TARGETING
9 ORDER.—Section 5321(a)(1) of title 31, United States
10 Code, is amended—

11 (1) by inserting “or order issued” after “sub-
12 chapter or a regulation prescribed”; and

13 (2) by inserting “, or willfully violating a regu-
14 lation prescribed under section 21 of the Federal
15 Deposit Insurance Act or section 123 of Public Law
16 91–508,” after “sections 5314 and 5315”).

17 (b) CRIMINAL PENALTIES FOR VIOLATION OF TAR-
18 GETING ORDER.—Section 5322 of title 31, United States
19 Code, is amended—

20 (1) in subsection (a)—

21 (A) by inserting “or order issued” after
22 “willfully violating this subchapter or a regula-
23 tion prescribed”; and

24 (B) by inserting “, or willfully violating a
25 regulation prescribed under section 21 of the

1 Federal Deposit Insurance Act or section 123
2 of Public Law 91–508,” after “under section
3 5315 or 5324”); and

4 (2) in subsection (b)—

5 (A) by inserting “or order issued” after
6 “willfully violating this subchapter or a regula-
7 tion prescribed”; and

8 (B) by inserting “or willfully violating a
9 regulation prescribed under section 21 of the
10 Federal Deposit Insurance Act or section 123
11 of Public Law 91–508,” after “under section
12 5315 or 5324),”.

13 (c) STRUCTURING TRANSACTIONS TO EVADE TAR-
14 GETING ORDER OR CERTAIN RECORDKEEPING REQUIRE-
15 MENTS.—Section 5324(a) of title 31, United States Code,
16 is amended—

17 (1) by inserting a comma after “shall”;

18 (2) by striking “section—” and inserting “sec-
19 tion, the reporting or recordkeeping requirements
20 imposed by any order issued under section 5326, or
21 the recordkeeping requirements imposed by any reg-
22 ulation prescribed under section 21 of the Federal
23 Deposit Insurance Act or section 123 of Public Law
24 91–508—”;

1 (3) in paragraph (1), by inserting “, to file a
2 report or to maintain a record required by an order
3 issued under section 5326, or to maintain a record
4 required pursuant to any regulation prescribed
5 under section 21 of the Federal Deposit Insurance
6 Act or section 123 of Public Law 91–508” after
7 “regulation prescribed under any such section”; and

8 (4) in paragraph (2), by inserting “, to file a
9 report or to maintain a record required by any order
10 issued under section 5326, or to maintain a record
11 required pursuant to any regulation prescribed
12 under section 5326, or to maintain a record required
13 pursuant to any regulation prescribed under section
14 21 of the Federal Deposit Insurance Act or section
15 123 of Public Law 91–508,” after “regulation pre-
16 scribed under any such section”.

17 (d) **LENGTHENING EFFECTIVE PERIOD OF GEO-**
18 **GRAPHIC TARGETING ORDERS.**—Section 5326(d) of title
19 31, United States Code, is amended by striking “more
20 than 60” and inserting “more than 180”.

21 **SEC. 334. ANTI-MONEY LAUNDERING STRATEGY.**

22 (b) **STRATEGY.**—Section 5341(b) of title 31, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 “(12) DATA REGARDING FUNDING OF TER-
2 RORISM.—Data concerning money laundering efforts
3 related to the funding of acts of international ter-
4 rorism, and efforts directed at the prevention, detec-
5 tion, and prosecution of such funding.”.

6 **SEC. 335. AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-**
7 **LEGAL ACTIVITY IN WRITTEN EMPLOYMENT**
8 **REFERENCES.**

9 Section 18 of the Federal Deposit Insurance Act (12
10 U.S.C. 1828) is amended by adding at the end the fol-
11 lowing:

12 “(v) WRITTEN EMPLOYMENT REFERENCES MAY
13 CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL AC-
14 TIVITY.—

15 “(1) AUTHORITY TO DISCLOSE INFORMA-
16 TION.—Notwithstanding any other provision of law,
17 any insured depository institution, and any director,
18 officer, employee, or agent of such institution, may
19 disclose in any written employment reference relat-
20 ing to a current or former institution-affiliated party
21 of such institution which is provided to another in-
22 sured depository institution in response to a request
23 from such other institution, information concerning
24 the possible involvement of such institution-affiliated
25 party in potentially unlawful activity.

1 “(2) INFORMATION NOT REQUIRED.—Nothing
2 in paragraph (1) shall be construed, by itself, to cre-
3 ate any affirmative duty to include any information
4 described in paragraph (1) in any employment ref-
5 erence referred to in paragraph (1).

6 “(3) MALICIOUS INTENT.—Notwithstanding
7 any other provision of this subsection, voluntary dis-
8 closure made by an insured depository institution,
9 and any director, officer, employee, or agent of such
10 institution under this subsection concerning poten-
11 tially unlawful activity that is made with malicious
12 intent, shall not be shielded from liability from the
13 person identified in the disclosure.

14 “(4) DEFINITION.—For purposes of this sub-
15 section, the term ‘insured depository institution’ in-
16 cludes any uninsured branch or agency of a foreign
17 bank.”.

18 **SEC. 336. BANK SECRECY ACT ADVISORY GROUP.**

19 Section 1564 of the Annunzio-Wylie Anti-Money
20 Laundering Act (31 U.S.C. 5311 note) is amended—

21 (1) in subsection (a), by inserting “, of non-
22 governmental organizations advocating financial pri-
23 vacy,” after “Drug Control Policy”; and

1 (2) in subsection (c), by inserting “, other than
2 subsections (a) and (d) of such Act which shall
3 apply” before the period at the end.

4 **SEC. 337. AGENCY REPORTS ON RECONCILING PENALTY**
5 **AMOUNTS.**

6 Not later than 1 year after the date of enactment
7 of this Act, the Secretary of the Treasury and the Federal
8 banking agencies (as defined in section 3 of the Federal
9 Deposit Insurance Act (12 U.S.C. 1813)) shall each sub-
10 mit their respective reports to the Congress containing
11 recommendations on possible legislation to conform the
12 penalties imposed on depository institutions (as defined in
13 section 3 of the Federal Deposit Insurance Act) for viola-
14 tions of subchapter II of chapter 53 of title 31, United
15 States Code, to the penalties imposed on such institutions
16 under section 8 of the Federal Deposit Insurance Act (12
17 U.S.C. 1818).

18 **SEC. 338. REPORTING OF SUSPICIOUS ACTIVITIES BY SECU-**
19 **RITIES BROKERS AND DEALERS; INVEST-**
20 **MENT COMPANY STUDY.**

21 (a) 270-DAY REGULATION DEADLINE.—Not later
22 than 270 days after the date of enactment of this Act,
23 the Secretary of the Treasury, after consultation with the
24 Securities and Exchange Commission and the Board of
25 Governors of the Federal Reserve System, shall issue final

1 regulations requiring registered brokers and dealers to file
2 reports of suspicious financial transactions, consistent
3 with the requirements applicable to financial institutions,
4 and directors, officers, employees, and agents of financial
5 institutions under section 5318(g) of title 31, United
6 States Code.

7 (b) REPORT ON INVESTMENT COMPANIES.—

8 (1) IN GENERAL.—Not later than 1 year after
9 the date of enactment of this Act, Secretary of the
10 Treasury, the Board of Governors of the Federal
11 Reserve System, and the Securities and Exchange
12 Commission shall jointly submit a report to Con-
13 gress on recommendations for effective regulations
14 to apply the requirements of subchapter II of chap-
15 ter 53 of title 31, United States Code, to investment
16 companies, pursuant to section 5312(a)(2)(I) of title
17 31, United States Code.

18 (2) DEFINITION.—For purposes of this section,
19 the term “investment company”—

20 (A) has the same meaning as in section 3
21 of the Investment Company Act of 1940 (15
22 U.S.C. 80a–3); and

23 (B) any person that, but for the exceptions
24 provided for in paragraph (1) or (7) of section
25 3(e) of the Investment Company Act of 1940

1 (15 U.S.C. 80a-3(c)), would be an investment
2 company.

3 (3) ADDITIONAL RECOMMENDATIONS.—In its
4 report, the Securities and Exchange Commission
5 may make different recommendations for different
6 types of entities covered by this section.

7 (4) BENEFICIAL OWNERSHIP OF PERSONAL
8 HOLDING COMPANIES.—The report described in
9 paragraph (1) shall also include recommendations as
10 to whether the Secretary should promulgate regula-
11 tions to treat any corporation or business or other
12 grantor trust whose assets are predominantly securi-
13 ties, bank certificates of deposit, or other securities
14 or investment instruments (other than such as relate
15 to operating subsidiaries of such corporation or
16 trust) and that has 5 or fewer common shareholders
17 or holders of beneficial or other equity interest, as
18 a financial institution within the meaning of that
19 phrase in section 5312(a)(2)(I) and whether to re-
20 quire such corporations or trusts to disclose their
21 beneficial owners when opening accounts or initi-
22 ating funds transfers at any domestic financial insti-
23 tution.

1 **SEC. 339. SPECIAL REPORT ON ADMINISTRATION OF BANK**
2 **SECRECY PROVISIONS.**

3 (a) REPORT REQUIRED.—Not later than 6 months
4 after the date of enactment of this Act, the Secretary shall
5 submit a report to the Congress relating to the role of
6 the Internal Revenue Service in the administration of sub-
7 chapter II of chapter 53 of title 31, United States Code
8 (commonly known as the “Bank Secrecy Act”).

9 (b) CONTENTS.—The report required by subsection
10 (a)—

11 (1) shall specifically address, and contain rec-
12 ommendations concerning—

13 (A) whether it is advisable to shift the
14 processing of information reporting to the De-
15 partment of the Treasury under the Bank Se-
16 crecy Act provisions to facilities other than
17 those managed by the Internal Revenue Service;
18 and

19 (B) whether it remains reasonable and effi-
20 cient, in light of the objective of both anti-
21 money-laundering programs and Federal tax
22 administration, for the Internal Revenue Serv-
23 ice to retain authority and responsibility for
24 audit and examination of the compliance of
25 money services businesses and gaming institu-

1 United States intelligence agency for use in the conduct
2 of intelligence or counterintelligence activities, including
3 analysis, to protect against international terrorism”.

4 (c) AMENDMENT RELATING TO AVAILABILITY OF
5 REPORTS.—Section 5319 of title 31, United States Code,
6 is amended to read as follows:

7 **“§ 5319. Availability of reports**

8 “The Secretary of the Treasury shall make informa-
9 tion in a report filed under this subchapter available to
10 an agency, including any State financial institutions su-
11 pervisory agency or United States intelligence agency,
12 upon request of the head of the agency. The report shall
13 be available for a purpose that is consistent with this sub-
14 chapter. The Secretary may only require reports on the
15 use of such information by any State financial institutions
16 supervisory agency for other than supervisory purposes or
17 by United States intelligence agencies. However, a report
18 and records of reports are exempt from disclosure under
19 section 552 of title 5.”.

20 (d) AMENDMENT RELATING TO THE PURPOSES OF
21 THE BANK SECRECY ACT PROVISIONS.—Section 21(a) of
22 the Federal Deposit Insurance Act (12 U.S.C. 1829b(a))
23 is amended to read as follows:

24 “(a) CONGRESSIONAL FINDINGS AND DECLARATION
25 OF PURPOSE.—

1 “(1) FINDINGS.—Congress finds that—

2 “(A) adequate records maintained by in-
3 sured depository institutions have a high degree
4 of usefulness in criminal, tax, and regulatory
5 investigations or proceedings, and that, given
6 the threat posed to the security of the Nation
7 on and after the terrorist attacks against the
8 United States on September 11, 2001, such
9 records may also have a high degree of useful-
10 ness in the conduct of intelligence or counter-
11 intelligence activities, including analysis, to pro-
12 tect against domestic and international ter-
13 rorism; and

14 “(B) microfilm or other reproductions and
15 other records made by insured depository insti-
16 tutions of checks, as well as records kept by
17 such institutions, of the identity of persons
18 maintaining or authorized to act with respect to
19 accounts therein, have been of particular value
20 in proceedings described in subparagraph (A).

21 “(2) PURPOSE.—It is the purpose of this sec-
22 tion to require the maintenance of appropriate types
23 of records by insured depository institutions in the
24 United States where such records have a high degree
25 of usefulness in criminal, tax, or regulatory inves-

1 tigungen or proceedings, recognizes that, given the
2 threat posed to the security of the Nation on and
3 after the terrorist attacks against the United States
4 on September 11, 2001, such records may also have
5 a high degree of usefulness in the conduct of intel-
6 ligence or counterintelligence activities, including
7 analysis, to protect against international terrorism.”.

8 (e) AMENDMENT RELATING TO THE PURPOSES OF
9 THE BANK SECRECY ACT.—Section 123(a) of Public Law
10 91–508 (12 U.S.C. 1953(a)) is amended to read as fol-
11 lows:

12 “(a) REGULATIONS.—If the Secretary determines
13 that the maintenance of appropriate records and proce-
14 dures by any uninsured bank or uninsured institution, or
15 any person engaging in the business of carrying on in the
16 United States any of the functions referred to in sub-
17 section (b), has a high degree of usefulness in criminal,
18 tax, or regulatory investigations or proceedings, and that,
19 given the threat posed to the security of the Nation on
20 and after the terrorist attacks against the United States
21 on September 11, 2001, such records may also have a high
22 degree of usefulness in the conduct of intelligence or coun-
23 terintelligence activities, including analysis, to protect
24 against international terrorism, he may by regulation re-
25 quire such bank, institution, or person.”.

1 (f) AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-
2 VACY ACT.—The Right to Financial Privacy Act of 1978
3 is amended—

4 (1) in section 1112(a) (12 U.S.C. 3412(a)), by
5 inserting “, or intelligence or counterintelligence ac-
6 tivity, investigation or analysis related to inter-
7 national terrorism” after “legitimate law enforce-
8 ment inquiry”; and

9 (2) in section 1114(a)(1) (12 U.S.C.
10 3414(a)(1))—

11 (A) in subparagraph (A), by striking “or”
12 at the end;

13 (B) in subparagraph (B), by striking the
14 period at the end and inserting “; or”; and

15 (C) by adding at the end the following:

16 “(C) a Government authority authorized to
17 conduct investigations of, or intelligence or
18 counterintelligence analyses related to, inter-
19 national terrorism for the purpose of con-
20 ducting such investigations or analyses.”.

21 (g) AMENDMENT TO THE FAIR CREDIT REPORTING
22 ACT.—The Fair Credit Reporting Act (15 U.S.C. 1681
23 et seq.) is amended by adding at the end the following
24 new section:

1 **“SEC. 626. DISCLOSURES TO GOVERNMENTAL AGENCIES**
2 **FOR COUNTERTERRORISM PURPOSES.**

3 “(a) DISCLOSURE.—Notwithstanding section 604 or
4 any other provision of this title, a consumer reporting
5 agency shall furnish a consumer report of a consumer and
6 all other information in a consumer’s file to a government
7 agency authorized to conduct investigations of, or intel-
8 ligence or counterintelligence activities or analysis related
9 to, international terrorism when presented with a written
10 certification by such government agency that such infor-
11 mation is necessary for the agency’s conduct or such inves-
12 tigation, activity or analysis.

13 “(b) FORM OF CERTIFICATION.—The certification
14 described in subsection (a) shall be signed by the Sec-
15 retary of the Treasury.

16 “(c) CONFIDENTIALITY.—No consumer reporting
17 agency, or officer, employee, or agent of such consumer
18 reporting agency, shall disclose to any person, or specify
19 in any consumer report, that a government agency has
20 sought or obtained access to information under subsection
21 (a).

22 “(d) RULE OF CONSTRUCTION.—Nothing in section
23 625 shall be construed to limit the authority of the Direc-
24 tor of the Federal Bureau of Investigation under this sec-
25 tion.

1 “(e) SAFE HARBOR.—Notwithstanding any other
2 provision of this subchapter, any consumer reporting
3 agency or agent or employee thereof making disclosure of
4 consumer reports or other information pursuant to this
5 section in good-faith reliance upon a certification of a gov-
6 ernmental agency pursuant to the provisions of this sec-
7 tion shall not be liable to any person for such disclosure
8 under this subchapter, the constitution of any State, or
9 any law or regulation of any State or any political subdivi-
10 sion of any State.”.

11 **SEC. 341. REPORTING OF SUSPICIOUS ACTIVITIES BY**
12 **HAWALA AND OTHER UNDERGROUND BANK-**
13 **ING SYSTEMS.**

14 (a) DEFINITION FOR SUBCHAPTER.—Section
15 5312(a)(2)(R) of title 31, United States Code, is amended
16 to read as follows:

17 “(R) a licensed sender of money or any
18 other person who engages as a business in the
19 transmission of funds, including through an in-
20 formal value transfer banking system or net-
21 work of people facilitating the transfer of value
22 domestically or internationally outside of the
23 conventional financial institutions system;”.

24 (b) MONEY TRANSMITTING BUSINESS.—Section
25 5330(d)(1)(A) of title 31, United States Code, is amended

1 by inserting before the semicolon the following: “or any
2 other person who engages as a business in the trans-
3 mission of funds, including through an informal value
4 transfer banking system or network of people facilitating
5 the transfer of value domestically or internationally out-
6 side of the conventional financial institutions system;”.

7 (d) APPLICABILITY OF RULES.—Section 5318 of title
8 31, United States Code, as amended by this title, is
9 amended by adding at the end the following:

10 “(1) APPLICABILITY OF RULES.—Any rules promul-
11 gated pursuant to the authority contained in section 21
12 of the Federal Deposit Insurance Act (12 U.S.C. 1829b)
13 shall apply, in addition to any other financial institution
14 to which such rules apply, to any person that engages as
15 a business in the transmission of funds, including through
16 an informal value transfer banking system or network of
17 people facilitating the transfer of value domestically or
18 internationally outside of the conventional financial insti-
19 tutions system.”.

20 (e) REPORT.—Not later than 1 year after the date
21 of enactment of this Act, the Secretary of the Treasury
22 shall report to Congress on the need for any additional
23 legislation relating to informal value transfer banking sys-
24 tems or networks of people facilitating the transfer of
25 value domestically or internationally outside of the conven-

1 tional financial institutions system, counter money laun-
2 dering and regulatory controls relating to underground
3 money movement and banking systems, such as the system
4 referred to as 'hawala', including whether the threshold
5 for the filing of suspicious activity reports under section
6 5318(g) of title 31, United States Code should be lowered
7 in the case of such systems.

8 **SEC. 342. USE OF AUTHORITY OF UNITED STATES EXECU-**
9 **TIVE DIRECTORS.**

10 (a) ACTION BY THE PRESIDENT.—If the President
11 determines that a particular foreign country has taken or
12 has committed to take actions that contribute to efforts
13 of the United States to respond to, deter, or prevent acts
14 of international terrorism, the Secretary of the Treasury
15 may, consistent with other applicable provisions of law, in-
16 struct the United States Executive Director of each inter-
17 national financial institution to use the voice and vote of
18 the Executive Director to support any loan or other utili-
19 zation of the funds of respective institutions for such coun-
20 try, or any public or private entity within such country.

21 (b) USE OF VOICE AND VOTE.—The Secretary of the
22 Treasury may instruct the United States Executive Direc-
23 tor of each international financial institution to aggres-
24 sively use the voice and vote of the Executive Director to
25 require an auditing of disbursements at such institutions

1 to ensure that no funds are paid to persons who commit,
2 threaten to commit, or support terrorism.

3 (c) DEFINITION.—For purposes of this section, the
4 term “international financial institution” means an insti-
5 tution described in section 1701(c)(2) of the International
6 Financial Institutions Act (22 U.S.C. 262r(c)(2)).

7 **Subtitle C—Currency Crimes**

8 **SEC. 351. BULK CASH SMUGGLING.**

9 (a) FINDINGS.—Congress finds that—

10 (1) effective enforcement of the currency re-
11 porting requirements of chapter 53 of title 31,
12 United States Code (commonly referred to as the
13 Bank Secrecy Act), and the regulations promulgated
14 thereunder, has forced drug dealers and other crimi-
15 nals engaged in cash-based businesses to avoid using
16 traditional financial institutions;

17 (2) in their effort to avoid using traditional fi-
18 nancial institutions, drug dealers, and other crimi-
19 nals are forced to move large quantities of currency
20 in bulk form to and through the airports, border
21 crossings, and other ports of entry where it can be
22 smuggled out of the United States and placed in a
23 foreign financial institution or sold on the black
24 market;

1 (3) the transportation and smuggling of cash in
2 bulk form may, at the time of enactment of this Act,
3 be the most common form of money laundering, and
4 the movement of large sums of cash is one of the
5 most reliable warning signs of drug trafficking, ter-
6 rorism, money laundering, racketeering, tax evasion,
7 and similar crimes;

8 (4) the intentional transportation into or out of
9 the United States of large amounts of currency or
10 monetary instruments, in a manner designed to cir-
11 cumvent the mandatory reporting provisions of chap-
12 ter 53 of title 31, United States Code, is the equiva-
13 lent of, and creates the same harm as, the smug-
14 gling of goods;

15 (5) the arrest and prosecution of bulk cash
16 smugglers is an important part of law enforcement's
17 effort to stop the laundering of criminal proceeds,
18 but the couriers who attempt to smuggle the cash
19 out of the United States are typically low-level em-
20 ployees of large criminal organizations, and are eas-
21 ily replaced, and therefore only the confiscation of
22 the smuggled bulk cash can effectively break the
23 cycle of criminal activity of which the laundering of
24 bulk cash is a critical part;

1 (6) the penalties for violations of the currency
2 reporting requirements of the chapter 53 of title 31,
3 United States Code, are insufficient to provide a de-
4 terrent to the laundering of criminal proceeds;

5 (7) because the only criminal violation under
6 Federal law before the date of enactment of this Act
7 was a reporting offense, the law does not adequately
8 provide for the confiscation of smuggled currency;
9 and

10 (8) if the smuggling of bulk cash were itself an
11 offense, the cash could be confiscated as the corpus
12 delicti of the smuggling offense.

13 (b) PURPOSES.—The purposes of this section are—

14 (1) to make the act of smuggling bulk cash
15 itself a criminal offense;

16 (2) to authorize forfeiture of any cash or instru-
17 ments of the smuggling offense;

18 (3) to emphasize the seriousness of the act of
19 bulk cash smuggling; and

20 (4) to prescribe guidelines for determining the
21 amount of property subject to such forfeiture in var-
22 ious situations.

23 (c) BULK CASH SMUGGLING OFFENSE.—

1 (1) IN GENERAL.—Subchapter II of chapter 53
2 of title 31, United States Code, is amended by add-
3 ing at the end the following:

4 **“§ 5331. Bulk cash smuggling**

5 “(a) CRIMINAL OFFENSE.—

6 “(1) IN GENERAL.—Whoever, with the intent to
7 evade a currency reporting requirement under sec-
8 tion 5316, knowingly conceals more than \$10,000 in
9 currency or other monetary instruments on his or
10 her person or in any conveyance, article of luggage,
11 merchandise, or other container, and transports or
12 transfers or attempts to transport or transfer the
13 currency or monetary instruments from a place with-
14 in the United States to a place outside of the United
15 States, or from a place outside of the United States
16 to a place within the United States, shall be guilty
17 of a currency smuggling offense and subject to pun-
18 ishment under subsection (b).

19 “(b) PENALTIES.—

20 “(1) PRISON TERM.—A person convicted of a
21 currency smuggling offense under subsection (a), or
22 a conspiracy to commit such an offense, shall be im-
23 prisoned for not more than 5 years.

24 “(2) FORFEITURE.—

1 “(A) IN GENERAL.—In addition to a pris-
2 on term under paragraph (1), the court, in im-
3 posing sentence, shall order that the defendant
4 forfeit to the United States any property, real
5 or personal, involved in the offense, and any
6 property traceable to such property, subject to
7 subsection (d).

8 “(B) APPLICABILITY OF OTHER LAWS.—
9 The seizure, restraint, and forfeiture of prop-
10 erty under this section shall be governed by sec-
11 tion 413 of the Controlled Substances Act (21
12 U.S.C. 853). If the property subject to for-
13 feiture is unavailable, and the defendant has no
14 substitute property that may be forfeited pursu-
15 ant to section 413(p) of that Act, the court
16 shall enter a personal money judgment against
17 the defendant in an amount equal to the value
18 of the unavailable property.

19 “(c) SEIZURE OF SMUGGLING CASH.—

20 “(1) IN GENERAL.—Any property involved in a
21 violation of subsection (a), or a conspiracy to com-
22 mit such violation, and any property traceable there-
23 to, may be seized and, subject to subsection (d), for-
24 feited to the United States.

1 “(2) APPLICABLE PROCEDURES.—A seizure and
2 forfeiture under this subsection shall be governed by
3 the procedures governing civil forfeitures under sec-
4 tion 981(a)(1)(A) of title 18, United States Code.

5 “(d) PROPORTIONALITY OF FORFEITURE.—

6 “(1) MITIGATION.—Upon a showing by the
7 property owner by a preponderance of the evidence
8 that the currency or monetary instruments involved
9 in the offense giving rise to the forfeiture were de-
10 rived from a legitimate source and were intended for
11 a lawful purpose, the court shall reduce the for-
12 feiture to the maximum amount that is not grossly
13 disproportional to the gravity of the offense.

14 “(2) CONSIDERATIONS.—In determining the
15 amount of the forfeiture under paragraph (1), the
16 court shall consider all aggravating and mitigating
17 facts and circumstances that have a bearing on the
18 gravity of the offense, including—

19 “(A) the value of the currency or other
20 monetary instruments involved in the offense;

21 “(B) efforts by the person committing the
22 offense to structure currency transactions, con-
23 ceal property, or otherwise obstruct justice; and

24 “(C) whether the offense is part of a pat-
25 tern of repeated violations of Federal law.

1 “(e) RULE OF CONSTRUCTION.—For purposes of
2 subsections (b) and (c), any currency or other monetary
3 instrument that is concealed or intended to be concealed
4 in violation of subsection (a) or a conspiracy to commit
5 such violation, any article, container, or conveyance used
6 or intended to be used to conceal or transport the currency
7 or other monetary instrument, and any other property
8 used or intended to be used to facilitate the offense, shall
9 be considered property involved in the offense.”.

10 (2) CLERICAL AMENDMENT.—The table of sections
11 for chapter 53 of title 31, United States Code, is amended
12 by inserting after the item relating to section 5330 the
13 following new item:

“5331. Bulk cash smuggling.”.

14 (d) CURRENCY REPORTING VIOLATIONS.—Section
15 5317(c) of title 31, United States Code, is amended to
16 read as follows:

17 “(c) FORFEITURE OF PROPERTY.—

18 “(1) IN GENERAL.—

19 “(A) CRIMINAL FORFEITURE.—The court,
20 in imposing sentence for any violation of section
21 5313, 5316, or 5324, or any conspiracy to com-
22 mit such violation, shall order the defendant to
23 forfeit all property, real or personal, involved in
24 the offense and any property traceable thereto.

1 “(B) APPLICABLE PROCEDURES.—Forfeit-
2 ures under this paragraph shall be governed by
3 the procedures set forth in section 413 of the
4 Controlled Substances Act (21 U.S.C. 853),
5 and the guidelines set forth in paragraph (3) of
6 this subsection.

7 “(2) CIVIL FORFEITURE.—Any property in-
8 volved in a violation of section 5313, 5316, or 5324,
9 or any conspiracy to commit such violation, and any
10 property traceable thereto, may be seized and, sub-
11 ject to paragraph (3), forfeited to the United States
12 in accordance with the procedures governing civil
13 forfeitures in money laundering cases pursuant to
14 section 981(a)(1)(A) of title 18, United States Code.

15 “(3) MITIGATION.—In a forfeiture case under
16 this subsection, upon a showing by the property
17 owner by a preponderance of the evidence that any
18 currency or monetary instruments involved in the of-
19 fense giving rise to the forfeiture were derived from
20 a legitimate source, and were intended for a lawful
21 purpose, the court shall reduce the forfeiture to the
22 maximum amount that is not grossly disproportional
23 to the gravity of the offense. In determining the
24 amount of the forfeiture, the court shall consider all
25 aggravating and mitigating facts and circumstances

1 that have a bearing on the gravity of the offense.
2 Such circumstances include, but are not limited to,
3 the following: the value of the currency or other
4 monetary instruments involved in the offense; efforts
5 by the person committing the offense to structure
6 currency transactions, conceal property, or otherwise
7 obstruct justice; and whether the offense is part of
8 a pattern of repeated violations.

9 (e) CONFORMING AMENDMENTS.—Title 18, United
10 States Code, is amended—

11 (1) in section 981(a)(1)(A) by striking “of sec-
12 tion 5313(a) or 5324(a) of title 31, or”;

13 (2) in section 982(a)(1), striking “of section
14 5313(a), 5316, or 5324 of title 31, or”.

15 **Subtitle E—Anticorruption** 16 **Measures**

17 **SEC. 361. CORRUPTION OF FOREIGN GOVERNMENTS AND** 18 **RULING ELITES.**

19 It is the sense of Congress that, in deliberations be-
20 tween the United States Government and any other coun-
21 try on money laundering and corruption issues, the United
22 States Government should—

23 (1) emphasize an approach that addresses not
24 only the laundering of the proceeds of traditional
25 criminal activity but also the increasingly endemic

1 problem of governmental corruption and the corrup-
2 tion of ruling elites;

3 (2) encourage the enactment and enforcement
4 of laws in such country to prevent money laundering
5 and systemic corruption;

6 (3) make clear that the United States will take
7 all steps necessary to identify the proceeds of foreign
8 government corruption which have been deposited in
9 United States financial institutions and return such
10 proceeds to the citizens of the country to whom such
11 assets belong; and

12 (4) advance policies and measures to promote
13 good government and to prevent and reduce corrup-
14 tion and money laundering, including through in-
15 structions to the United States Executive Director of
16 each international financial institution (as defined in
17 section 1701(c) of the International Financial Insti-
18 tutions Act) to advocate such policies as a system-
19 atic element of economic reform programs and ad-
20 vice to member governments.

21 **SEC. 362. SUPPORT FOR THE FINANCIAL ACTION TASK**

22 **FORCE ON MONEY LAUNDERING.**

23 It is the sense of Congress that—

24 (1) the United States should continue to ac-
25 tively and publicly support the objectives of the Fi-

1 nancial Action Task Force on Money Laundering
2 (hereafter in this section referred to as the
3 “FATF”) with regard to combating international
4 money laundering;

5 (2) the FATF should identify noncooperative
6 jurisdictions in as expeditious a manner as possible
7 and publicly release a list directly naming those ju-
8 risdictions identified;

9 (3) the United States should support the public
10 release of the list naming noncooperative jurisdic-
11 tions identified by the FATF;

12 (4) the United States should encourage the
13 adoption of the necessary international action to en-
14 courage compliance by the identified noncooperative
15 jurisdictions; and

16 (5) the United States should take the necessary
17 countermeasures to protect the United States econ-
18 omy against money of unlawful origin and encourage
19 other nations to do the same.

20 **SEC. 363. TERRORIST FUNDING THROUGH MONEY LAUN-**
21 **DERING.**

22 It is the sense of the Congress that, in deliberations
23 and negotiations between the United States Government
24 and any other country regarding financial, economic, as-

1 sistance, or defense issues, the United States should en-
2 courage such other country—

3 (1) to take actions which would identify and
4 prevent the transmittal of funds to and from terror-
5 ists and terrorist organizations; and

6 (2) to engage in bilateral and multilateral co-
7 operation with the United States and other countries
8 to identify suspected terrorists, terrorist organiza-
9 tions, and persons supplying funds to and receiving
10 funds from terrorists and terrorist organizations.

11 **TITLE IV—PROTECTING THE** 12 **BORDER**

13 **Subtitle A—Protecting the** 14 **Northern Border**

15 **SEC. 401. ENSURING ADEQUATE PERSONNEL ON THE** 16 **NORTHERN BORDER.**

17 The Attorney General is authorized to waive any
18 FTE cap on personnel assigned to the Immigration and
19 Naturalization Service to address the national security
20 needs of the United States on the Northern border.

21 **SEC. 402. NORTHERN BORDER PERSONNEL.**

22 There are authorized to be appropriated—

23 (1) such sums as may be necessary to triple the
24 number of Border Patrol personnel (from the num-
25 ber authorized under current law), and the necessary

1 personnel and facilities to support such personnel, in
2 each State along the Northern Border;

3 (2) such sums as may be necessary to triple the
4 number of Customs Service personnel (from the
5 number authorized under current law), and the nec-
6 essary personnel and facilities to support such per-
7 sonnel, at ports of entry in each State along the
8 Northern Border;

9 (3) such sums as may be necessary to triple the
10 number of INS inspectors (from the number author-
11 ized on the date of enactment of this Act), and the
12 necessary personnel and facilities to support such
13 personnel, at ports of entry in each State along the
14 Northern Border; and

15 (4) an additional \$50,000,000 each to the Im-
16 migration and Naturalization Service and the United
17 States Customs Service for purposes of making im-
18 provements in technology for monitoring the North-
19 ern Border and acquiring additional equipment at
20 the Northern Border.

1 **SEC. 403. ACCESS BY THE DEPARTMENT OF STATE AND**
2 **THE INS TO CERTAIN IDENTIFYING INFORMA-**
3 **TION IN THE CRIMINAL HISTORY RECORDS**
4 **OF VISA APPLICANTS AND APPLICANTS FOR**
5 **ADMISSION TO THE UNITED STATES.**

6 (a) AMENDMENT OF THE IMMIGRATION AND NA-
7 TIONALITY ACT.—Section 105 of the Immigration and
8 Nationality Act (8 U.S.C. 1105) is amended—

9 (1) in the section heading, by inserting “; DATA
10 EXCHANGE” after “SECURITY OFFICERS”;

11 (2) by inserting “(a)” after “SEC. 105.”;

12 (3) in subsection (a), by inserting “and border”
13 after “internal” the second place it appears; and

14 (4) by adding at the end the following:

15 “(b)(1) The Attorney General and the Director of the
16 Federal Bureau of Investigation shall provide the Depart-
17 ment of State and the Service access to the criminal his-
18 tory record information contained in the National Crime
19 Information Center’s Interstate Identification Index
20 (NCIC-III), Wanted Persons File, and to any other files
21 maintained by the National Crime Information Center
22 that may be mutually agreed upon by the Attorney Gen-
23 eral and the agency receiving the access, for the purpose
24 of determining whether or not a visa applicant or appli-
25 cant for admission has a criminal history record indexed
26 in any such file.

1 “(2) Such access shall be provided by means of ex-
2 tracts of the records for placement in the automated visa
3 lookout or other appropriate database, and shall be pro-
4 vided without any fee or charge.

5 “(3) The Federal Bureau of Investigation shall pro-
6 vide periodic updates of the extracts at intervals mutually
7 agreed upon with the agency receiving the access. Upon
8 receipt of such updated extracts, the receiving agency shall
9 make corresponding updates to its database and destroy
10 previously provided extracts.

11 “(4) Access to an extract does not entitle the Depart-
12 ment of State to obtain the full content of the cor-
13 responding automated criminal history record. To obtain
14 the full content of a criminal history record, the Depart-
15 ment of State shall submit the applicant’s fingerprints and
16 any appropriate fingerprint processing fee authorized by
17 law to the Criminal Justice Information Services Division
18 of the Federal Bureau of Investigation.

19 “(c) The provision of the extracts described in sub-
20 section (b) may be reconsidered by the Attorney General
21 and the receiving agency upon the development and de-
22 ployment of a more cost-effective and efficient means of
23 sharing the information.

24 “(d) For purposes of administering this section, the
25 Department of State shall, prior to receiving access to

1 NCIC data but not later than 4 months after the date
2 of enactment of this subsection, promulgate final
3 regulations—

4 “(1) to implement procedures for the taking of
5 fingerprints; and

6 “(2) to establish the conditions for the use of
7 the information received from the Federal Bureau of
8 Investigation, in order—

9 “(A) to limit the redissemination of such
10 information;

11 “(B) to ensure that such information is
12 used solely to determine whether or not to issue
13 a visa to an alien or to admit an alien to the
14 United States;

15 “(C) to ensure the security, confidentiality,
16 and destruction of such information; and

17 “(D) to protect any privacy rights of indi-
18 viduals who are subjects of such information.”.

19 (b) REPORTING REQUIREMENT.—Not later than 2
20 years after the date of enactment of this Act, the Attorney
21 General and the Secretary of State jointly shall report to
22 Congress on the implementation of the amendments made
23 by this section.

24 (c) TECHNOLOGY STANDARD TO CONFIRM IDEN-
25 TITY.—

1 (1) IN GENERAL.—The Attorney General and
2 the Secretary of State jointly, through the National
3 Institute of Standards and Technology (NIST), and
4 in consultation with the Secretary of the Treasury
5 and other Federal law enforcement and intelligence
6 agencies the Attorney General or Secretary of State
7 deems appropriate, shall within 2 years after the
8 date of enactment of this section, develop and certify
9 a technology standard that can confirm the identity
10 of a person applying for a United States visa or
11 such person seeking to enter the United States pur-
12 suant to a visa.

13 (2) INTEGRATED.—The technology standard de-
14 veloped pursuant to paragraph (1), shall be the tech-
15 nological basis for a cross-agency, cross-platform
16 electronic system that is a cost-effective, efficient,
17 fully integrated means to share law enforcement and
18 intelligence information necessary to confirm the
19 identity of such persons applying for a United States
20 visa or such person seeking to enter the United
21 States pursuant to a visa.

22 (3) ACCESSIBLE.—The electronic system de-
23 scribed in paragraph (2), once implemented, shall be
24 readily and easily accessible to—

1 (A) all consular officers responsible for the
2 issuance of visas;

3 (B) all Federal inspection agents at all
4 United States border inspection points; and

5 (C) all law enforcement and intelligence of-
6 ficers as determined by regulation to be respon-
7 sible for investigation or identification of aliens
8 admitted to the United States pursuant to a
9 visa.

10 (4) REPORT.—Not later than 18 months after
11 the date of enactment of this Act, and every 2 years
12 thereafter, the Attorney General and the Secretary
13 of State shall jointly, in consultation with the Sec-
14 retary of Treasury, report to Congress describing
15 the development, implementation and efficacy of the
16 technology standard and electronic database system
17 described in this subsection.

18 (d) STATUTORY CONSTRUCTION.—Nothing in this
19 section, or in any other law, shall be construed to limit
20 the authority of the Attorney General or the Director of
21 the Federal Bureau of Investigation to provide access to
22 the criminal history record information contained in the
23 National Crime Information Center's (NCIC) Interstate
24 Identification Index (NCIC-III), or to any other informa-
25 tion maintained by the NCIC, to any Federal agency or

1 officer authorized to enforce or administer the immigra-
2 tion laws of the United States, for the purpose of such
3 enforcement or administration, upon terms that are con-
4 sistent with the National Crime Prevention and Privacy
5 Compact Act of 1998 (subtitle A of title II of Public Law
6 105–251; 42 U.S.C. 14611–16) and section 552a of title
7 5, United States Code.

8 **SEC. 404. LIMITED AUTHORITY TO PAY OVERTIME.**

9 The matter under the headings “Immigration And
10 Naturalization Service: Salaries and Expenses, Enforce-
11 ment And Border Affairs” and “Immigration And Natu-
12 ralization Service: Salaries and Expenses, Citizenship And
13 Benefits, Immigration And Program Direction” in the De-
14 partment of Justice Appropriations Act, 2001 (as enacted
15 into law by Appendix B (H.R. 5548) of Public Law 106–
16 553 (114 Stat. 2762A–58 to 2762A–59)) is amended by
17 striking the following each place it occurs: “*Provided*, That
18 none of the funds available to the Immigration and Natu-
19 ralization Service shall be available to pay any employee
20 overtime pay in an amount in excess of \$30,000 during
21 the calendar year beginning January 1, 2001:”.

1 **SEC. 405. REPORT ON THE INTEGRATED AUTOMATED FIN-**
2 **GERPRINT IDENTIFICATION SYSTEM FOR**
3 **POINTS OF ENTRY AND OVERSEAS CONSULAR**
4 **POSTS.**

5 (a) IN GENERAL.—The Attorney General, in con-
6 sultation with the appropriate heads of other Federal
7 agencies, including the Secretary of State, Secretary of the
8 Treasury, and the Secretary of Transportation, shall re-
9 port to Congress on the feasibility of enhancing the Inte-
10 grated Automated Fingerprint Identification System
11 (IAFIS) of the Federal Bureau of Investigation and other
12 identification systems in order to better identify a person
13 who holds a foreign passport or a visa and may be wanted
14 in connection with a criminal investigation in the United
15 States or abroad, before the issuance of a visa to that per-
16 son or the entry or exit by that person from the United
17 States.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated not less than \$2,000,000
20 to carry out this section.

21 **Subtitle B—Enhanced Immigration**
22 **Provisions**

23 **SEC. 411. DEFINITIONS RELATING TO TERRORISM.**

24 (a) GROUNDS OF INADMISSIBILITY.—Section
25 212(a)(3) of the Immigration and Nationality Act (8
26 U.S.C. 1182(a)(3)) is amended—

1 (1) in subparagraph (B)—

2 (A) in clause (i)—

3 (i) by amending subclause (IV) to
4 read as follows:

5 “(IV) is a representative (as de-
6 fined in clause (v)) of—

7 “(aa) a foreign terrorist or-
8 ganization, as designated by the
9 Secretary of State under section
10 219, or

11 “(bb) a political, social or
12 other similar group whose public
13 endorsement of acts of terrorist
14 activity the Secretary of State
15 has determined undermines
16 United States efforts to reduce or
17 eliminate terrorist activities,”;

18 (ii) in subclause (V), by inserting “or”
19 after “section 219,”; and

20 (iii) by adding at the end the fol-
21 lowing new subclauses:

22 “(VI) has used the alien’s posi-
23 tion of prominence within any country
24 to endorse or espouse terrorist activ-
25 ity, or to persuade others to support

1 terrorist activity or a terrorist organi-
2 zation, in a way that the Secretary of
3 State has determined undermines
4 United States efforts to reduce or
5 eliminate terrorist activities, or

6 “(VII) is the spouse or child of
7 an alien who is inadmissible under
8 this section, if the activity causing the
9 alien to be found inadmissible oc-
10 curred within the last 5 years,”;

11 (B) by redesignating clauses (ii), (iii), and
12 (iv) as clauses (iii), (iv), and (v), respectively;

13 (C) in clause (i)(II), by striking “clause
14 (iii)” and inserting “clause (iv)”;

15 (D) by inserting after clause (i) the fol-
16 lowing:

17 “(ii) EXCEPTION.—Subclause (VII) of
18 clause (i) does not apply to a spouse or
19 child—

20 “(I) who did not know or should
21 not reasonably have known of the ac-
22 tivity causing the alien to be found in-
23 admissible under this section; or

24 “(II) whom the consular officer
25 or Attorney General has reasonable

1 grounds to believe has renounced the
2 activity causing the alien to be found
3 inadmissible under this section.”;

4 (E) in clause (iii) (as redesignated by sub-
5 paragraph (B))—

6 (i) by inserting “it had been” before
7 “committed in the United States”; and

8 (ii) in subclause (V)(b), by striking
9 “or firearm” and inserting “, firearm, or
10 other weapon or dangerous device”;

11 (F) by amending clause (iv) (as redesign-
12 ated by subparagraph (B)) to read as follows:

13 “(iv) ENGAGE IN TERRORIST ACTIVITY
14 DEFINED.—As used in this chapter, the
15 term ‘engage in terrorist activity’ means,
16 in an individual capacity or as a member
17 of an organization—

18 “(I) to commit or to incite to
19 commit, under circumstances indi-
20 cating an intention to cause death or
21 serious bodily injury, a terrorist activ-
22 ity;

23 “(II) to prepare or plan a ter-
24 rorist activity;

1 “(III) to gather information on
2 potential targets for terrorist activity;

3 “(IV) to solicit funds or other
4 things of value for—

5 “(aa) a terrorist activity;

6 “(bb) a terrorist organiza-
7 tion described in clauses (vi)(I)
8 or (vi)(II); or

9 “(cc) a terrorist organiza-
10 tion described in clause (vi)(III),
11 unless the solicitor can dem-
12 onstrate that he did not know,
13 and should not reasonably have
14 known, that the solicitation
15 would further the organization’s
16 terrorist activity;

17 “(V) to solicit any individual—

18 “(aa) to engage in conduct
19 otherwise described in this
20 clause;

21 “(bb) for membership in a
22 terrorist organization described
23 in clauses (vi)(I) or (vi)(II); or

24 “(cc) for membership in a
25 terrorist organization described

1 in clause (vi)(III), unless the so-
2 licitor can demonstrate that he
3 did not know, and should not
4 reasonably have known, that the
5 solicitation would further the or-
6 ganization's terrorist activity; or

7 “(VI) to commit an act that the
8 actor knows, or reasonably should
9 know, affords material support, in-
10 cluding a safe house, transportation,
11 communications, funds, transfer of
12 funds or other material financial ben-
13 efit, false documentation or identifica-
14 tion, weapons (including chemical, bi-
15 ological, or radiological weapons), ex-
16 plosives, or training—

17 “(aa) for the commission of
18 a terrorist activity;

19 “(bb) to any individual who
20 the actor knows, or reasonably
21 should know, has committed or
22 plans to commit a terrorist activ-
23 ity;

1 “(cc) to a terrorist organiza-
2 tion described in clauses (vi)(I)
3 or (vi)(II); or

4 “(dd) to a terrorist organi-
5 zation described in clause
6 (vi)(III), unless the actor can
7 demonstrate that he did not
8 know, and should not reasonably
9 have known, that the act would
10 further the organization’s ter-
11 rorist activity.

12 This clause shall not apply to any ma-
13 terial support the alien afforded to an
14 organization or individual that has
15 committed terrorist activity, if the
16 Secretary of State, after consultation
17 with the Attorney General, or the At-
18 torney General, after consultation
19 with the Secretary of State, concludes
20 in his sole unreviewable discretion,
21 that this clause should not apply.”;
22 and

23 (D) by adding at the end the following new
24 clause:

1 “(vi) TERRORIST ORGANIZATION DE-
2 FINED.—As used in clause (i)(VI) and
3 clause (iv), the term ‘terrorist organiza-
4 tion’ means an organization—

5 “(I) designated under section
6 219;

7 “(II) otherwise designated, upon
8 publication in the Federal Register, by
9 the Secretary of State in consultation
10 with or upon the request of the Attor-
11 ney General, as a terrorist organiza-
12 tion, after finding that it engages in
13 the activities described in subclause
14 (I), (II), or (III) of clause (iv), or that
15 it provides material support to further
16 terrorist activity; or

17 “(III) that is a group of two or
18 more individuals, whether organized
19 or not, which engages in the activities
20 described in subclause (I), (II), or
21 (III) of clause (iv).”; and

22 (2) by adding at the end the following new sub-
23 paragraph:

24 “(F) ASSOCIATION WITH TERRORIST ORGA-
25 NIZATIONS.—Any alien who the Secretary of

1 State, after consultation with the Attorney Gen-
2 eral, or the Attorney General, after consultation
3 with the Secretary of State, determines has
4 been associated with a terrorist organization
5 and intends while in the United States to en-
6 gage solely, principally, or incidentally in activi-
7 ties that could endanger the welfare, safety, or
8 security of the United States is inadmissible.”.

9 (b) CONFORMING AMENDMENT.—Section
10 237(a)(4)(B) of the Immigration and Nationality Act (8
11 U.S.C. 1227(a)(4)(B)) is amended by striking “section
12 212(a)(3)(B)(iii)” and inserting “section
13 212(a)(3)(B)(iv)”.

14 (c) RETROACTIVE APPLICATION OF AMENDMENTS.—

15 (1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the amendments made by
17 this section shall take effect on the date of enact-
18 ment of this Act and shall apply to—

19 (A) actions taken by an alien before, on, or
20 after such date; and

21 (B) all aliens, without regard to the date
22 of entry or attempted entry into the United
23 States—

24 (i) in removal proceedings on or after
25 such date (except for proceedings in which

1 there has been a final administrative deci-
2 sion before such date); or

3 (ii) seeking admission to the United
4 States on or after such date.

5 (2) SPECIAL RULE FOR ALIENS IN EXCLUSION
6 OR DEPORTATION PROCEEDINGS.—Notwithstanding
7 any other provision of law, the amendments made by
8 this section shall apply to all aliens in exclusion or
9 deportation proceedings on or after the date of en-
10 actment of this Act (except for proceedings in which
11 there has been a final administrative decision before
12 such date) as if such proceedings were removal pro-
13 ceedings.

14 (3) SPECIAL RULE FOR SECTION 219 ORGANIZA-
15 TIONS AND ORGANIZATIONS DESIGNATED UNDER
16 SECTION 212(a)(3)(B)(vi)(II).—

17 (A) IN GENERAL.—Notwithstanding para-
18 graphs (1) and (2), no alien shall be considered
19 inadmissible under section 212(a)(3) of the Im-
20 migration and Nationality Act (8 U.S.C.
21 1182(a)(3)), or deportable under section
22 237(a)(4)(B) of such Act (8 U.S.C.
23 1227(a)(4)(B)), by reason of the amendments
24 made by subsection (a), on the ground that the
25 alien engaged in a terrorist activity described in

1 subclause (IV)(bb), (V)(bb), or (VI)(cc) of sec-
2 tion 212(a)(3)(B)(iv) of such Act (as so amend-
3 ed) with respect to a group at any time when
4 the group was not a terrorist organization des-
5 ignated by the Secretary of State under section
6 219 of such Act (8 U.S.C. 1189) or otherwise
7 designated under section 212(a)(3)(B)(vi)(II).

8 (B) STATUTORY CONSTRUCTION.—Sub-
9 paragraph (A) shall not be construed to prevent
10 an alien from being considered inadmissible or
11 deportable for having engaged in a terrorist
12 activity—

13 (i) described in subclause (IV)(bb),
14 (V)(bb), or (VI)(cc) of section
15 212(a)(3)(B)(iv) of such Act (as so amend-
16 ed) with respect to a terrorist organization
17 at any time when such organization was
18 designated by the Secretary of State under
19 section 219 of such Act or otherwise des-
20 ignated under section 212(a)(3)(B)(vi)(II);
21 or

22 (ii) described in subclause (IV)(cc),
23 (V)(cc), or (VI)(dd) of section
24 212(a)(3)(B)(iv) of such Act (as so amend-

1 ed) with respect to a terrorist organization
2 described in section 212(a)(3)(B)(vi)(III).

3 (4) EXCEPTION.—The Secretary of State, in
4 consultation with the Attorney General, may deter-
5 mine that the amendments made by this section
6 shall not apply with respect to actions by an alien
7 taken outside the United States before the date of
8 enactment of this Act upon the recommendation of
9 a consular officer who has concluded that there is
10 not reasonable ground to believe that the alien knew
11 or reasonably should have known that the actions
12 would further a terrorist activity.

13 (c) DESIGNATION OF FOREIGN TERRORIST ORGANI-
14 ZATIONS.—Section 219(a) of the Immigration and Nation-
15 ality Act (8 U.S.C. 1189(a)) is amended—

16 (1) in paragraph (1)(B), by inserting “or ter-
17 rorism (as defined in section 140(d)(2) of the For-
18 eign Relations Authorization Act, Fiscal Years 1988
19 and 1989 (22 U.S.C. 2656f(d)(2)) or retains the ca-
20 pability and intent to engage in terrorist activity or
21 terrorism)” after “212(a)(3)(B)”;

22 (2) in paragraph (1)(C), by inserting “or ter-
23 rorism” after “terrorist activity”;

24 (3) by amending paragraph (2)(A) to read as
25 follows:

1 “(A) NOTICE.—

2 “(i) TO CONGRESSIONAL LEADERS.—

3 Seven days before making a designation
4 under this subsection, the Secretary shall,
5 by classified communication, notify the
6 Speaker and Minority Leader of the House
7 of Representatives, the President pro tem-
8 pore, Majority Leader, and Minority Lead-
9 er of the Senate, and the members of the
10 relevant committees, in writing, of the in-
11 tent to designate an organization under
12 this subsection, together with the findings
13 made under paragraph (1) with respect to
14 that organization, and the factual basis
15 therefor.

16 “(ii) PUBLICATION IN FEDERAL REG-
17 ISTER.—The Secretary shall publish the
18 designation in the Federal Register seven
19 days after providing the notification under
20 clause (i).”;

21 (4) in paragraph (2)(B)(i), by striking “sub-
22 paragraph (A)” and inserting “subparagraph
23 (A)(ii)”;

24 (5) in paragraph (2)(C), by striking “paragraph
25 (2)” and inserting “paragraph (2)(A)(i)”;

1 (6) in paragraph (3)(B), by striking “sub-
2 section (c)” and inserting “subsection (b)”;

3 (7) in paragraph (4)(B), by inserting after the
4 first sentence the following: “The Secretary also may
5 redesignate such organization at the end of any 2-
6 year redesignation period (but not sooner than 60
7 days prior to the termination of such period) for an
8 additional 2-year period upon a finding that the rel-
9 evant circumstances described in paragraph (1) still
10 exist. Any redesignation shall be effective imme-
11 diately following the end of the prior 2-year designa-
12 tion or redesignation period unless a different effec-
13 tive date is provided in such redesignation.”;

14 (8) in paragraph (6)(A)—

15 (A) by inserting “or a redesignation made
16 under paragraph (4)(B)” after “paragraph
17 (1)”;

18 (B) in clause (i)—

19 (i) by inserting “or redesignation”
20 after “designation” the first place it ap-
21 pears; and

22 (ii) by striking “of the designation”;

23 and

24 (C) in clause (ii), by striking “of the des-
25 ignation”;

1 (9) in paragraph (6)(B)—

2 (A) by striking “through (4)” and insert-
3 ing “and (3)”; and

4 (B) by inserting at the end the following
5 new sentence: “Any revocation shall take effect
6 on the date specified in the revocation or upon
7 publication in the Federal Register if no effec-
8 tive date is specified.”;

9 (10) in paragraph (7), by inserting “, or the
10 revocation of a redesignation under paragraph (6),”
11 after “paragraph (5) or (6)”; and

12 (11) in paragraph (8)—

13 (A) by striking “paragraph (1)(B)” and
14 inserting “paragraph (2)(B), or if a redesigna-
15 tion under this subsection has become effective
16 under paragraph (4)(B)”;

17 (B) by inserting “or an alien in a removal
18 proceeding” after “criminal action”; and

19 (C) by inserting “or redesignation” before
20 “as a defense”.

1 **SEC. 412. MANDATORY DETENTION OF SUSPECTED TER-**
2 **RORISTS; HABEAS CORPUS; JUDICIAL RE-**
3 **VIEW.**

4 (a) IN GENERAL.—The Immigration and Nationality
5 Act (8 U.S.C. 1101 et seq.) is amended by inserting after
6 section 236 the following:

7 “MANDATORY DETENTION OF SUSPECTED
8 TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW

9 “SEC. 236A. (a) DETENTION OF TERRORIST
10 ALIENS.—

11 “(1) CUSTODY.—The Attorney General shall
12 take into custody any alien who is certified under
13 paragraph (3).

14 “(2) RELEASE.—Except as provided in para-
15 graph (5), the Attorney General shall maintain cus-
16 tody of such an alien until the alien is removed from
17 the United States. Such custody shall be maintained
18 irrespective of any relief from removal for which the
19 alien may be eligible, or any relief from removal
20 granted the alien, until the Attorney General deter-
21 mines that the alien is no longer an alien who may
22 be certified under paragraph (3).

23 “(3) CERTIFICATION.—The Attorney General
24 may certify an alien under this paragraph if the At-
25 torney General has reasonable grounds to believe
26 that the alien—

1 “(A) is described in section
2 212(a)(3)(A)(i), 212(a)(3)(A)(iii),
3 212(a)(3)(B), 237(a)(4)(A)(i),
4 237(a)(4)(A)(iii), or 237(a)(4)(B); or

5 “(B) is engaged in any other activity that
6 endangers the national security of the United
7 States.

8 “(4) NONDELEGATION.—The Attorney General
9 may delegate the authority provided under para-
10 graph (3) only to the Commissioner. The Commis-
11 sioner may not delegate such authority.

12 “(5) COMMENCEMENT OF PROCEEDINGS.—The
13 Attorney General shall place an alien detained under
14 paragraph (1) in removal proceedings, or shall
15 charge the alien with a criminal offense, not later
16 than 7 days after the commencement of such deten-
17 tion. If the requirement of the preceding sentence is
18 not satisfied, the Attorney General shall release the
19 alien.

20 “(b) HABEAS CORPUS AND JUDICIAL REVIEW.—Ju-
21 dicial review of any action or decision relating to this sec-
22 tion (including judicial review of the merits of a deter-
23 mination made under subsection (a)(3)) is available exclu-
24 sively in habeas corpus proceedings in the United States
25 District Court for the District of Columbia. Notwith-

1 standing any other provision of law, including section
2 2241 of title 28, United States Code, except as provided
3 in the preceding sentence, no court shall have jurisdiction
4 to review, by habeas corpus petition or otherwise, any such
5 action or decision.

6 “(c) STATUTORY CONSTRUCTION.—The provisions of
7 this section shall not be applicable to any other provisions
8 of the Immigration and Nationality Act.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 of the Immigration and Nationality Act is amended by in-
11 serting after the item relating to section 236 the following:

“Sec. 236A. Mandatory detention of suspected terrorist; habeas corpus; judicial
review.”.

12 (c) REPORTS.—Not later than 6 months after the
13 date of the enactment of this Act, and every 6 months
14 thereafter, the Attorney General shall submit a report to
15 the Committee on the Judiciary of the House of Rep-
16 resentatives and the Committee on the Judiciary of the
17 Senate, with respect to the reporting period, on—

18 (1) the number of aliens certified under section
19 236A(a)(3) of the Immigration and Nationality Act,
20 as added by subsection (a);

21 (2) the grounds for such certifications;

22 (3) the nationalities of the aliens so certified;

23 (4) the length of the detention for each alien so
24 certified; and

- 1 (5) the number of aliens so certified who—
- 2 (A) were granted any form of relief from
- 3 removal;
- 4 (B) were removed;
- 5 (C) the Attorney General has determined
- 6 are no longer aliens who may be so certified; or
- 7 (D) were released from detention.

8 **SEC. 413. MULTILATERAL COOPERATION AGAINST TERROR-**

9 **ISTS.**

10 Section 222(f) of the Immigration and Nationality

11 Act (8 U.S.C. 1202(f)) is amended—

12 (1) by striking “except that in the discretion

13 of” and inserting the following: “except that—

14 “(1) in the discretion of”; and

15 (2) by adding at the end the following:

16 “(2) the Secretary of State, in the Secretary’s

17 discretion and on the basis of reciprocity, may pro-

18 vide to a foreign government information in the De-

19 partment of State’s computerized visa lookout data-

20 base and, when necessary and appropriate, other

21 records covered by this section related to informa-

22 tion in the database—

23 “(A) with regard to individual aliens, at

24 any time on a case-by-case basis for the pur-

25 pose of preventing, investigating, or punishing

1 acts that would constitute a crime in the United
2 States, including, but not limited to, terrorism
3 or trafficking in controlled substances, persons,
4 or illicit weapons; or

5 “(B) with regard to any or all aliens in the
6 database, pursuant to such conditions as the
7 Secretary of State shall establish in an agree-
8 ment with the foreign government in which that
9 government agrees to use such information and
10 records for the purposes described in subpara-
11 graph (A) or to deny visas to persons who
12 would be inadmissible to the United States.”.

13 **TITLE V—REMOVING OBSTA-**
14 **CLES TO INVESTIGATING**
15 **TERRORISM**

16 **SEC. 501. PROFESSIONAL STANDARDS FOR GOVERNMENT**
17 **ATTORNEYS ACT OF 2001.**

18 (a) **SHORT TITLE.**—This title may be cited as the
19 “Professional Standards for Government Attorneys Act of
20 2001”.

21 (b) **PROFESSIONAL STANDARDS FOR GOVERNMENT**
22 **ATTORNEYS.**—Section 530B of title 28, United States
23 Code, is amended to read as follows:

1 **“§ 530B. Professional Standards for Government At-**
2 **torneys**

3 “(a) DEFINITIONS.—In this section:

4 “(1) GOVERNMENT ATTORNEY.—The term
5 ‘Government attorney’—

6 “(A) means the Attorney General; the
7 Deputy Attorney General; the Solicitor General;
8 the Associate Attorney General; the head of,
9 and any attorney employed in, any division, of-
10 fice, board, bureau, component, or agency of
11 the Department of Justice; any United States
12 Attorney; any Assistant United States Attorney;
13 any Special Assistant to the Attorney General
14 or Special Attorney appointed under section
15 515; any Special Assistant United States Attor-
16 ney appointed under section 543 who is author-
17 ized to conduct criminal or civil law enforce-
18 ment investigations or proceedings on behalf of
19 the United States; any other attorney employed
20 by the Department of Justice who is authorized
21 to conduct criminal or civil law enforcement
22 proceedings on behalf of the United States; any
23 independent counsel, or employee of such coun-
24 sel, appointed under chapter 40; and any out-
25 side special counsel, or employee of such coun-

1 sel, as may be duly appointed by the Attorney
2 General; and

3 “(B) does not include any attorney em-
4 ployed as an investigator or other law enforce-
5 ment agent by the Department of Justice who
6 is not authorized to represent the United States
7 in criminal or civil law enforcement litigation or
8 to supervise such proceedings.

9 “(2) STATE.—The term ‘State’ includes a Ter-
10 ritory and the District of Columbia.

11 “(b) CHOICE OF LAW.—Subject to any uniform na-
12 tional rule prescribed by the Supreme Court under chapter
13 131, the standards of professional responsibility that
14 apply to a Government attorney with respect to the attor-
15 ney’s work for the Government shall be—

16 “(1) for conduct in connection with a pro-
17 ceeding in or before a court, or conduct reasonably
18 intended to lead to a proceeding in or before a court,
19 the standards of professional responsibility estab-
20 lished by the rules and decisions of the court in or
21 before which the proceeding is brought or is in-
22 tended to be brought;

23 “(2) for conduct in connection with a grand
24 jury proceeding, or conduct reasonably intended to
25 lead to a grand jury proceeding, the standards of

1 professional responsibility established by the rules
2 and decisions of the court under whose authority the
3 grand jury was or will be impaneled; and

4 “(3) for all other conduct, the standards of pro-
5 fessional responsibility established by the rules and
6 decisions of the Federal district court for the judicial
7 district in which the attorney principally performs
8 his or her official duties.

9 “(c) LICENSURE.—A Government attorney (except
10 foreign counsel employed in special cases)—

11 “(1) shall be duly licensed and authorized to
12 practice as an attorney under the laws of a State;
13 and

14 “(2) shall not be required to be a member of
15 the bar of any particular State.

16 “(d) UNDERCOVER ACTIVITIES.—Notwithstanding
17 any provision of State law, including disciplinary rules,
18 statutes, regulations, constitutional provisions, or case
19 law, a Government attorney may, for the purpose of en-
20 forcing Federal law, provide legal advice, authorization,
21 concurrence, direction, or supervision on conducting un-
22 dercover activities, and any attorney employed as an inves-
23 tigator or other law enforcement agent by the Department
24 of Justice who is not authorized to represent the United
25 States in criminal or civil law enforcement litigation or

1 to supervise such proceedings may participate in such ac-
2 tivities, even though such activities may require the use
3 of deceit or misrepresentation, where such activities are
4 consistent with Federal law.

5 “(e) ADMISSIBILITY OF EVIDENCE.—No violation of
6 any disciplinary, ethical, or professional conduct rule shall
7 be construed to permit the exclusion of otherwise admis-
8 sible evidence in any Federal criminal proceedings.

9 “(f) RULEMAKING AUTHORITY.—The Attorney Gen-
10 eral shall make and amend rules of the Department of
11 Justice to ensure compliance with this section.”.

12 (c) TECHNICAL AND CONFORMING AMENDMENT.—
13 The analysis for chapter 31 of title 28, United States
14 Code, is amended, in the item relating to section 530B,
15 by striking “Ethical standards for attorneys for the Gov-
16 ernment” and inserting “Professional standards for Gov-
17 ernment attorneys”.

18 (d) REPORTS.—

19 (1) UNIFORM RULE.—In order to encourage the
20 Supreme Court to prescribe, under chapter 131 of
21 title 28, United States Code, a uniform national rule
22 for Government attorneys with respect to commu-
23 nications with represented persons and parties, not
24 later than 1 year after the date of enactment of this
25 Act, the Judicial Conference of the United States

1 shall submit to the Chief Justice of the United
2 States a report, which shall include recommenda-
3 tions with respect to amending the Federal Rules of
4 Practice and Procedure to provide for such a uni-
5 form national rule.

6 (2) ACTUAL OR POTENTIAL CONFLICTS.—Not
7 later than 2 years after the date of enactment of
8 this Act, the Judicial Conference of the United
9 States shall submit to the Chairmen and Ranking
10 Members of the Committees on the Judiciary of the
11 House of Representatives and the Senate a report,
12 which shall include—

13 (A) a review of any areas of actual or po-
14 tential conflict between specific Federal duties
15 related to the investigation and prosecution of
16 violations of Federal law and the regulation of
17 Government attorneys (as that term is defined
18 in section 530B of title 28, United States Code,
19 as amended by this Act) by existing standards
20 of professional responsibility; and

21 (B) recommendations with respect to
22 amending the Federal Rules of Practice and
23 Procedure to provide for additional rules gov-
24 erning attorney conduct to address any areas of

1 actual or potential conflict identified pursuant
2 to the review under subparagraph (A).

3 (3) REPORT CONSIDERATIONS.—In carrying out
4 paragraphs (1) and (2), the Judicial Conference of
5 the United States shall take into consideration—

6 (A) the needs and circumstances of
7 multiform and multijurisdictional litigation;

8 (B) the special needs and interests of the
9 United States in investigating and prosecuting
10 violations of Federal criminal and civil law; and

11 (C) practices that are approved under Fed-
12 eral statutory or case law or that are otherwise
13 consistent with traditional Federal law enforce-
14 ment techniques.

15 **SEC. 502. ATTORNEY GENERAL'S AUTHORITY TO PAY RE-**
16 **WARDS TO COMBAT TERRORISM.**

17 (a) PAYMENT OF REWARDS TO COMBAT TER-
18 RORISM.—Funds available to the Attorney General may
19 be used for the payment of rewards pursuant to public
20 advertisements for assistance to the Department of Jus-
21 tice to combat terrorism and defend the Nation against
22 terrorist acts, in accordance with procedures and regula-
23 tions established or issued by the Attorney General.

24 (b) CONDITIONS.—In making rewards under this
25 section—

1 (1) no such reward of \$250,000 or more may
2 be made or offered without the personal approval of
3 either the Attorney General or the President;

4 (2) the Attorney General shall give written no-
5 tice to the Chairmen and ranking minority members
6 of the Committees on Appropriations and the Judici-
7 ary of the Senate and of the House of Representa-
8 tives not later than 30 days after the approval of a
9 reward under paragraph (1);

10 (3) any executive agency or military department
11 (as defined, respectively, in sections 105 and 102 of
12 title 5, United States Code) may provide the Attor-
13 ney General with funds for the payment of rewards;

14 (4) neither the failure of the Attorney General
15 to authorize a payment nor the amount authorized
16 shall be subject to judicial review; and

17 (5) no such reward shall be subject to any per-
18 or aggregate reward spending limitation established
19 by law, unless that law expressly refers to this sec-
20 tion, and no reward paid pursuant to any such offer
21 shall count toward any such aggregate reward
22 spending limitation.

1 **SEC. 503. SECRETARY OF STATE'S AUTHORITY TO PAY RE-**
2 **WARDS.**

3 Section 36 of the State Department Basic Authorities
4 Act of 1956 (Public Law 885, August 1, 1956; 22 U.S.C.
5 2708) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (4), by striking “or” at
8 the end;

9 (B) in paragraph (5), by striking the pe-
10 riod at the end and inserting “, including by
11 dismantling an organization in whole or signifi-
12 cant part; or”; and

13 (C) by adding at the end the following:

14 “(6) the identification or location of an indi-
15 vidual who holds a key leadership position in a ter-
16 rorist organization.”;

17 (2) in subsection (d), by striking paragraphs
18 (2) and (3) and redesignating paragraph (4) as
19 paragraph (2); and

20 (3) in subsection (e)(1), by inserting “, except
21 as personally authorized by the Secretary of State if
22 he determines that offer or payment of an award of
23 a larger amount is necessary to combat terrorism or
24 defend the Nation against terrorist acts.” after
25 “\$5,000,000”.

1 **SEC. 504. DNA IDENTIFICATION OF TERRORISTS AND**
2 **OTHER VIOLENT OFFENDERS.**

3 Section 3(d)(2) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)(2)) is amended
4 to read as follows:
5

6 “(2) In addition to the offenses described in
7 paragraph (1), the following offenses shall be treated
8 for purposes of this section as qualifying Federal offenses, as determined by the Attorney General:
9

10 “(A) Any offense listed in section
11 2332b(g)(5)(B) of title 18, United States Code.

12 “(B) Any crime of violence (as defined in
13 section 16 of title 18, United States Code).

14 “(C) Any attempt or conspiracy to commit
15 any of the above offenses.”.

16 **SEC. 505. COORDINATION WITH LAW ENFORCEMENT.**

17 (a) INFORMATION ACQUIRED FROM AN ELECTRONIC
18 SURVEILLANCE.—Section 106 of the Foreign Intelligence
19 Surveillance Act of 1978 (50 U.S.C. 1806), is amended
20 by adding at the end the following:

21 “(k)(1) Federal officers who conduct electronic surveillance to acquire foreign intelligence information under
22 this title may consult with Federal law enforcement officers to coordinate efforts to investigate or protect
23 against—
24
25

1 “(A) actual or potential attack or other grave
2 hostile acts of a foreign power or an agent of a for-
3 eign power;

4 “(B) sabotage or international terrorism by a
5 foreign power or an agent of a foreign power; or

6 “(C) clandestine intelligence activities by an in-
7 telligence service or network of a foreign power or by
8 an agent of a foreign power.

9 “(2) Coordination authorized under paragraph (1)
10 shall not preclude the certification required by section
11 104(a)(7)(B) or the entry of an order under section 105.”.

12 (b) INFORMATION ACQUIRED FROM A PHYSICAL
13 SEARCH.—Section 305 of the Foreign Intelligence Surveil-
14 lance Act of 1978 (50 U.S.C. 1825) is amended by adding
15 at the end the following:

16 “(k)(1) Federal officers who conduct physical
17 searches to acquire foreign intelligence information under
18 this title may consult with Federal law enforcement offi-
19 cers to coordinate efforts to investigate or protect
20 against—

21 “(A) actual or potential attack or other grave
22 hostile acts of a foreign power or an agent of a for-
23 eign power;

24 “(B) sabotage or international terrorism by a
25 foreign power or an agent of a foreign power; or

1 United States person is not conducted solely on
2 the basis of activities protected by the first
3 amendment to the Constitution of the United
4 States; and”;

5 (3) in paragraph (2)—

6 (A) by striking “in a position not lower
7 than Deputy Assistant Director”;

8 (B) by striking “made that” and all that
9 follows and inserting the following: “made that
10 the information sought is relevant to an author-
11 ized investigation to protect against inter-
12 national terrorism or clandestine intelligence ac-
13 tivities, provided that such an investigation of a
14 United States person is not conducted solely
15 upon the basis of activities protected by the
16 first amendment to the Constitution of the
17 United States.”.

18 (b) FINANCIAL RECORDS.—Section 1114(a)(5)(A) of
19 the Right to Financial Privacy Act of 1978 (12 U.S.C.
20 3414(a)(5)(A)) is amended—

21 (1) by inserting “in a position not lower than
22 Deputy Assistant Director at Bureau headquarters
23 or a Special Agent in Charge in a Bureau field office
24 designated by the Director” after “designee”;

1 (2) by striking “sought” and all that follows
2 and inserting “sought for foreign counter intel-
3 ligence purposes to protect against international ter-
4 rorism or clandestine intelligence activities, provided
5 that such an investigation of a United States person
6 is not conducted solely upon the basis of activities
7 protected by the first amendment to the Constitution
8 of the United States.”.

9 (c) CONSUMER REPORTS.—Section 624 of the Fair
10 Credit Reporting Act (15 U.S.C. 1681u) is amended—

11 (1) in subsection (a)—

12 (A) by inserting “in a position not lower
13 than Deputy Assistant Director at Bureau
14 headquarters or a Special Agent in Charge of a
15 Bureau field office designated by the Director”
16 after “designee” the first place it appears; and

17 (B) by striking “in writing that” and all
18 that follows through the end and inserting the
19 following: “in writing, that such information is
20 sought for the conduct of an authorized inves-
21 tigation to protect against international ter-
22 rorism or clandestine intelligence activities, pro-
23 vided that such an investigation of a United
24 States person is not conducted solely upon the
25 basis of activities protected by the first amend-

1 ment to the Constitution of the United
2 States.”;

3 (2) in subsection (b)—

4 (A) by inserting “in a position not lower
5 than Deputy Assistant Director at Bureau
6 headquarters or a Special Agent in Charge of a
7 Bureau field office designated by the Director”
8 after “designee” the first place it appears; and

9 (B) by striking “in writing that” and all
10 that follows through the end and inserting the
11 following: “in writing that such information is
12 sought for the conduct of an authorized inves-
13 tigation to protect against international ter-
14 rorism or clandestine intelligence activities, pro-
15 vided that such an investigation of a United
16 States person is not conducted solely upon the
17 basis of activities protected by the first amend-
18 ment to the Constitution of the United
19 States.”; and

20 (3) in subsection (c)—

21 (A) by inserting “in a position not lower
22 than Deputy Assistant Director at Bureau
23 headquarters or a Special Agent in Charge in a
24 Bureau field office designated by the Director”
25 after “designee of the Director”; and

1 (B) by striking “in camera that” and all
2 that follows through “States.” and inserting the
3 following: “in camera that the consumer report
4 is sought for the conduct of an authorized in-
5 vestigation to protect against international ter-
6 rorism or clandestine intelligence activities, pro-
7 vided that such an investigation of a United
8 States person is not conducted solely upon the
9 basis of activities protected by the first amend-
10 ment to the Constitution of the United
11 States.”.

12 **SEC. 507. EXTENSION OF SECRET SERVICE JURISDICTION.**

13 (a) CONCURRENT JURISDICTION UNDER 18 U.S.C.
14 1030.—Section 1030(d) of title 18, United States Code,
15 is amended to read as follows:

16 “(d)(1) The United States Secret Service shall, in ad-
17 dition to any other agency having such authority, have the
18 authority to investigate offenses under this section.

19 “(2) The Federal Bureau of Investigation shall have
20 primary authority to investigate offenses under subsection
21 (a)(1) for any cases involving espionage, foreign counter-
22 intelligence, information protected against unauthorized
23 disclosure for reasons of national defense or foreign rela-
24 tions, or Restricted Data (as that term is defined in sec-
25 tion 11y of the Atomic Energy Act of 1954 (42 U.S.C.

1 2014(y)), except for offenses affecting the duties of the
2 United States Secret Service pursuant to section 3056(a)
3 of this title.

4 “(3) Such authority shall be exercised in accordance
5 with an agreement which shall be entered into by the Sec-
6 retary of the Treasury and the Attorney General.”.

7 (b) REAUTHORIZATION OF JURISDICTION UNDER 18
8 U.S.C. 1344.—Section 3056(b)(3) of title 18, United
9 States Code, is amended by striking “credit and debit card
10 frauds, and false identification documents or devices” and
11 inserting “access device frauds, false identification docu-
12 ments or devices, and any fraud or other criminal or un-
13 lawful activity in or against any federally insured financial
14 institution”.

15 **SEC. 508. DISCLOSURE OF EDUCATIONAL RECORDS.**

16 Section 444 of the General Education Provisions Act
17 (20 U.S.C. 1232g), is amended by adding after subsection
18 (i) a new subsection (j) to read as follows:

19 “(j) INVESTIGATION AND PROSECUTION OF TER-
20 RORISM.—

21 “(1) IN GENERAL.—Notwithstanding sub-
22 sections (a) through (i) or any provision of State
23 law, the Attorney General (or any Federal officer or
24 employee, in a position not lower than an Assistant
25 Attorney General, designated by the Attorney Gen-

1 eral) may submit a written application to a court of
2 competent jurisdiction for an ex parte order requir-
3 ing an educational agency or institution to permit
4 the Attorney General (or his designee) to—

5 “(A) collect education records in the pos-
6 session of the educational agency or institution
7 that are relevant to an authorized investigation
8 or prosecution of an offense listed in section
9 2332b(g)(5)(B) of title 18 United States Code,
10 or an act of domestic or international terrorism
11 as defined in section 2331 of that title; and

12 “(B) for official purposes related to the in-
13 vestigation or prosecution of an offense de-
14 scribed in paragraph (1)(A), retain, dissemi-
15 nate, and use (including as evidence at trial or
16 in other administrative or judicial proceedings)
17 such records, consistent with such guidelines as
18 the Attorney General, after consultation with
19 the Secretary, shall issue to protect confiden-
20 tiality.

21 “(2) APPLICATION AND APPROVAL.—

22 “(A) IN GENERAL.—An application under
23 paragraph (1) shall certify that there are spe-
24 cific and articulable facts giving reason to be-
25 lieve that the education records are likely to

1 contain information described in paragraph
2 (1)(A).

3 “(B) The court shall issue an order de-
4 scribed in paragraph (1) if the court finds that
5 the application for the order includes the certifi-
6 cation described in subparagraph (A).

7 “(3) PROTECTION OF EDUCATIONAL AGENCY
8 OR INSTITUTION.—An educational agency or institu-
9 tion that, in good faith, produces education records
10 in accordance with an order issued under this sub-
11 section shall not be liable to any person for that pro-
12 duction.

13 “(4) RECORD-KEEPING.—Subsection (b)(4)
14 does not apply to education records subject to a
15 court order under this subsection.”.

16 **SEC. 509. DISCLOSURE OF INFORMATION FROM NCES SUR-**
17 **VEYS.**

18 Section 408 of the National Education Statistics Act
19 of 1994 (20 U.S.C. 9007), is amended by adding after
20 subsection (b) a new subsection (c) to read as follows:

21 “(c) INVESTIGATION AND PROSECUTION OF TER-
22 RORISM.—

23 “(1) IN GENERAL.—Notwithstanding sub-
24 sections (a) and (b), the Attorney General (or any
25 Federal officer or employee, in a position not lower

1 than an Assistant Attorney General, designated by
2 the Attorney General) may submit a written applica-
3 tion to a court of competent jurisdiction for an ex
4 parte order requiring the Secretary to permit the At-
5 torney General (or his designee) to—

6 “(A) collect reports, records, and informa-
7 tion (including individually identifiable informa-
8 tion) in the possession of the center that are
9 relevant to an authorized investigation or pros-
10 ecution of an offense listed in section
11 2332b(g)(5)(B) of title 18, United States Code,
12 or an act of domestic or international terrorism
13 as defined in section 2331 of that title; and

14 “(B) for official purposes related to the in-
15 vestigation or prosecution of an offense de-
16 scribed in paragraph (1)(A), retain, dissemi-
17 nate, and use (including as evidence at trial or
18 in other administrative or judicial proceedings)
19 such information, consistent with such guide-
20 lines as the Attorney General, after consultation
21 with the Secretary, shall issue to protect con-
22 fidentiality.

23 “(2) APPLICATION AND APPROVAL.—

24 “(A) IN GENERAL.—An application under
25 paragraph (1) shall certify that there are spe-

1 cific and articulable facts giving reason to be-
2 lieve that the information sought is described in
3 paragraph (1)(A).

4 “(B) The court shall issue an order de-
5 scribed in paragraph (1) if the court finds that
6 the application for the order includes the certifi-
7 cation described in subparagraph (A).

8 “(3) PROTECTION.—An officer or employee
9 of the Department who, in good faith, produces
10 information in accordance with an order issued
11 under this subsection does not violate sub-
12 section (b)(2) and shall not be liable to any per-
13 son for that production.”.

14 **TITLE VI—PROVIDING FOR VIC-**
15 **TIMS OF TERRORISM, PUBLIC**
16 **SAFETY OFFICERS, AND**
17 **THEIR FAMILIES**

18 **Subtitle A—Aid to Families of**
19 **Public Safety Officers**

20 **SEC. 611. EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFI-**
21 **CERS INVOLVED IN THE PREVENTION, INVES-**
22 **TIGATION, RESCUE, OR RECOVERY EFFORTS**
23 **RELATED TO A TERRORIST ATTACK.**

24 (a) IN GENERAL.—Notwithstanding the limitations
25 of subsection (b) of section 1201 or the provisions of sub-

1 sections (c), (d), and (e) of such section or section 1202
2 of title I of the Omnibus Crime Control and Safe Streets
3 Act of 1968 (42 U.S.C. 3796, 3796a), upon certification
4 (containing identification of all eligible payees of benefits
5 pursuant to section 1201 of such Act) by a public agency
6 that a public safety officer employed by such agency was
7 killed or suffered a catastrophic injury producing perma-
8 nent and total disability as a direct and proximate result
9 of a personal injury sustained in the line of duty as de-
10 scribed in section 1201 of such Act in connection with pre-
11 vention, investigation, rescue, or recovery efforts related
12 to a terrorist attack, the Director of the Bureau of Justice
13 Assistance shall authorize payment to qualified bene-
14 ficiaries, said payment to be made not later than 30 days
15 after receipt of such certification, benefits described under
16 subpart 1 of part L of such Act (42 U.S.C. 3796 et seq.).

17 (b) DEFINITIONS.—For purposes of this section, the
18 terms “catastrophic injury”, “public agency”, and “public
19 safety officer” have the same meanings given such terms
20 in section 1204 of title I of the Omnibus Crime Control
21 and Safe Streets Act of 1968 (42 U.S.C. 3796b).

1 **SEC. 612. TECHNICAL CORRECTION WITH RESPECT TO EX-**
2 **PEDITED PAYMENTS FOR HEROIC PUBLIC**
3 **SAFETY OFFICERS.**

4 Section 1 of Public Law 107-37 (an Act to provide
5 for the expedited payment of certain benefits for a public
6 safety officer who was killed or suffered a catastrophic in-
7 jury as a direct and proximate result of a personal injury
8 sustained in the line of duty in connection with the ter-
9 rorist attacks of September 11, 2001) is amended by—

10 (1) inserting before “by a” the following: “(con-
11 taining identification of all eligible payees of benefits
12 pursuant to section 1201)”;

13 (2) inserting “producing permanent and total
14 disability” after “suffered a catastrophic injury”;
15 and

16 (2) striking “1201(a)” and inserting “1201”.

17 **SEC. 613. PUBLIC SAFETY OFFICERS BENEFIT PROGRAM**
18 **PAYMENT INCREASE.**

19 (a) PAYMENTS.—Section 1201(a) of the Omnibus
20 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
21 3796) is amended by striking “\$100,000” and inserting
22 “\$250,000”.

23 (b) APPLICABILITY.—The amendment made by sub-
24 section (a) shall apply to any death or disability occurring
25 on or after January 1, 2001.

1 **SEC. 614. OFFICE OF JUSTICE PROGRAMS.**

2 Section 112 of title I of section 101(b) of division
3 A of Public Law 105–277 and section 108(a) of appendix
4 A of Public Law 106–113 (113 Stat. 1501A–20) are
5 amended—

6 (1) after “that Office”, each place it occurs, by
7 inserting “(including, notwithstanding any contrary
8 provision of law (unless the same should expressly
9 refer to this section), any organization that admin-
10 isters any program established in title 1 of Public
11 Law 90–351)”; and

12 (2) by inserting “functions, including any”
13 after “all”.

14 **Subtitle B—Amendments to the**
15 **Victims of Crime Act of 1984**

16 **SEC. 621. CRIME VICTIMS FUND.**

17 (a) DEPOSIT OF GIFTS IN THE FUND.—Section
18 1402(b) of the Victims of Crime Act of 1984 (42 U.S.C.
19 10601(b)) is amended—

20 (1) in paragraph (3), by striking “and” at the
21 end;

22 (2) in paragraph (4), by striking the period at
23 the end and inserting “; and”; and

24 (3) by adding at the end the following:

25 “(5) any gifts, bequests, or donations to the
26 Fund from private entities or individuals.”.

1 (b) FORMULA FOR FUND DISTRIBUTIONS.—Section
2 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C.
3 10601(c)) is amended to read as follows:

4 “(c) FUND DISTRIBUTION; RETENTION OF SUMS IN
5 FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FIS-
6 CAL YEAR LIMITATION.—

7 “(1) Subject to the availability of money in the
8 Fund, in each fiscal year, beginning with fiscal year
9 2003, the Director shall distribute not less than 90
10 percent nor more than 110 percent of the amount
11 distributed from the Fund in the previous fiscal
12 year, except the Director may distribute up to 120
13 percent of the amount distributed in the previous
14 fiscal year in any fiscal year that the total amount
15 available in the Fund is more than 2 times the
16 amount distributed in the previous fiscal year.

17 “(2) In each fiscal year, the Director shall dis-
18 tribute amounts from the Fund in accordance with
19 subsection (d). All sums not distributed during a fis-
20 cal year shall remain in reserve in the Fund to be
21 distributed during a subsequent fiscal year. Notwith-
22 standing any other provision of law, all sums depos-
23 ited in the Fund that are not distributed shall re-
24 main in reserve in the Fund for obligation in future
25 fiscal years, without fiscal year limitation.”.

1 (c) ALLOCATION OF FUNDS FOR COSTS AND
2 GRANTS.—Section 1402(d)(4) of the Victims of Crime Act
3 of 1984 (42 U.S.C. 10601(d)(4)) is amended—

4 (1) by striking “deposited in” and inserting “to
5 be distributed from”;

6 (2) in subparagraph (A), by striking “48.5”
7 and inserting “47.5”;

8 (3) in subparagraph (B), by striking “48.5”
9 and inserting “47.5”; and

10 (4) in subparagraph (C), by striking “3” and
11 inserting “5”.

12 (d) ANTITERRORISM EMERGENCY RESERVE.—Sec-
13 tion 1402(d)(5) of the Victims of Crime Act of 1984 (42
14 U.S.C. 10601(d)(5)) is amended to read as follows:

15 “(5)(A) In addition to the amounts distributed
16 under paragraphs (2), (3), and (4), the Director
17 may set aside up to \$50,000,000 from the amounts
18 transferred to the Fund for use in responding to the
19 airplane hijackings and terrorist acts that occurred
20 on September 11, 2001, as an antiterrorism emer-
21 gency reserve. The Director may replenish any
22 amounts expended from such reserve in subsequent
23 fiscal years by setting aside up to 5 percent of the
24 amounts remaining in the Fund in any fiscal year

1 after distributing amounts under paragraphs (2), (3)
2 and (4). Such reserve shall not exceed \$50,000,000.

3 “(B) The antiterrorism emergency reserve re-
4 ferred to in subparagraph (A) may be used for sup-
5 plemental grants under section 1404B and to pro-
6 vide compensation to victims of international ter-
7 rorism under section 1404C.

8 “(C) Amounts in the antiterrorism emergency
9 reserve established pursuant to subparagraph (A)
10 may be carried over from fiscal year to fiscal year.
11 Notwithstanding subsection (c) and section 619 of
12 the Departments of Commerce, Justice, and State,
13 the Judiciary, and Related Agencies Appropriations
14 Act, 2001 (and any similar limitation on Fund obli-
15 gations in any future Act, unless the same should
16 expressly refer to this section), any such amounts
17 carried over shall not be subject to any limitation on
18 obligations from amounts deposited to or available in
19 the Fund.”.

20 (e) VICTIMS OF SEPTEMBER 11, 2001.—Amounts
21 transferred to the Crime Victims Fund for use in respond-
22 ing to the airplane hijackings and terrorist acts (including
23 any related search, rescue, relief, assistance, or other simi-
24 lar activities) that occurred on September 11, 2001, shall
25 not be subject to any limitation on obligations from

1 amounts deposited to or available in the Fund,
2 notwithstanding—

3 (1) section 619 of the Departments of Com-
4 merce, Justice, and State, the Judiciary, and Re-
5 lated Agencies Appropriations Act, 2001, and any
6 similar limitation on Fund obligations in such Act
7 for Fiscal Year 2002; and

8 (2) subsections (c) and (d) of section 1402 of
9 the Victims of Crime Act of 1984 (42 U.S.C.
10 10601).

11 **SEC. 622. CRIME VICTIM COMPENSATION.**

12 (a) ALLOCATION OF FUNDS FOR COMPENSATION
13 AND ASSISTANCE.—Paragraphs (1) and (2) of section
14 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C.
15 10602(a)) are amended by inserting “in fiscal year 2002
16 and of 60 percent in subsequent fiscal years” after “40
17 percent”.

18 (b) LOCATION OF COMPENSABLE CRIME.—Section
19 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42
20 U.S.C. 10602(b)(6)(B)) is amended by striking “are out-
21 side the United States (if the compensable crime is ter-
22 rorism, as defined in section 2331 of title 18), or”.

23 (c) RELATIONSHIP OF CRIME VICTIM COMPENSA-
24 TION TO MEANS-TESTED FEDERAL BENEFIT PRO-
25 GRAMS.—Section 1403 of the Victims of Crime Act of

1 1984 (42 U.S.C. 10602) is amended by striking subsection
2 (c) and inserting the following:

3 “(c) EXCLUSION FROM INCOME, RESOURCES, AND
4 ASSETS FOR PURPOSES OF MEANS TESTS.—Notwith-
5 standing any other law (other than title IV of Public Law
6 107–42), for the purpose of any maximum allowed income,
7 resource, or asset eligibility requirement in any Federal,
8 State, or local government program using Federal funds
9 that provides medical or other assistance (or payment or
10 reimbursement of the cost of such assistance), any amount
11 of crime victim compensation that the applicant receives
12 through a crime victim compensation program under this
13 section shall not be included in the income, resources, or
14 assets of the applicant, nor shall that amount reduce the
15 amount of the assistance available to the applicant from
16 Federal, State, or local government programs using Fed-
17 eral funds, unless the total amount of assistance that the
18 applicant receives from all such programs is sufficient to
19 fully compensate the applicant for losses suffered as a re-
20 sult of the crime.”.

21 (d) DEFINITIONS OF “COMPENSABLE CRIME” AND
22 “STATE”.—Section 1403(d) of the Victims of Crime Act
23 of 1984 (42 U.S.C. 10602(d)) is amended—

24 (1) in paragraph (3), by striking “crimes in-
25 volving terrorism,”; and

1 (2) in paragraph (4), by inserting “the United
2 States Virgin Islands,” after “the Commonwealth of
3 Puerto Rico,”.

4 (e) RELATIONSHIP OF ELIGIBLE CRIME VICTIM COM-
5 PENSATION PROGRAMS TO THE SEPTEMBER 11TH VICTIM
6 COMPENSATION FUND.—

7 (1) IN GENERAL.—Section 1403(e) of the Vic-
8 tims of Crime Act of 1984 (42 U.S.C. 10602(e)) is
9 amended by inserting “including the program estab-
10 lished under title IV of Public Law 107–42,” after
11 “Federal program,”.

12 (2) COMPENSATION.—With respect to any com-
13 pensation payable under title IV of Public Law 107–
14 42, the failure of a crime victim compensation pro-
15 gram, after the effective date of final regulations
16 issued pursuant to section 407 of Public Law 107–
17 42, to provide compensation otherwise required pur-
18 suant to section 1403 of the Victims of Crime Act
19 of 1984 (42 U.S.C. 10602) shall not render that
20 program ineligible for future grants under the Vic-
21 tims of Crime Act of 1984.

22 **SEC. 623. CRIME VICTIM ASSISTANCE.**

23 (a) ASSISTANCE FOR VICTIMS IN THE DISTRICT OF
24 COLUMBIA, PUERTO RICO, AND OTHER TERRITORIES
25 AND POSSESSIONS.—Section 1404(a) of the Victims of

1 Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by
2 adding at the end the following:

3 “(6) An agency of the Federal Government per-
4 forming local law enforcement functions in and on
5 behalf of the District of Columbia, the Common-
6 wealth of Puerto Rico, the United States Virgin Is-
7 lands, or any other territory or possession of the
8 United States may qualify as an eligible crime victim
9 assistance program for the purpose of grants under
10 this subsection, or for the purpose of grants under
11 subsection (c)(1).”.

12 (b) PROHIBITION ON DISCRIMINATION AGAINST CER-
13 TAIN VICTIMS.—Section 1404(b)(1) of the Victims of
14 Crime Act of 1984 (42 U.S.C. 10603(b)(1)) is amended—

15 (1) in subparagraph (D), by striking “and” at
16 the end;

17 (2) in subparagraph (E), by striking the period
18 at the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(F) does not discriminate against victims
21 because they disagree with the way the State is
22 prosecuting the criminal case.”.

23 (c) GRANTS FOR PROGRAM EVALUATION AND COM-
24 PLIANCE EFFORTS.—Section 1404(c)(1)(A) of the Vic-
25 tims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A))

1 is amended by inserting “, program evaluation, compliance
2 efforts,” after “demonstration projects”.

3 (d) ALLOCATION OF DISCRETIONARY GRANTS.—Sec-
4 tion 1404(c)(2) of the Victims of Crime Act of 1984 (42
5 U.S.C. 10603(c)(2)) is amended—

6 (1) in subparagraph (A), by striking “not more
7 than” and inserting “not less than”; and

8 (2) in subparagraph (B), by striking “not less
9 than” and inserting “not more than”.

10 (e) FELLOWSHIPS AND CLINICAL INTERNSHIPS.—
11 Section 1404(c)(3) of the Victims of Crime Act of 1984
12 (42 U.S.C. 10603(c)(3)) is amended—

13 (1) in subparagraph (C), by striking “and” at
14 the end;

15 (2) in subparagraph (D), by striking the period
16 at the end and inserting “; and”; and

17 (3) by adding at the end the following:

18 “(E) use funds made available to the Di-
19 rector under this subsection—

20 “(i) for fellowships and clinical intern-
21 ships; and

22 “(ii) to carry out programs of training
23 and special workshops for the presentation
24 and dissemination of information resulting

1 from demonstrations, surveys, and special
2 projects.”.

3 **SEC. 624. VICTIMS OF TERRORISM.**

4 (a) COMPENSATION AND ASSISTANCE TO VICTIMS OF
5 DOMESTIC TERRORISM.—Section 1404B(b) of the Victims
6 of Crime Act of 1984 (42 U.S.C. 10603b(b)) is amended
7 to read as follows:

8 “(b) VICTIMS OF TERRORISM WITHIN THE UNITED
9 STATES.—The Director may make supplemental grants as
10 provided in section 1402(d)(5) to States for eligible crime
11 victim compensation and assistance programs, and to vic-
12 tim service organizations, public agencies (including Fed-
13 eral, State, or local governments) and nongovernmental
14 organizations that provide assistance to victims of crime,
15 which shall be used to provide emergency relief, including
16 crisis response efforts, assistance, compensation, training
17 and technical assistance, and ongoing assistance, including
18 during any investigation or prosecution, to victims of ter-
19 rorist acts or mass violence occurring within the United
20 States.”.

21 (b) ASSISTANCE TO VICTIMS OF INTERNATIONAL
22 TERRORISM.—Section 1404B(a)(1) of the Victims of
23 Crime Act of 1984 (42 U.S.C. 10603b(a)(1)) is amended
24 by striking “who are not persons eligible for compensation

1 under title VIII of the Omnibus Diplomatic Security and
2 Antiterrorism Act of 1986”.

3 (c) COMPENSATION TO VICTIMS OF INTERNATIONAL
4 TERRORISM.—Section 1404C(b) of the Victims of Crime
5 of 1984 (42 U.S.C. 10603c(b)) is amended by adding at
6 the end the following: “The amount of compensation
7 awarded to a victim under this subsection shall be reduced
8 by any amount that the victim received in connection with
9 the same act of international terrorism under title VIII
10 of the Omnibus Diplomatic Security and Antiterrorism
11 Act of 1986.”.

12 **TITLE VII—INCREASED INFOR-**
13 **MATION SHARING FOR CRIT-**
14 **ICAL INFRASTRUCTURE PRO-**
15 **TECTION**

16 **SEC. 711. EXPANSION OF REGIONAL INFORMATION SHAR-**
17 **ING SYSTEM TO FACILITATE FEDERAL-STATE-**
18 **LOCAL LAW ENFORCEMENT RESPONSE RE-**
19 **LATED TO TERRORIST ATTACKS.**

20 Section 1301 of title I of the Omnibus Crime Control
21 and Safe Streets Act of 1968 (42 U.S.C. 3796h) is
22 amended—

23 (1) in subsection (a), by inserting “and ter-
24 rorist conspiracies and activities” after “activities”;

25 (2) in subsection (b)—

1 (A) in paragraph (3), by striking “and”
2 after the semicolon;

3 (B) by redesignating paragraph (4) as
4 paragraph (5);

5 (C) by inserting after paragraph (3) the
6 following:

7 “(4) establishing and operating secure informa-
8 tion sharing systems to enhance the investigation
9 and prosecution abilities of participating enforce-
10 ment agencies in addressing multi-jurisdictional ter-
11 rorist conspiracies and activities; and (5)”;

12 (3) by inserting at the end the following:

13 “(d) AUTHORIZATION OF APPROPRIATION TO THE
14 BUREAU OF JUSTICE ASSISTANCE.—There are authorized
15 to be appropriated to the Bureau of Justice Assistance
16 to carry out this section \$50,000,000 for fiscal year 2002
17 and \$100,000,000 for fiscal year 2003.”.

18 **TITLE VIII—STRENGTHENING**
19 **THE CRIMINAL LAWS**
20 **AGAINST TERRORISM**

21 **SEC. 801. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**
22 **LENCE AGAINST MASS TRANSPORTATION**
23 **SYSTEMS.**

24 Chapter 97 of title 18, United States Code, is amend-
25 ed by adding at the end the following:

1 **“§ 1993. Terrorist attacks and other acts of violence**
2 **against mass transportation systems**

3 “(a) GENERAL PROHIBITIONS.—Whoever willfully—

4 “(1) wrecks, derails, sets fire to, or disables a
5 mass transportation vehicle or ferry;

6 “(2) places or causes to be placed any biological
7 agent or toxin for use as a weapon, destructive sub-
8 stance, or destructive device in, upon, or near a
9 mass transportation vehicle or ferry, without pre-
10 viously obtaining the permission of the mass trans-
11 portation provider, and with intent to endanger the
12 safety of any passenger or employee of the mass
13 transportation provider, or with a reckless disregard
14 for the safety of human life;

15 “(3) sets fire to, or places any biological agent
16 or toxin for use as a weapon, destructive substance,
17 or destructive device in, upon, or near any garage,
18 terminal, structure, supply, or facility used in the
19 operation of, or in support of the operation of, a
20 mass transportation vehicle or ferry, without pre-
21 viously obtaining the permission of the mass trans-
22 portation provider, and knowing or having reason to
23 know such activity would likely derail, disable, or
24 wreck a mass transportation vehicle or ferry used,
25 operated, or employed by the mass transportation
26 provider;

1 “(4) removes appurtenances from, damages, or
2 otherwise impairs the operation of a mass transpor-
3 tation signal system, including a train control sys-
4 tem, centralized dispatching system, or rail grade
5 crossing warning signal;

6 “(5) interferes with, disables, or incapacitates
7 any dispatcher, driver, captain, or person while they
8 are employed in dispatching, operating, or maintain-
9 ing a mass transportation vehicle or ferry, with in-
10 tent to endanger the safety of any passenger or em-
11 ployee of the mass transportation provider, or with
12 a reckless disregard for the safety of human life;

13 “(6) commits an act, including the use of a
14 dangerous weapon, with the intent to cause death or
15 serious bodily injury to an employee or passenger of
16 a mass transportation provider or any other person
17 while any of the foregoing are on the property of a
18 mass transportation provider;

19 “(7) conveys or causes to be conveyed false in-
20 formation, knowing the information to be false, con-
21 cerning an attempt or alleged attempt being made or
22 to be made, to do any act which would be a crime
23 prohibited by this subsection; or

24 “(8) attempts, threatens, or conspires to do any
25 of the aforesaid acts,

1 shall be fined under this title or imprisoned not more than
2 twenty years, or both, if such act is committed, or in the
3 case of a threat or conspiracy such act would be com-
4 mitted, on, against, or affecting a mass transportation
5 provider engaged in or affecting interstate or foreign com-
6 merce, or if in the course of committing such act, that
7 person travels or communicates across a State line in
8 order to commit such act, or transports materials across
9 a State line in aid of the commission of such act.

10 “(b) AGGRAVATED OFFENSE.—Whoever commits an
11 offense under subsection (a) in a circumstance in which—

12 “(1) the mass transportation vehicle or ferry
13 was carrying a passenger at the time of the offense;
14 or

15 “(2) the offense has resulted in the death of
16 any person,

17 shall be guilty of an aggravated form of the offense and
18 shall be fined under this title or imprisoned for a term
19 of years or for life, or both.

20 “(c) DEFINITIONS.—In this section—

21 “(1) the term ‘biological agent’ has the meaning
22 given to that term in section 178(1) of this title;

23 “(2) the term ‘dangerous weapon’ has the
24 meaning given to that term in section 930 of this
25 title;

1 **SEC. 802. EXPANSION OF THE BIOLOGICAL WEAPONS STAT-**
2 **UTE.**

3 Chapter 10 of title 18, United States Code, is
4 amended—

5 (1) in section 175—

6 (A) in subsection (b)—

7 (i) by striking “does not include” and
8 inserting “includes”;

9 (ii) by inserting “other than” after
10 “system for”; and

11 (iii) by inserting “bona fide research”
12 after “protective”;

13 (B) by redesignating subsection (b) as sub-
14 section (c); and

15 (C) by inserting after subsection (a) the
16 following:

17 “(b) **ADDITIONAL OFFENSE.**—Whoever knowingly
18 possesses any biological agent, toxin, or delivery system
19 of a type or in a quantity that, under the circumstances,
20 is not reasonably justified by a prophylactic, protective,
21 bona fide research, or other peaceful purpose, shall be
22 fined under this title, imprisoned not more than 10 years,
23 or both. In this subsection, the terms ‘biological agent’ and
24 ‘toxin’ do not encompass any biological agent or toxin that
25 is in its naturally occurring environment, if the biological

1 agent or toxin has not been cultivated, collected, or other-
2 wise extracted from its natural source.”;

3 (2) by inserting after section 175a the fol-
4 lowing:

5 **“SEC. 175b. POSSESSION BY RESTRICTED PERSONS.**

6 “(a) No restricted person described in subsection (b)
7 shall ship or transport interstate or foreign commerce, or
8 possess in or affecting commerce, any biological agent or
9 toxin, or receive any biological agent or toxin that has been
10 shipped or transported in interstate or foreign commerce,
11 if the biological agent or toxin is listed as a select agent
12 in subsection (j) of section 72.6 of title 42, Code of Fed-
13 eral Regulations, pursuant to section 511(d)(l) of the
14 Antiterrorism and Effective Death Penalty Act of 1996
15 (Public Law 104–132), and is not exempted under sub-
16 section (h) of such section 72.6, or appendix A of part
17 72 of the Code of Regulations.

18 “(b) In this section:

19 “(1) The term ‘select agent’ does not include
20 any such biological agent or toxin that is in its natu-
21 rally-occurring environment, if the biological agent
22 or toxin has not been cultivated, collected, or other-
23 wise extracted from its natural source.

24 “(2) The term ‘restricted person’ means an individual
25 who—

1 “(A) is under indictment for a crime pun-
2 ishable by imprisonment for a term exceeding 1
3 year;

4 “(B) has been convicted in any court of a
5 crime punishable by imprisonment for a term
6 exceeding 1 year;

7 “(C) is a fugitive from justice;

8 “(D) is an unlawful user of any controlled
9 substance (as defined in section 102 of the Con-
10 trolled Substances Act (21 U.S.C. 802));

11 “(E) is an alien illegally or unlawfully in
12 the United States;

13 “(F) has been adjudicated as a mental de-
14 fective or has been committed to any mental in-
15 stitution;

16 “(G) is an alien (other than an alien law-
17 fully admitted for permanent residence) who is
18 a national of a country as to which the Sec-
19 retary of State, pursuant to section 6(j) of the
20 Export Administration Act of 1979 (50 U.S.C.
21 App. 2405(j)), section 620A of chapter 1 of
22 part M of the Foreign Assistance Act of 1961
23 (22 U.S.C. 2371), or section 40(d) of chapter
24 3 of the Arms Export Control Act (22 U.S.C.
25 2780(d)), has made a determination (that re-

1 mains in effect) that such country has repeat-
2 edly provided support for acts of international
3 terrorism; or

4 “(H) has been discharged from the Armed
5 Services of the United States under dishonor-
6 able conditions.

7 “(3) The term ‘alien’ has the same meaning as
8 in section 1010(a)(3) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1101(a)(3)).

10 “(4) The term ‘lawfully admitted for permanent
11 residence’ has the same meaning as in section
12 101(a)(20) of the Immigration and Nationality Act
13 (8 U.S.C. 1101(a)(20)).

14 “(c) Whoever knowingly violates this section shall be
15 fined as provided in this title, imprisoned not more than
16 10 years, or both, but the prohibition contained in this
17 section shall not apply with respect to any duly authorized
18 United States governmental activity.”; and

19 (3) in the chapter analysis, by inserting after
20 the item relating to section 175a the following:

“175b. Possession by restricted persons.”.

21 **SEC. 803. DEFINITION OF DOMESTIC TERRORISM.**

22 (a) DOMESTIC TERRORISM DEFINED.—Section 2331
23 of title 18, United States Code, is amended—

1 (1) in paragraph (1)(B)(iii), by striking “by as-
2 sassination or kidnapping” and inserting “by mass
3 destruction, assassination, or kidnapping”;

4 (2) in paragraph (3), by striking “and”;

5 (3) in paragraph (4), by striking the period at
6 the end and inserting “; and”; and

7 (4) by adding at the end the following:

8 “(5) the term ‘domestic terrorism’ means activi-
9 ties that—

10 “(A) involve acts dangerous to human life
11 that are a violation of the criminal laws of the
12 United States or of any State;

13 “(B) appear to be intended—

14 “(i) to intimidate or coerce a civilian
15 population;

16 “(ii) to influence the policy of a gov-
17 ernment by intimidation or coercion; or

18 “(iii) to affect the conduct of a gov-
19 ernment by mass destruction, assassina-
20 tion, or kidnapping; and

21 “(C) occur primarily within the territorial
22 jurisdiction of the United States.”.

23 (b) CONFORMING AMENDMENT.—Section 3077(1) of
24 title 18, United States Code, is amended to read as fol-
25 lows:

1 “(1) ‘act of terrorism’ means an act of domestic
2 or international terrorism as defined in section
3 2331;”.

4 **SEC. 804. PROHIBITION AGAINST HARBORING TERRORISTS.**

5 (a) IN GENERAL.—Chapter 113B of title 18, United
6 States Code, is amended by adding after section 2338 the
7 following new section:

8 **“§ 2339. Harboring or concealing terrorists**

9 “(a) Whoever harbors or conceals any person who he
10 knows, or has reasonable grounds to believe, has com-
11 mitted, or is about to commit, an offense under section
12 32 (relating to destruction of aircraft or aircraft facilities),
13 section 175 (relating to biological weapons), section 229
14 (relating to chemical weapons), section 831 (relating to
15 nuclear materials), paragraph (2) or (3) of section 844(f)
16 (relating to arson and bombing of government property
17 risking or causing injury or death), section 1366(a) (relat-
18 ing to the destruction of an energy facility), section 2280
19 (relating to violence against maritime navigation), section
20 2332a (relating to weapons of mass destruction), or sec-
21 tion 2332b (relating to acts of terrorism transcending na-
22 tional boundaries) of this title, section 236(a) (relating to
23 sabotage of nuclear facilities or fuel) of the Atomic Energy
24 Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (relat-

1 ing to aircraft piracy) of title 49, shall be fined under this
2 title or imprisoned not more than ten years, or both.”.

3 “(b) A violation of this section may be prosecuted in
4 any Federal judicial district in which the underlying of-
5 fense was committed, or in any other Federal judicial dis-
6 trict as provided by law.”.

7 (b) TECHNICAL AMENDMENT.—The chapter analysis
8 for chapter 113B of title 18, United States Code, is
9 amended by inserting after the item for section 2338 the
10 following:

“2339. Harboring or concealing terrorists.”.

11 **SEC. 805. JURISDICTION OVER CRIMES COMMITTED AT U.S.**

12 **FACILITIES ABROAD.**

13 Section 7 of title 18, United States Code, is amended
14 by adding at the end the following:

15 “(9) With respect to offenses committed by or
16 against a United States national, as defined in sec-
17 tion 1203(c) of this title—

18 “(A) the premises of United States diplo-
19 matic, consular, military or other United States
20 Government missions or entities in foreign
21 States, including the buildings, parts of build-
22 ings, and land appurtenant or ancillary thereto
23 or used for purposes of those missions or enti-
24 ties, irrespective of ownership; and

1 “(B) residences in foreign States and the
2 land appurtenant or ancillary thereto, irrespec-
3 tive of ownership, used for purposes of those
4 missions or entities or used by United States
5 personnel assigned to those missions or entities.
6 Nothing in this paragraph shall be deemed to super-
7 sede any treaty or international agreement in force
8 on the date of enactment of this paragraph with
9 which this paragraph conflicts. This paragraph does
10 not apply with respect to an offense committed by
11 a person described in section 3261(a) of this title.”.

12 **SEC. 806. MATERIAL SUPPORT FOR TERRORISM.**

13 (a) IN GENERAL.—Section 2339A of title 18, United
14 States Code, is amended—

15 (1) in subsection (a)—

16 (A) by striking “, within the United
17 States,”;

18 (B) by inserting “229,” after “175,”;

19 (C) by inserting “1993,” after “1992,”;

20 (D) by inserting “, section 236 of the
21 Atomic Energy Act of 1954 (42 U.S.C. 2284),”
22 after “of this title”;

23 (E) by inserting “or 60123(b)” after
24 “46502”; and

1 (F) by inserting at the end the following:

2 “A violation of this section may be prosecuted
3 in any Federal judicial district in which the un-
4 derlying offense was committed, or in any other
5 Federal judicial district as provided by law.”;

6 and

7 (2) in subsection (b)—

8 (A) by striking “or other financial securi-
9 ties” and inserting “or monetary instruments
10 or financial securities”; and

11 (B) by inserting “expert advice or assist-
12 ance,” after “training.”.

13 (b) TECHNICAL AMENDMENT.—Section
14 1956(c)(7)(D) of title 18, United States Code, is amended
15 by inserting “or 2339B” after “2339A”.

16 **SEC. 807. ASSETS OF TERRORIST ORGANIZATIONS.**

17 Section 981(a)(1) of title 18, United States Code, is
18 amended by inserting at the end the following:

19 “(G) All assets, foreign or domestic—

20 “(i) of any person, entity, or organization
21 engaged in planning or perpetrating any act of
22 domestic or international terrorism (as defined
23 in section 2331) against the United States, citi-
24 zens or residents of the United States, or their
25 property, and all assets, foreign or domestic, af-

1 fording any person a source of influence over
2 any such entity or organization;

3 “(ii) acquired or maintained by any person
4 for the purpose of supporting, planning, con-
5 ducting, or concealing an act of domestic or
6 international terrorism (as defined in section
7 2331) against the United States, citizens or
8 residents of the United States, or their prop-
9 erty; or

10 “(iii) derived from, involved in, or used or
11 intended to be used to commit any act of do-
12 mestic or international terrorism (as defined in
13 section 2331) against the United States, citi-
14 zens or residents of the United States, or their
15 property.”.

16 **SEC. 808. TECHNICAL CLARIFICATION RELATING TO PROVI-**
17 **SION OF MATERIAL SUPPORT TO TER-**
18 **RORISM.**

19 No provision of the Trade Sanctions Reform and Ex-
20 port Enhancement Act of 2000 (title IX of Public Law
21 106–387) shall be construed to limit or otherwise affect
22 section 2339A or 2339B of title 18, United States Code.

23 **SEC. 809. DEFINITION OF FEDERAL CRIME OF TERRORISM.**

24 Section 2332b of title 18, United States Code, is
25 amended—

1 (1) in subsection (f), by inserting after “ter-
2 rorism” the following: “and any violation of section
3 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b),
4 1366(e), 1751(e), 2152, or 2156 of this title,” be-
5 fore “and the Secretary”; and

6 (2) in subsection (g)(5)(B), by striking clauses
7 (i) through (iii) and inserting the following:

8 “(i) section 32 (relating to destruction
9 of aircraft or aircraft facilities), 37 (relat-
10 ing to violence at international airports),
11 81 (relating to arson within special mari-
12 time and territorial jurisdiction), 175 or
13 175b (relating to biological weapons), 229
14 (relating to chemical weapons), 351 (a)
15 through (d) (relating to congressional, cab-
16 inet, and Supreme Court assassination and
17 kidnaping), 831 (relating to nuclear mate-
18 rials), 842(m) or (n) (relating to plastic
19 explosives), 844(f) (2) through (3) (relat-
20 ing to arson and bombing of Government
21 property risking or causing death), 844(i)
22 (relating to arson and bombing of property
23 used in interstate commerce), 930(c) (re-
24 lating to killing or attempted killing during
25 an attack on a Federal facility with a dan-

1 gerous weapon), 956(a)(1) (relating to con-
2 spiracy to murder, kidnap, or maim within
3 special maritime and territorial jurisdiction
4 of the United States), 1030(a)(1) (relating
5 to protection of computers),
6 1030(a)(5)(A)(i) resulting in damage as
7 defined in 1030(a)(5)(B)(ii) through (v)
8 (relating to protection of computers), 1114
9 (relating to killing or attempted killing of
10 officers and employees of the United
11 States), 1116 (relating to murder or man-
12 slaughter of foreign officials, official
13 guests, or internationally protected per-
14 sons), 1203 (relating to hostage taking),
15 1362 (relating to destruction of commu-
16 nication lines, stations, or systems), 1363
17 (relating to injury to buildings or property
18 within special maritime and territorial ju-
19 risdiction of the United States), 1366(a)
20 (relating to destruction of an energy facil-
21 ity), 1751 (a) through (d) (relating to
22 Presidential and Presidential staff assas-
23 sination and kidnaping), 1992 (relating to
24 wrecking trains), 1993 (relating to ter-
25 rorist attacks and other acts of violence

1 against mass transportation systems),
2 2155 (relating to destruction of national
3 defense materials, premises, or utilities),
4 2280 (relating to violence against maritime
5 navigation), 2281 (relating to violence
6 against maritime fixed platforms), 2332
7 (relating to certain homicides and other vi-
8 olence against United States nationals oc-
9 curring outside of the United States),
10 2332a (relating to use of weapons of mass
11 destruction), 2332b (relating to acts of ter-
12 rorism transcending national boundaries),
13 2339 (relating to harboring terrorists),
14 2339A (relating to providing material sup-
15 port to terrorists), 2339B (relating to pro-
16 viding material support to terrorist organi-
17 zations), or 2340A (relating to torture) of
18 this title;

19 “(ii) section 236 (relating to sabotage
20 of nuclear facilities or fuel) of the Atomic
21 Energy Act of 1954 (42 U.S.C. 2284); or

22 “(iii) section 46502 (relating to air-
23 craft piracy), the second sentence of sec-
24 tion 46504 (relating to assault on a flight
25 crew with a dangerous weapon), section

1 46505(b)(3) or (c) (relating to explosive or
2 incendiary devices, or endangerment of
3 human life by means of weapons, on air-
4 craft), section 46506 if homicide or at-
5 tempted homicide is involved (relating to
6 application of certain criminal laws to acts
7 on aircraft), or section 60123(b) (relating
8 to destruction of interstate gas or haz-
9 ardous liquid pipeline facility) of title 49.”.

10 **SEC. 810. NO STATUTE OF LIMITATION FOR CERTAIN TER-**
11 **RORISM OFFENSES.**

12 (a) IN GENERAL.—Section 3286 of title 18, United
13 States Code, is amended to read as follows:

14 **“§ 3286. Extension of statute of limitation for certain**
15 **terrorism offenses.**

16 “(a) EIGHT-YEAR LIMITATION.—Notwithstanding
17 section 3282, no person shall be prosecuted, tried, or pun-
18 ished for any noncapital offense involving a violation of
19 any provision listed in section 2332b(g)(5)(B) other than
20 a provision listed in section 3295, or a violation of section
21 112, 351(e), 1361, or 1751(e) of this title, or section
22 46504, 46505, or 46506 of title 49, unless the indictment
23 is found or the information is instituted within 8 years
24 after the offense was committed.

1 “(b) NO LIMITATION.—Notwithstanding any other
2 law, an indictment may be found or an information insti-
3 tuted at any time without limitation for any offense listed
4 in section 2332b(g)(5)(B), if the commission of such of-
5 fense resulted in, or created a foreseeable risk of, death
6 or serious bodily injury to another person.”.

7 (b) APPLICATION.—The amendments made by this
8 section shall apply to the prosecution of any offense com-
9 mitted before, on, or after the date of enactment of this
10 section.

11 **SEC. 811. ALTERNATE MAXIMUM PENALTIES FOR TER-**
12 **RORISM OFFENSES.**

13 (a) ARSON.—Section 81 of title 18, United States
14 Code, is amended in the second undesignated paragraph
15 by striking “not more than twenty years” and inserting
16 “for any term of years or for life”.

17 (b) DESTRUCTION OF AN ENERGY FACILITY.—Sec-
18 tion 1366 of title 18, United States Code, is amended—

19 (1) in subsection (a), by striking “ten” and in-
20 sserting “20”; and

21 (2) by adding at the end the following:

22 “(d) Whoever is convicted of a violation of subsection
23 (a) or (b) that has resulted in the death of any person
24 shall be subject to imprisonment for any term of years
25 or life.”.

1 (c) MATERIAL SUPPORT TO TERRORISTS.—Section
2 2339A(a) of title 18, United States Code, is amended—

3 (1) by striking “10” and inserting “15”; and

4 (2) by striking the period and inserting “and,
5 if the death of any person results, shall be impris-
6 oned for any term of years or for life.”.

7 (d) MATERIAL SUPPORT TO DESIGNATED FOREIGN
8 TERRORIST ORGANIZATIONS.—Section 2339B(a)(1) of
9 title 18, United States Code, is amended—

10 (1) by striking “10” and inserting “15”; and

11 (2) by striking the period after “or both” and
12 inserting “and, if the death of any person results,
13 shall be imprisoned for any term of years or for
14 life.”.

15 (e) DESTRUCTION OF NATIONAL-DEFENSE MATE-
16 RIALS.—Section 2155(a) of title 18, United States Code,
17 is amended—

18 (1) by striking “ten” and inserting “20”; and

19 (2) by striking the period at the end and insert-
20 ing “, and, if death results to any person, shall be
21 imprisoned for any term of years or for life.”.

22 (f) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—
23 Section 236 of the Atomic Energy Act of 1954 (42 U.S.C.
24 2284), is amended—

1 (1) by striking “ten” each place it appears and
2 inserting “20”;

3 (2) in subsection (a), by striking the period at
4 the end and inserting “, and, if death results to any
5 person, shall be imprisoned for any term of years or
6 for life.”; and

7 (3) in subsection (b), by striking the period at
8 the end and inserting “, and, if death results to any
9 person, shall be imprisoned for any term of years or
10 for life.”.

11 (g) SPECIAL AIRCRAFT JURISDICTION OF THE
12 UNITED STATES.—Section 46505(c) of title 49, United
13 States Code, is amended—

14 (1) by striking “15” and inserting “20”; and

15 (2) by striking the period at the end and insert-
16 ing “, and, if death results to any person, shall be
17 imprisoned for any term of years or for life.”.

18 (h) DAMAGING OR DESTROYING AN INTERSTATE GAS
19 OR HAZARDOUS LIQUID PIPELINE FACILITY.—Section
20 60123(b) of title 49, United States Code, is amended—

21 (1) by striking “15” and inserting “20”; and

22 (2) by striking the period at the end and insert-
23 ing “, and, if death results to any person, shall be
24 imprisoned for any term of years or for life.”.

1 **SEC. 812. PENALTIES FOR TERRORIST CONSPIRACIES.**

2 (a) ARSON.—Section 81 of title 18, United States
3 Code, is amended in the first undesignated paragraph—

4 (1) by striking “, or attempts to set fire to or
5 burn”; and

6 (2) by inserting “or attempts or conspires to do
7 such an act,” before “shall be imprisoned”.

8 (b) KILLINGS IN FEDERAL FACILITIES.—

9 (1) Section 930(c) of title 18, United States
10 Code, is amended—

11 (A) by striking “or attempts to kill”;

12 (B) by inserting “or attempts or conspires
13 to do such an act,” before “shall be punished”;
14 and

15 (C) by striking “and 1113” and inserting
16 “1113, and 1117”.

17 (2) Section 1117 of title 18, United States
18 Code, is amended by inserting “930(c),” after “sec-
19 tion”.

20 (c) COMMUNICATIONS LINES, STATIONS, OR SYS-
21 TEMS.—Section 1362 of title 18, United States Code, is
22 amended in the first undesignated paragraph—

23 (1) by striking “or attempts willfully or mali-
24 ciously to injure or destroy”; and

25 (2) by inserting “or attempts or conspires to do
26 such an act,” before “shall be fined”.

1 (d) BUILDINGS OR PROPERTY WITHIN SPECIAL
2 MARITIME AND TERRITORIAL JURISDICTION.—Section
3 1363 of title 18, United States Code, is amended—

4 (1) by striking “or attempts to destroy or in-
5 jure”; and

6 (2) by inserting “or attempts or conspires to do
7 such an act,” before “shall be fined” the first place
8 it appears.

9 (e) WRECKING TRAINS.—Section 1992 of title 18,
10 United States Code, is amended by adding at the end the
11 following:

12 “(c) A person who conspires to commit any offense
13 defined in this section shall be subject to the same pen-
14 alties (other than the penalty of death) as the penalties
15 prescribed for the offense, the commission of which was
16 the object of the conspiracy.”.

17 (f) MATERIAL SUPPORT TO TERRORISTS.—Section
18 2339A of title 18, United States Code, is amended by in-
19 serting “or attempts or conspires to do such an act,” be-
20 fore “shall be fined”.

21 (g) TORTURE.—Section 2340A of title 18, United
22 States Code, is amended by adding at the end the fol-
23 lowing:

24 “(c) CONSPIRACY.—A person who conspires to com-
25 mit an offense under this section shall be subject to the

1 same penalties (other than the penalty of death) as the
2 penalties prescribed for the offense, the commission of
3 which was the object of the conspiracy.”.

4 (h) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—
5 Section 236 of the Atomic Energy Act of 1954 (42 U.S.C.
6 2284), is amended—

7 (1) in subsection (a)—

8 (A) by striking “, or who intentionally and
9 willfully attempts to destroy or cause physical
10 damage to”;

11 (B) in paragraph (4), by striking the pe-
12 riod at the end and inserting a comma; and

13 (C) by inserting “or attempts or conspires
14 to do such an act,” before “shall be fined”; and

15 (2) in subsection (b)—

16 (A) by striking “or attempts to cause”;
17 and

18 (B) by inserting “or attempts or conspires
19 to do such an act,” before “shall be fined”.

20 (i) INTERFERENCE WITH FLIGHT CREW MEMBERS
21 AND ATTENDANTS.—Section 46504 of title 49, United
22 States Code, is amended by inserting “or attempts or con-
23 spires to do such an act,” before “shall be fined”.

24 (j) SPECIAL AIRCRAFT JURISDICTION OF THE
25 UNITED STATES.—Section 46505 of title 49, United

1 States Code, is amended by adding at the end the fol-
2 lowing:

3 “(e) CONSPIRACY.—If two or more persons conspire
4 to violate subsection (b) or (c), and one or more of such
5 persons do any act to effect the object of the conspiracy,
6 each of the parties to such conspiracy shall be punished
7 as provided in such subsection.”.

8 (k) DAMAGING OR DESTROYING AN INTERSTATE GAS
9 OR HAZARDOUS LIQUID PIPELINE FACILITY.—Section
10 60123(b) of title 49, United States Code, is amended—

11 (1) by striking “, or attempting to damage or
12 destroy,”; and

13 (2) by inserting “, or attempting or conspiring
14 to do such an act,” before “shall be fined”.

15 **SEC. 813. POST-RELEASE SUPERVISION OF TERRORISTS.**

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

18 “(j) SUPERVISED RELEASE TERMS FOR TERRORISM
19 PREDICATES.—Notwithstanding subsection (b), the au-
20 thorized term of supervised release for any offense listed
21 in section 2332b(g)(5)(B), the commission of which re-
22 sulted in, or created a foreseeable risk of, death or serious
23 bodily injury to another person, is any term of years or
24 life.”.

1 **SEC. 814. INCLUSION OF ACTS OF TERRORISM AS RACKET-**
2 **EERING ACTIVITY.**

3 Section 1961(1) of title 18, United States Code, is
4 amended—

5 (1) by striking “or (F)” and inserting “(F)”;

6 and

7 (2) by inserting before the semicolon at the end
8 the following: “, or (G) any act that is indictable as
9 an offense listed in section 2332b(g)(5)(B)”.

10 **SEC. 815. DETERRENCE AND PREVENTION OF**
11 **CYBERTERRORISM.**

12 (a) CLARIFICATION OF PROTECTION OF PROTECTED
13 COMPUTERS.—Section 1030(a)(5) of title 18, United
14 States Code, is amended—

15 (1) by inserting “(i)” after (A)”;

16 (2) by redesignating subparagraphs (B) and
17 (C) as clauses (ii) and (iii), respectively;

18 (3) by adding “and” at the end of clause (iii),
19 as so redesignated; and

20 (4) by adding at the end the following:

21 “(B) caused (or, in the case of an at-
22 tempted offense, would, if completed, have
23 caused) conduct described in clause (i), (ii), or
24 (iii) of subparagraph (A) that resulted in—

25 “(i) loss to 1 or more persons during
26 any 1-year period (including loss resulting

1 from a related course of conduct affecting
2 1 or more other protected computers) ag-
3 gregating at least \$5,000 in value;

4 “(ii) the modification or impairment,
5 or potential modification or impairment, of
6 the medical examination, diagnosis, treat-
7 ment, or care of 1 or more individuals;

8 “(iii) physical injury to any person;

9 “(iv) a threat to public health or safe-
10 ty; or

11 “(v) damage affecting a computer sys-
12 tem used by or for a Government entity in
13 furtherance of the administration of jus-
14 tice, national defense, or national secu-
15 rity;”.

16 (b) PENALTIES.—Section 1030(c) of title 18, United
17 States Code is amended—

18 (1) in paragraph (2)—

19 (A) in subparagraph (A) —

20 (i) by inserting “except as provided in
21 subparagraph (B),” before “a fine”;

22 (ii) by striking “(a)(5)(C)” and in-
23 serting “(a)(5)(A)(iii)”; and

24 (iii) by striking “and’ at the end;

1 (B) in subparagraph (B), by inserting “or
2 an attempt to commit an offense punishable
3 under this subparagraph,” after “subsection
4 (a)(2),” in the matter preceding clause (i); and
5 (C) in subparagraph (C), by striking
6 “and” at the end;
7 (2) in paragraph (3)—
8 (A) by striking “, (a)(5)(A), (a)(5)(B),”
9 both places it appears; and
10 (B) by striking “and” at the end; and
11 (3) by striking “(a)(5)(C)” and inserting
12 “(a)(5)(A)(iii)”; and
13 (4) by adding at the end the following new
14 paragraphs:
15 “(4)(A) a fine under this title, imprisonment
16 for not more than 10 years, or both, in the case of
17 an offense under subsection (a)(5)(A)(i), or an at-
18 tempt to commit an offense punishable under that
19 subsection;
20 “(B) a fine under this title, imprisonment
21 for not more than 5 years, or both, in the case
22 of an offense under subsection (a)(5)(A)(ii), or
23 an attempt to commit an offense punishable
24 under that subsection;

1 “(C) a fine under this title, imprisonment
2 for not more than 20 years, or both, in the case
3 of an offense under subsection (a)(5)(A)(i) or
4 (a)(5)(A)(ii), or an attempt to commit an of-
5 fense punishable under either subsection, that
6 occurs after a conviction for another offense
7 under this section.”.

8 (c) DEFINITIONS.—Subsection (e) of section 1030 of
9 title 18, United States Code is amended—

10 (1) in paragraph (2)(B), by inserting “, includ-
11 ing a computer located outside the United States”
12 before the semicolon;

13 (2) in paragraph (7), by striking “and” at the
14 end;

15 (3) by striking paragraph (8) and inserting the
16 following new paragraph (8):

17 “(8) the term ‘damage’ means any impairment
18 to the integrity or availability of data, a program, a
19 system, or information;”;

20 (4) in paragraph (9), by striking the period at
21 the end and inserting a semicolon; and

22 (5) by adding at the end the following new
23 paragraphs:

24 “(10) the term ‘conviction’ shall include a con-
25 viction under the law of any State for a crime pun-

1 ishable by imprisonment for more than 1 year, an
2 element of which is unauthorized access, or exceed-
3 ing authorized access, to a computer;

4 “(11) the term ‘loss’ includes any reasonable
5 cost to any victim, including the cost of responding
6 to an offense, conducting a damage assessment, and
7 restoring the data, program, system, or information
8 to its condition prior to the offense, and any revenue
9 lost, cost incurred, or other consequential damages
10 incurred because of interruption of service;

11 “(12) the term ‘person’ means any individual,
12 firm, corporation, educational institution, financial
13 institution, governmental entity, or legal or other en-
14 tity;”.

15 (d) DAMAGES IN CIVIL ACTIONS.—Subsection (g) of
16 section 1030 of title 18, United States Code is amended—

17 (1) by striking the second sentence and insert-
18 ing the following new sentences: “A suit for a viola-
19 tion of subsection (a)(5) may be brought only if the
20 conduct involves one of the factors enumerated in
21 subsection (a)(5)(B). Damages for a violation involv-
22 ing only conduct described in subsection (a)(5)(B)(i)
23 are limited to economic damages.”; and

24 (2) by adding at the end the following: “No ac-
25 tion may be brought under this subsection for the

1 negligent design or manufacture of computer hard-
2 ware, computer software, or firmware.”.

3 (e) AMENDMENT OF SENTENCING GUIDELINES RE-
4 LATING TO CERTAIN COMPUTER FRAUD AND ABUSE.—
5 Pursuant to its authority under section 994(p) of title 28,
6 United States Code, the United States Sentencing Com-
7 mission shall amend the Federal sentencing guidelines to
8 ensure that any individual convicted of a violation of sec-
9 tion 1030 of title 18, United States Code, can be subjected
10 to appropriate penalties, without regard to any mandatory
11 minimum term of imprisonment.

12 **SEC. 816. ADDITIONAL DEFENSE TO CIVIL ACTIONS RELAT-**
13 **ING TO PRESERVING RECORDS IN RESPONSE**
14 **TO GOVERNMENT REQUESTS.**

15 Section 2707(e)(1) of title 18, United States Code,
16 is amended by inserting after “or statutory authorization”
17 the following: “(including a request of a governmental en-
18 tity under section 2703(f) of this title)”.

19 **SEC. 817. DEVELOPMENT AND SUPPORT OF**
20 **CYBERSECURITY FORENSIC CAPABILITIES.**

21 (a) IN GENERAL.—The Attorney General shall estab-
22 lish such regional computer forensic laboratories as the
23 Attorney General considers appropriate, and provide sup-
24 port to existing computer forensic laboratories, in order

1 that all such computer forensic laboratories have the
2 capability—

3 (1) to provide forensic examinations with re-
4 spect to seized or intercepted computer evidence re-
5 lating to criminal activity (including cyberterrorism);

6 (2) to provide training and education for Fed-
7 eral, State, and local law enforcement personnel and
8 prosecutors regarding investigations, forensic anal-
9 yses, and prosecutions of computer-related crime (in-
10 cluding cyberterrorism);

11 (3) to assist Federal, State, and local law en-
12 forcement in enforcing Federal, State, and local
13 criminal laws relating to computer-related crime;

14 (4) to facilitate and promote the sharing of
15 Federal law enforcement expertise and information
16 about the investigation, analysis, and prosecution of
17 computer-related crime with State and local law en-
18 forcement personnel and prosecutors, including the
19 use of multijurisdictional task forces; and

20 (5) to carry out such other activities as the At-
21 torney General considers appropriate.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) AUTHORIZATION.—There is hereby author-
24 ized to be appropriated in each fiscal year

1 \$50,000,000 for purposes of carrying out this sec-
2 tion.

3 (2) AVAILABILITY.—Amounts appropriated pur-
4 suant to the authorization of appropriations in para-
5 graph (1) shall remain available until expended.

6 **TITLE IX—IMPROVED**
7 **INTELLIGENCE**

8 **SEC. 901. RESPONSIBILITIES OF DIRECTOR OF CENTRAL**
9 **INTELLIGENCE REGARDING FOREIGN INTEL-**
10 **LIGENCE COLLECTED UNDER FOREIGN IN-**
11 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

12 Section 103(c) of the National Security Act of 1947
13 (50 U.S.C. 403–3(c)) is amended—

14 (1) by redesignating paragraphs (6) and (7) as
15 paragraphs (7) and (8), respectively; and

16 (2) by inserting after paragraph (5) the fol-
17 lowing new paragraph (6):

18 “(6) establish requirements and priorities for
19 foreign intelligence information to be collected under
20 the Foreign Intelligence Surveillance Act of 1978
21 (50 U.S.C. 1801 et seq.), and provide assistance to
22 the Attorney General to ensure that information de-
23 rived from electronic surveillance or physical
24 searches under that Act is disseminated so it may be
25 used efficiently and effectively for foreign intel-

1 ligence purposes, except that the Director shall have
2 no authority to direct, manage, or undertake elec-
3 tronic surveillance operations pursuant to that Act
4 unless otherwise authorized by statute or executive
5 order;”.

6 **SEC. 902. INCLUSION OF INTERNATIONAL TERRORIST AC-**
7 **TIVITIES WITHIN SCOPE OF FOREIGN INTEL-**
8 **LIGENCE UNDER NATIONAL SECURITY ACT**
9 **OF 1947.**

10 Section 3 of the National Security Act of 1947 (50
11 U.S.C. 401a) is amended—

12 (1) in paragraph (2), by inserting before the pe-
13 riod the following: “, or international terrorist activi-
14 ties”; and

15 (2) in paragraph (3), by striking “and activities
16 conducted” and inserting “, and activities con-
17 ducted,”.

18 **SEC. 903. SENSE OF CONGRESS ON THE ESTABLISHMENT**
19 **AND MAINTENANCE OF INTELLIGENCE RELA-**
20 **TIONSHIPS TO ACQUIRE INFORMATION ON**
21 **TERRORISTS AND TERRORIST ORGANIZA-**
22 **TIONS.**

23 It is the sense of Congress that officers and employ-
24 ees of the intelligence community of the Federal Govern-
25 ment, acting within the course of their official duties,

1 should be encouraged, and should make every effort, to
2 establish and maintain intelligence relationships with any
3 person, entity, or group for the purpose of engaging in
4 lawful intelligence activities, including the acquisition of
5 information on the identity, location, finances, affiliations,
6 capabilities, plans, or intentions of a terrorist or terrorist
7 organization, or information on any other person, entity,
8 or group (including a foreign government) engaged in har-
9 boring, comforting, financing, aiding, or assisting a ter-
10 rorist or terrorist organization.

11 **SEC. 904. TEMPORARY AUTHORITY TO DEFER SUBMITTAL**
12 **TO CONGRESS OF REPORTS ON INTEL-**
13 **LIGENCE AND INTELLIGENCE-RELATED MAT-**
14 **TERS.**

15 (a) **AUTHORITY TO DEFER.**—The Secretary of De-
16 fense, Attorney General, and Director of Central Intel-
17 ligence each may, during the effective period of this sec-
18 tion, defer the date of submittal to Congress of any cov-
19 ered intelligence report under the jurisdiction of such offi-
20 cial until February 1, 2002.

21 (b) **COVERED INTELLIGENCE REPORT.**—Except as
22 provided in subsection (c), for purposes of subsection (a),
23 a covered intelligence report is as follows:

24 (1) Any report on intelligence or intelligence-re-
25 lated activities of the United States Government

1 that is required to be submitted to Congress by an
2 element of the intelligence community during the ef-
3 fective period of this section.

4 (2) Any report or other matter that is required
5 to be submitted to the Select Committee on Intel-
6 ligence of the Senate and Permanent Select Com-
7 mittee on Intelligence of the House of Representa-
8 tives by the Department of Defense or the Depart-
9 ment of Justice during the effective period of this
10 section.

11 (c) EXCEPTION FOR CERTAIN REPORTS.—For pur-
12 poses of subsection (a), any report required by section 502
13 or 503 of the National Security Act of 1947 (50 U.S.C.
14 413a, 413b) is not a covered intelligence report.

15 (d) NOTICE TO CONGRESS.—Upon deferring the date
16 of submittal to Congress of a covered intelligence report
17 under subsection (a), the official deferring the date of sub-
18 mittal of the covered intelligence report shall submit to
19 Congress notice of the deferral. Notice of deferral of a re-
20 port shall specify the provision of law, if any, under which
21 the report would otherwise be submitted to Congress.

22 (e) EXTENSION OF DEFERRAL.—(1) Each official
23 specified in subsection (a) may defer the date of submittal
24 to Congress of a covered intelligence report under the ju-
25 risdiction of such official to a date after February 1, 2002,

1 if such official submits to the committees of Congress
2 specified in subsection (b)(2) before February 1, 2002, a
3 certification that preparation and submittal of the covered
4 intelligence report on February 1, 2002, will impede the
5 work of officers or employees who are engaged in
6 counterterrorism activities.

7 (2) A certification under paragraph (1) with respect
8 to a covered intelligence report shall specify the date on
9 which the covered intelligence report will be submitted to
10 Congress.

11 (f) **EFFECTIVE PERIOD.**—The effective period of this
12 section is the period beginning on the date of the enact-
13 ment of this Act and ending on February 1, 2002.

14 (g) **ELEMENT OF THE INTELLIGENCE COMMUNITY**
15 **DEFINED.**—In this section, the term “element of the intel-
16 ligence community” means any element of the intelligence
17 community specified or designated under section 3(4) of
18 the National Security Act of 1947 (50 U.S.C. 401a(4)).

19 **SEC. 905. DISCLOSURE TO DIRECTOR OF CENTRAL INTEL-**
20 **LIGENCE OF FOREIGN INTELLIGENCE-RE-**
21 **LATED INFORMATION WITH RESPECT TO**
22 **CRIMINAL INVESTIGATIONS.**

23 (a) **IN GENERAL.**—Title I of the National Security
24 Act of 1947 (50 U.S.C. 402 et seq.) is amended—

1 (1) by redesignating subsection 105B as section
2 105C; and

3 (2) by inserting after section 105A the fol-
4 lowing new section 105B:

5 “DISCLOSURE OF FOREIGN INTELLIGENCE ACQUIRED IN
6 CRIMINAL INVESTIGATIONS; NOTICE OF CRIMINAL
7 INVESTIGATIONS OF FOREIGN INTELLIGENCE
8 SOURCES

9 “SEC. 105B. (a) DISCLOSURE OF FOREIGN INTEL-
10 LIGENCE.—(1) Except as otherwise provided by law and
11 subject to paragraph (2), the Attorney General, or the
12 head of any other department or agency of the Federal
13 Government with law enforcement responsibilities, shall
14 expeditiously disclose to the Director of Central Intel-
15 ligence, pursuant to guidelines developed by the Attorney
16 General in consultation with the Director, foreign intel-
17 ligence acquired by an element of the Department of Jus-
18 tice or an element of such department or agency, as the
19 case may be, in the course of a criminal investigation.

20 “(2) The Attorney General by regulation and in con-
21 sultation with the Director of Central Intelligence may
22 provide for exceptions to the applicability of paragraph (1)
23 for one or more classes of foreign intelligence, or foreign
24 intelligence with respect to one or more targets or matters,
25 if the Attorney General determines that disclosure of such
26 foreign intelligence under that paragraph would jeopardize

1 an ongoing law enforcement investigation or impair other
2 significant law enforcement interests.

3 “(b) PROCEDURES FOR NOTICE OF CRIMINAL INVES-
4 TIGATIONS.—Not later than 180 days after the date of
5 enactment of this section, the Attorney General, in con-
6 sultation with the Director of Central Intelligence, shall
7 develop guidelines to ensure that after receipt of a report
8 from an element of the intelligence community of activity
9 of a foreign intelligence source or potential foreign intel-
10 ligence source that may warrant investigation as criminal
11 activity, the Attorney General provides notice to the Direc-
12 tor of Central Intelligence, within a reasonable period of
13 time, of his intention to commence, or decline to com-
14 mence, a criminal investigation of such activity.

15 “(c) PROCEDURES.—The Attorney General shall de-
16 velop procedures for the administration of this section, in-
17 cluding the disclosure of foreign intelligence by elements
18 of the Department of Justice, and elements of other de-
19 partments and agencies of the Federal Government, under
20 subsection (a) and the provision of notice with respect to
21 criminal investigations under subsection (b).”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 in the first section of that Act is amended by striking the
24 item relating to section 105B and inserting the following
25 new items:

“Sec. 105B. Disclosure of foreign intelligence acquired in criminal investigations; notice of criminal investigations of foreign intelligence sources.

“Sec. 105C. Protection of the operational files of the National Imagery and Mapping Agency.”.

1 **SEC. 906. FOREIGN TERRORIST ASSET TRACKING CENTER.**

2 (a) REPORT ON RECONFIGURATION.—Not later than
3 February 1, 2002, the Attorney General, the Director of
4 Central Intelligence, and the Secretary of the Treasury
5 shall jointly submit to Congress a report on the feasibility
6 and desirability of reconfiguring the Foreign Terrorist
7 Asset Tracking Center and the Office of Foreign Assets
8 Control of the Department of the Treasury in order to
9 establish a capability to provide for the effective and effi-
10 cient analysis and dissemination of foreign intelligence re-
11 lating to the financial capabilities and resources of inter-
12 national terrorist organizations.

13 (b) REPORT REQUIREMENTS.—(1) In preparing the
14 report under subsection (a), the Attorney General, the
15 Secretary, and the Director shall consider whether, and
16 to what extent, the capacities and resources of the Finan-
17 cial Crimes Enforcement Center of the Department of the
18 Treasury may be integrated into the capability con-
19 templated by the report.

20 (2) If the Attorney General, Secretary, and the Direc-
21 tor determine that it is feasible and desirable to undertake
22 the reconfiguration described in subsection (a) in order to
23 establish the capability described in that subsection, the

1 Attorney General, the Secretary, and the Director shall
2 include with the report under that subsection a detailed
3 proposal for legislation to achieve the reconfiguration.

4 **SEC. 907. NATIONAL VIRTUAL TRANSLATION CENTER.**

5 (a) REPORT ON ESTABLISHMENT.—(1) Not later
6 than February 1, 2002, the Director of Central Intel-
7 ligence shall, in consultation with the Director of the Fed-
8 eral Bureau of Investigation, submit to the appropriate
9 committees of Congress a report on the establishment and
10 maintenance within the intelligence community of an ele-
11 ment for purposes of providing timely and accurate trans-
12 lations of foreign intelligence for all other elements of the
13 intelligence community. In the report, the element shall
14 be referred to as the “National Virtual Translation Cen-
15 ter”.

16 (2) The report on the element described in paragraph
17 (1) shall discuss the use of state-of-the-art communica-
18 tions technology, the integration of existing translation ca-
19 pabilities in the intelligence community, and the utilization
20 of remote-connection capacities so as to minimize the need
21 for a central physical facility for the element.

22 (b) RESOURCES.—The report on the element required
23 by subsection (a) shall address the following:

24 (1) The assignment to the element of a staff of
25 individuals possessing a broad range of linguistic

1 and translation skills appropriate for the purposes of
2 the element.

3 (2) The provision to the element of communica-
4 tions capabilities and systems that are commensu-
5 rate with the most current and sophisticated com-
6 munications capabilities and systems available to
7 other elements of intelligence community.

8 (3) The assurance, to the maximum extent
9 practicable, that the communications capabilities and
10 systems provided to the element will be compatible
11 with communications capabilities and systems uti-
12 lized by the Federal Bureau of Investigation in se-
13 curing timely and accurate translations of foreign
14 language materials for law enforcement investiga-
15 tions.

16 (4) The development of a communications in-
17 frastructure to ensure the efficient and secure use of
18 the translation capabilities of the element.

19 (c) SECURE COMMUNICATIONS.—The report shall in-
20 clude a discussion of the creation of secure electronic com-
21 munications between the element described by subsection
22 (a) and the other elements of the intelligence community.

23 (d) DEFINITIONS.—In this section:

24 (1) FOREIGN INTELLIGENCE.—The term “for-
25 eign intelligence” has the meaning given that term

1 in section 3(2) of the National Security Act of 1947
2 (50 U.S.C. 401a(2)).

3 (2) ELEMENT OF THE INTELLIGENCE COMMU-
4 NITY.—The term “element of the intelligence com-
5 munity” means any element of the intelligence com-
6 munity specified or designated under section 3(4) of
7 the National Security Act of 1947 (50 U.S.C.
8 401a(4)).

9 **SEC. 908. TRAINING OF GOVERNMENT OFFICIALS REGARD-**
10 **ING IDENTIFICATION AND USE OF FOREIGN**
11 **INTELLIGENCE.**

12 (a) PROGRAM REQUIRED.—The Attorney General
13 shall, in consultation with the Director of Central Intel-
14 ligence, carry out a program to provide appropriate train-
15 ing to officials described in subsection (b) in order to as-
16 sist such officials in—

17 (1) identifying foreign intelligence information
18 in the course of their duties; and

19 (2) utilizing foreign intelligence information in
20 the course of their duties, to the extent that the uti-
21 lization of such information is appropriate for such
22 duties.

23 (b) OFFICIALS.—The officials provided training
24 under subsection (a) are, at the discretion of the Attorney
25 General and the Director, the following:

1 (1) Officials of the Federal Government who
2 are not ordinarily engaged in the collection, dissemi-
3 nation, and use of foreign intelligence in the per-
4 formance of their duties.

5 (2) Officials of State and local governments
6 who encounter, or may encounter in the course of a
7 terrorist event, foreign intelligence in the perform-
8 ance of their duties.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
10 hereby authorized to be appropriated for the Department
11 of Justice such sums as may be necessary for purposes
12 of carrying out the program required by subsection (a).