

“(3) In determining the appropriate legal action to take against an alien described in section 212(a)(3)(E), consideration shall be given to—

“(A) the availability of criminal prosecution under the laws of the United States for any conduct that may form the basis for removal and denaturalization; or

“(B) the availability of extradition of the alien to a foreign jurisdiction that is prepared to undertake a prosecution for such conduct.”

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the additional duties established under section 103(h) of the Immigration and Nationality Act (as added by this subtitle) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 5506. REPORT ON IMPLEMENTATION.

Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of Homeland Security, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on implementation of this subtitle that includes a description of—

(1) the procedures used to refer matters to the Office of Special Investigations and other components within the Department of Justice and the Department of Homeland Security in a manner consistent with the amendments made by this subtitle;

(2) the revisions, if any, made to immigration forms to reflect changes in the Immigration and Nationality Act made by the amendments contained in this subtitle; and

(3) the procedures developed, with adequate due process protection, to obtain sufficient evidence to determine whether an alien may be inadmissible under the terms of the amendments made by this subtitle.

TITLE VI—TERRORISM PREVENTION

Subtitle A—Individual Terrorists as Agents of Foreign Powers

SEC. 6001. INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.

(a) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

“(C) engages in international terrorism or activities in preparation therefore; or”.

(b) SUNSET.—The amendment made by subsection (a) shall be subject to the sunset provision in section 224 of Public Law 107-56 (115 Stat. 295), including the exception provided in subsection (b) of such section 224.

SEC. 6002. ADDITIONAL SEMIANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) *ADDITIONAL REPORTING REQUIREMENTS.*—*The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—*

(1) *by redesignating—*

(A) *title VI as title VII; and*

(B) *section 601 as section 701; and*

(2) *by inserting after title V the following new title:*

“TITLE VI—REPORTING REQUIREMENT

“SEC. 601. SEMIANNUAL REPORT OF THE ATTORNEY GENERAL.

“(a) *REPORT.*—*On a semiannual basis, the Attorney General shall submit to the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the committees on the Judiciary of the House of Representatives and the Senate, in a manner consistent with the protection of the national security, a report setting forth with respect to the preceding 6-month period—*

“(1) *the aggregate number of persons targeted for orders issued under this Act, including a breakdown of those targeted for—*

“(A) *electronic surveillance under section 105;*

“(B) *physical searches under section 304;*

“(C) *pen registers under section 402; and*

“(D) *access to records under section 501;*

“(2) *the number of individuals covered by an order issued pursuant to section 101(b)(1)(C);*

“(3) *the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding;*

“(4) *a summary of significant legal interpretations of this Act involving matters before the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review, including interpretations presented in applications or pleadings filed with the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review by the Department of Justice; and*

“(5) *copies of all decisions (not including orders) or opinions of the Foreign Intelligence Surveillance Court or Foreign Intelligence Surveillance Court of Review that include significant construction or interpretation of the provisions of this Act.*

“(b) *FREQUENCY.*—*The first report under this section shall be submitted not later than 6 months after the date of enactment of this section. Subsequent reports under this section shall be submitted semi-annually thereafter.”*

(b) *CLERICAL AMENDMENT.*—*The table of contents for the Foreign Intelligence Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to title VI and inserting the following new items:*

“TITLE VI—REPORTING REQUIREMENT

“Sec. 601. Semiannual report of the Attorney General.

“TITLE VII—EFFECTIVE DATE

“Sec. 701. Effective date.”.

Subtitle B—Money Laundering and Terrorist Financing

SEC. 6101. ADDITIONAL AUTHORIZATION FOR FINCEN.

Subsection (d) of section 310 of title 31, United States Code, is amended—

(1) by striking “APPROPRIATIONS.—There are authorized” and inserting “APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized”; and

(2) by adding at the end the following new paragraph:

“(2) AUTHORIZATION FOR FUNDING KEY TECHNOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL FINCEN SYSTEMS.—There are authorized to be appropriated for fiscal year 2005 the following amounts, which are authorized to remain available until expended:

“(A) BSA DIRECT.—For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107-56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government’s ability to exploit the information in the FinCEN data banks, \$16,500,000.

“(B) ADVANCED ANALYTICAL TECHNOLOGIES.—To provide advanced analytical tools needed to ensure that the data collected by FinCEN under chapter 53 and related provisions of law are utilized fully and appropriately in safeguarding financial institutions and supporting the war on terrorism, \$5,000,000.

“(C) DATA NETWORKING MODERNIZATION.—To improve the telecommunications infrastructure to support the improved capabilities of the FinCEN systems, \$3,000,000.

“(D) ENHANCED COMPLIANCE CAPABILITY.—To improve the effectiveness of the Office of Compliance in FinCEN, \$3,000,000.

“(E) DETECTION AND PREVENTION OF FINANCIAL CRIMES AND TERRORISM.—To provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism within and without the United States, \$8,000,000.”.

SEC. 6102. MONEY LAUNDERING AND FINANCIAL CRIMES STRATEGY REAUTHORIZATION.

(a) PROGRAM.—Section 5341(a)(2) of title 31, United States Code, is amended—

(1) by striking “February 1” and inserting “August 1”; and

(2) by striking “and 2003,” and inserting “2003, 2005, and 2007,”.

(b) REAUTHORIZATION OF APPROPRIATIONS.—Section 5355 of title 31, United States Code, is amended by adding at the end the following:

“2004	\$15,000,000.
“2005	\$15,000,000.”.

Subtitle C—Money Laundering Abatement and Financial Antiterrorism Technical Corrections

SEC. 6201. SHORT TITLE.

This subtitle may be cited as the “International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004”.

SEC. 6202. TECHNICAL CORRECTIONS TO PUBLIC LAW 107-56.

(a) The heading of title III of Public Law 107-56 is amended to read as follows:

“TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTITERRORISM ACT OF 2001”.

(b) The table of contents for Public Law 107-56 is amended by striking the item relating to title III and inserting the following:

“TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTITERRORISM ACT OF 2001”.

(c) Section 302 of Public Law 107-56 is amended—

(1) in subsection (a)(4), by striking the comma after “movement of criminal funds”;

(2) in subsection (b)(7), by inserting “or types of accounts” after “classes of international transactions”; and

(3) in subsection (b)(10), by striking “subchapters II and III” and inserting “subchapter II”.

(d) Section 303(a) of Public Law 107-56 is amended by striking “Anti-Terrorist Financing Act” and inserting “Financial Antiterrorism Act”.

(e) The heading for section 311 of Public Law 107-56 is amended by striking “**OR INTERNATIONAL TRANSACTIONS**” and inserting “**INTERNATIONAL TRANSACTIONS, OR TYPES OF ACCOUNTS**”.

(f) Section 314 of Public Law 107-56 is amended—

(1) in paragraph (1)—

- (A) by inserting a comma after “organizations engaged in”; and
- (B) by inserting a comma after “credible evidence of engaging in”;
- (2) in paragraph (2)(A)—
- (A) by striking “and” after “nongovernmental organizations,”; and
- (B) by inserting a comma after “unwittingly involved in such finances”;
- (3) in paragraph (3)(A)—
- (A) by striking “to monitor accounts of” and inserting “monitor accounts of,”; and
- (B) by striking the comma after “organizations identified”; and
- (4) in paragraph (3)(B), by inserting “financial” after “size, and nature of the”.
- (g) Section 321(a) of Public Law 107–56 is amended by striking “5312(2)” and inserting “5312(a)(2)”.
- (h) Section 325 of Public Law 107–56 is amended by striking “as amended by section 202 of this title,” and inserting “as amended by section 352,”.
- (i) Subsections (a)(2) and (b)(2) of section 327 of Public Law 107–56 are each amended by striking “2001” and all that follows and inserting a period.
- (j) Section 356(c)(4) of Public Law 107–56 is amended by striking “or business or other grantor trust” and inserting “, business trust, or other grantor trust”.
- (k) Section 358(e) of Public Law 107–56 is amended—
- (1) by striking “Section 123(a)” and inserting “That portion of section 123(a)”;
- (2) by striking “is amended to read” and inserting “that precedes paragraph (1) of such section is amended to read”; and
- (3) in the amendment made in that subsection (e), by striking “person.” and inserting the following: “person—”.
- (l) Section 360 of Public Law 107–56 is amended—
- (1) in subsection (a), by inserting “the” after “utilization of the funds of”; and
- (2) in subsection (b), by striking “at such institutions” and inserting “at such institution”.
- (m) Section 362(a)(1) of Public Law 107–56 is amended by striking “subchapter II or III” and inserting “subchapter II”.
- (n) Section 365 of Public Law 107–56 is amended—
- (1) by redesignating the second of the 2 subsections designated as subsection (c) (relating to a clerical amendment) as subsection (d); and
- (2) by redesignating subsection (f) as subsection (e).
- (o) Section 365(d) of Public Law 107–56 (as so redesignated by subsection (n) of this section) is amended by striking “section 5332 (as added by section 112 of this title)” and inserting “section 5330”.
- SEC. 6203. TECHNICAL CORRECTIONS TO OTHER PROVISIONS OF LAW.**
- (a) Section 310(c) of title 31, United States Code, is amended by striking “the Network” each place such term appears and inserting “FinCEN”.

(b) Section 5312(a)(3)(C) of title 31, United States Code, is amended by striking “sections 5333 and 5316” and inserting “sections 5316 and 5331”.

(c) Section 5318(i) of title 31, United States Code, is amended—
 (1) in paragraph (3)(B), by inserting a comma after “foreign political figure” the second place such term appears; and
 (2) in the heading of paragraph (4), by striking “DEFINITION” and inserting “DEFINITIONS”.

(d) Section 5318(k)(1)(B) of title 31, United States Code, is amended by striking “section 5318A(f)(1)(B)” and inserting “section 5318A(e)(1)(B)”.

(e) The heading for section 5318A of title 31, United States Code, is amended to read as follows:

“§ 5318A. Special measures for jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern”.

(f) Section 5318A of title 31, United States Code, is amended—
 (1) in subsection (a)(4)(A), by striking “, as defined in section 3 of the Federal Deposit Insurance Act,” and inserting “(as defined in section 3 of the Federal Deposit Insurance Act)”;

(2) in subsection (a)(4)(B)(iii), by striking “or class of transactions” and inserting “class of transactions, or type of account”;

(3) in subsection (b)(1)(A), by striking “or class of transactions to be” and inserting “class of transactions, or type of account to be”; and

(4) in subsection (e)(3), by inserting “or subsection (i) or (j) of section 5318” after “identification of individuals under this section”.

(g) Section 5324(b) of title 31, United States Code, is amended by striking “5333” each place such term appears and inserting “5331”.

(h) Section 5332 of title 31, United States Code, is amended—
 (1) in subsection (b)(2), by striking “, subject to subsection (d) of this section”; and

(2) in subsection (c)(1), by striking “, subject to subsection (d) of this section,”.

(i) The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by striking the item relating to section 5318A and inserting the following:

“5318A. Special measures for jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern.”.

(j) Section 18(w)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(w)(3)) is amended by inserting a comma after “agent of such institution”.

(k) Section 21(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(a)(2)) is amended by striking “recognizes that” and inserting “recognizing that”.

(l) Section 626(e) of the Fair Credit Reporting Act (15 U.S.C. 1681v(e)) is amended by striking “governmental agency” and inserting “government agency”.

SEC. 6204. REPEAL OF REVIEW.

Title III of Public Law 107-56 is amended by striking section 303 (31 U.S.C. 5311 note).

SEC. 6205. EFFECTIVE DATE.

The amendments made by this subchapter to Public Law 107-56, the United States Code, the Federal Deposit Insurance Act, and any other provision of law shall take effect as if such amendments had been included in Public Law 107-56, as of the date of enactment of such Public Law, and no amendment made by such Public Law that is inconsistent with an amendment made by this subchapter shall be deemed to have taken effect.

Subtitle D—Additional Enforcement Tools

SEC. 6301. BUREAU OF ENGRAVING AND PRINTING SECURITY PRINTING.

(a) PRODUCTION OF DOCUMENTS.—Section 5114(a) of title 31, United States Code (relating to engraving and printing currency and security documents), is amended—

(1) by striking “(a) The Secretary of the Treasury” and inserting:

“(a) AUTHORITY TO ENGRAVE AND PRINT.—

“(1) IN GENERAL.—The Secretary of the Treasury”; and

(2) by adding at the end the following new paragraphs:

“(2) ENGRAVING AND PRINTING FOR OTHER GOVERNMENTS.—

The Secretary of the Treasury may produce currency, postage stamps, and other security documents for foreign governments if—

“(A) the Secretary of the Treasury determines that such production will not interfere with engraving and printing needs of the United States; and

“(B) the Secretary of State determines that such production would be consistent with the foreign policy of the United States.

“(3) PROCUREMENT GUIDELINES.—Articles, material, and supplies procured for use in the production of currency, postage stamps, and other security documents for foreign governments pursuant to paragraph (2) shall be treated in the same manner as articles, material, and supplies procured for public use within the United States for purposes of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.; commonly referred to as the Buy American Act).”

(b) REIMBURSEMENT.—Section 5143 of title 31, United States Code (relating to payment for services of the Bureau of Engraving and Printing), is amended—

(1) in the first sentence, by inserting “or to a foreign government under section 5114” after “agency”;

(2) in the second sentence, by inserting “and other” after “including administrative”; and

(3) in the last sentence, by inserting “, and the Secretary shall take such action, in coordination with the Secretary of State, as may be appropriate to ensure prompt payment by a foreign government of any invoice or statement of account sub-

mitted by the Secretary with respect to services rendered under section 5114” before the period at the end.

SEC. 6302. REPORTING OF CERTAIN CROSS-BORDER TRANSMITTAL OF FUNDS.

Section 5318 of title 31, United States Code, is amended by adding at the end the following new subsection:

“(n) **REPORTING OF CERTAIN CROSS-BORDER TRANSMITTALS OF FUNDS.**—

“(1) **IN GENERAL.**—Subject to paragraphs (3) and (4), the Secretary shall prescribe regulations requiring such financial institutions as the Secretary determines to be appropriate to report to the Financial Crimes Enforcement Network certain cross-border electronic transmittals of funds, if the Secretary determines that reporting of such transmittals is reasonably necessary to conduct the efforts of the Secretary against money laundering and terrorist financing.

“(2) **LIMITATION ON REPORTING REQUIREMENTS.**—Information required to be reported by the regulations prescribed under paragraph (1) shall not exceed the information required to be retained by the reporting financial institution pursuant to section 21 of the Federal Deposit Insurance Act and the regulations promulgated thereunder, unless—

“(A) the Board of Governors of the Federal Reserve System and the Secretary jointly determine that a particular item or items of information are not currently required to be retained under such section or such regulations; and

“(B) the Secretary determines, after consultation with the Board of Governors of the Federal Reserve System, that the reporting of such information is reasonably necessary to conduct the efforts of the Secretary to identify cross-border money laundering and terrorist financing.

“(3) **FORM AND MANNER OF REPORTS.**—In prescribing the regulations required under paragraph (1), the Secretary shall, subject to paragraph (2), determine the appropriate form, manner, content, and frequency of filing of the required reports.

“(4) **FEASIBILITY REPORT.**—

“(A) **IN GENERAL.**—Before prescribing the regulations required under paragraph (1), and as soon as is practicable after the date of enactment of the National Intelligence Reform Act of 2004, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that—

“(i) identifies the information in cross-border electronic transmittals of funds that may be found in particular cases to be reasonably necessary to conduct the efforts of the Secretary to identify money laundering and terrorist financing, and outlines the criteria to be used by the Secretary to select the situations in which reporting under this subsection may be required;

“(ii) outlines the appropriate form, manner, content, and frequency of filing of the reports that may be required under such regulations;

“(iii) identifies the technology necessary for the Financial Crimes Enforcement Network to receive, keep,

exploit, protect the security of, and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing; and

“(iv) discusses the information security protections required by the exercise of the Secretary’s authority under this subsection.

“(B) CONSULTATION.—In reporting the feasibility report under subparagraph (A), the Secretary may consult with the Bank Secrecy Act Advisory Group established by the Secretary, and any other group considered by the Secretary to be relevant.

“(5) REGULATIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the regulations required by paragraph (1) shall be prescribed in final form by the Secretary, in consultation with the Board of Governors of the Federal Reserve System, before the end of the 3-year period beginning on the date of enactment of the National Intelligence Reform Act of 2004.

“(B) TECHNOLOGICAL FEASIBILITY.—No regulations shall be prescribed under this subsection before the Secretary certifies to the Congress that the Financial Crimes Enforcement Network has the technological systems in place to effectively and efficiently receive, keep, exploit, protect the security of, and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing.”.

SEC. 6303. TERRORISM FINANCING.

(a) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the President, acting through the Secretary of the Treasury, shall submit to Congress a report evaluating the current state of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness and efficiency of current United States governmental efforts and methods to detect, track, disrupt, and stop terrorist financing;

(B) the relationship between terrorist financing and money laundering, including how the laundering of proceeds related to illegal narcotics or foreign political corruption may contribute to terrorism or terrorist financing;

(C) the nature, effectiveness, and efficiency of current efforts to coordinate intelligence and agency operations within the United States Government to detect, track, disrupt, and stop terrorist financing, including identifying who, if anyone, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations;

(D) the effectiveness and efficiency of efforts to protect the critical infrastructure of the United States financial

system, and ways to improve the effectiveness of financial institutions;

(E) ways to improve multilateral and international governmental cooperation on terrorist financing, including the adequacy of agency coordination within the United States related to participating in international cooperative efforts and implementing international treaties and compacts; and

(F) ways to improve the setting of priorities and coordination of United States efforts to detect, track, disrupt, and stop terrorist financing, including recommendations for changes in executive branch organization or procedures, legislative reforms, additional resources, or use of appropriated funds.

(b) **POSTEMPLOYMENT RESTRICTION FOR CERTAIN BANK AND THRIFT EXAMINERS.**—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

“(k) **ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF FINANCIAL INSTITUTIONS.**—

“(1) **IN GENERAL.**—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

“(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

“(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior examiner (or a functionally equivalent position) of a depository institution or depository institution holding company with continuing, broad responsibility for the examination (or inspection) of that depository institution or depository institution holding company on behalf of the relevant agency or Federal reserve bank; and

“(C) within 1 year after the termination date of his or her service or employment with such agency or entity, knowingly accepts compensation as an employee, officer, director, or consultant from—

“(i) such depository institution, any depository institution holding company that controls such depository institution, or any other company that controls such depository institution; or

“(ii) such depository institution holding company or any depository institution that is controlled by such depository institution holding company.

“(2) **DEFINITIONS.**—For purposes of this subsection—

“(A) the term ‘depository institution’ includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State; and

“(B) the term ‘depository institution holding company’ includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

“(3) **RULES OF CONSTRUCTION.**—For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to

act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

“(4) REGULATIONS.—

“(A) IN GENERAL.—Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

“(B) CONSULTATION REQUIRED.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent, comparable, and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

“(5) WAIVER.—

“(A) AGENCY AUTHORITY.—A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

“(B) DEFINITION.—For purposes of this paragraph, the head of an agency is—

“(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

“(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System;

“(iii) the Chairperson of the Board of Directors, in the case of the Corporation; and

“(iv) the Director of the Office of Thrift Supervision, in the case of the Office of Thrift Supervision.

“(6) PENALTIES.—

“(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall impose upon such person one or more of the following penalties:

“(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal banking agency shall serve a written notice or order in accordance with and subject to the provisions

of section 8(e)(4) for written notices or orders under paragraph (1) or (2) of section 8(e), upon such person of the intention of the agency—

“(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

“(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution for a period of up to 5 years.

“(ii) CIVIL MONETARY PENALTY.—The Federal banking agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than \$250,000. Any administrative proceeding under this clause shall be conducted in accordance with section 8(i). In lieu of an action by the Federal banking agency under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court.

“(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under subparagraph (A)(i) shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section.

“(C) DEFINITIONS.—Solely for purposes of this paragraph, the ‘appropriate Federal banking agency’ for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).”

(c) **POSTEMPLOYMENT RESTRICTION FOR CERTAIN CREDIT UNION EXAMINERS.**—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following:

“(w) **ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF INSURED CREDIT UNIONS.**—

“(1) **IN GENERAL.**—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (5) of this subsection shall apply to any person who—

“(A) was an officer or employee (including any special Government employee) of the Administration;

“(B) served 2 or more months during the final 12 months of his or her employment with the Administration as the senior examiner (or a functionally equivalent position) of an insured credit union with continuing, broad responsibility for the examination (or inspection) of that insured credit union on behalf of the Administration; and

“(C) within 1 year after the termination date of his or her service or employment with the Administration, knowingly accepts compensation as an employee, officer, director, or consultant from such insured credit union.

“(2) *RULE OF CONSTRUCTION.*—For purposes of this subsection, a person shall be deemed to act as a consultant for an insured credit union only if such person directly works on matters for, or on behalf of, such insured credit union.

“(3) *REGULATIONS.*—

“(A) *IN GENERAL.*—The Board shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

“(B) *CONSULTATION.*—In prescribing rules or regulations under this paragraph, the Board shall, to the extent it deems necessary, consult with the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) on regulations issued by such agencies in carrying out section 10(k) of the Federal Deposit Insurance Act.

“(4) *WAIVER.*—The Board may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the Administration if the Chairman certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the Administration.

“(5) *PENALTIES.*—

“(A) *IN GENERAL.*—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever the Board determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with an insured credit union, the Board shall impose upon such person one or more of the following penalties:

“(i) *INDUSTRY-WIDE PROHIBITION ORDER.*—The Board shall serve a written notice or order in accordance with and subject to the provisions of subsection (g)(4) for written notices or orders under paragraph (1) or (2) of subsection (g), upon such person of the intention of the Board—

“(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the insured credit union for a period of up to 5 years; and

“(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured credit union for a period of up to 5 years.

“(ii) *CIVIL MONETARY PENALTY.*—The Board may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than \$250,000. Any administrative proceeding under this clause shall be conducted in accordance with subsection (k). In lieu of an action by the Board under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court.

“(B) *SCOPE OF PROHIBITION ORDER.*—Any person subject to an order issued under this subparagraph (A)(i) shall be subject to paragraphs (5) and (7) of subsection (g) in the same manner and to the same extent as a person subject to an order issued under subsection (g).”.

(d) *EFFECTIVE DATE.*—Notwithstanding any other effective date established pursuant to this Act, subsection (a) shall become effective on the date of enactment of this Act, and the amendments made by subsections (b) and (c) shall become effective at the end of the 12-month period beginning on the date of enactment of this Act, whether or not final regulations are issued in accordance with the amendments made by this section as of that date of enactment.

Subtitle E—Criminal History Background Checks

SEC. 6401. PROTECT ACT.

Public Law 108–21 is amended—

(1) *in section 108(a)(2)(A) by striking “an 18 month” and inserting “a 30-month”;* and

(2) *in section 108(a)(3)(A) by striking “an 18-month” and inserting “a 30-month”.*

SEC. 6402. REVIEWS OF CRIMINAL RECORDS OF APPLICANTS FOR PRIVATE SECURITY OFFICER EMPLOYMENT.

(a) *SHORT TITLE.*—*This section may be cited as the “Private Security Officer Employment Authorization Act of 2004”.*

(b) *FINDINGS.*—*Congress finds that—*

(1) *employment of private security officers in the United States is growing rapidly;*

(2) *private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;*

(3) *such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;*

(4) *sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;*

(5) *the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional, reliable, and responsible security officers for the protection of people, facilities, and institutions;*

(6) *the trend in the Nation toward growth in such security services has accelerated rapidly;*

(7) *such growth makes available more public sector law enforcement officers to combat serious and violent crimes, including terrorism;*

(8) *the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and*

(9) *private security officers and applicants for private security officer positions should be thoroughly screened and trained.*

(c) *DEFINITIONS.—In this section:*

(1) *EMPLOYEE.—The term “employee” includes both a current employee and an applicant for employment as a private security officer.*

(2) *AUTHORIZED EMPLOYER.—The term “authorized employer” means any person that—*

(A) *employs private security officers; and*

(B) *is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.*

(3) *PRIVATE SECURITY OFFICER.—The term “private security officer”—*

(A) *means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full or part time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this Act if the Attorney General determines by regulation that such exclusion would serve the public interest); but*

(B) *does not include—*

(i) *employees whose duties are primarily internal audit or credit functions;*

(ii) *employees of electronic security system companies acting as technicians or monitors; or*

(iii) *employees whose duties primarily involve the secure movement of prisoners.*

(4) *SECURITY SERVICES.—The term “security services” means acts to protect people or property as defined by regulations promulgated by the Attorney General.*

(5) *STATE IDENTIFICATION BUREAU.—The term “State identification bureau” means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.*

(d) *CRIMINAL HISTORY RECORD INFORMATION SEARCH.—*

(1) *IN GENERAL.—*

(A) *SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this Act.*

(B) *EMPLOYEE RIGHTS.—*

(i) *PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of the participating State the request to search the criminal history record information of the employee under this Act.*

(ii) *ACCESS.—An authorized employer shall provide to the employee confidential access to any informa-*

tion relating to the employee received by the authorized employer pursuant to this Act.

(C) *PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.*—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this Act, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) *USE OF INFORMATION.*—

(i) *IN GENERAL.*—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) *TERMS.*—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this Act in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) *FREQUENCY OF REQUESTS.*—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) *REGULATIONS.*—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this Act, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and record keeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) **CRIMINAL PENALTIES FOR USE OF INFORMATION.**—Whoever knowingly and intentionally uses any information obtained pursuant to this Act other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) **USER FEES.**—

(A) **IN GENERAL.**—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this Act; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) **LIMITATIONS.**—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101–515 and Public Law 104–99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) **STATE COSTS.**—Nothing in this Act shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this Act.

(5) **STATE OPT OUT.**—A State may decline to participate in the background check system authorized by this Act by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this subsection.

SEC. 6403. CRIMINAL HISTORY BACKGROUND CHECKS.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Attorney General shall report to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives regarding all statutory requirements for criminal history record checks that are required to be conducted by the Department of Justice or any of its components.

(b) **DEFINITIONS.**—As used in this section—

(1) the terms “criminal history information” and “criminal history records” include—

(A) an identifying description of the individual to whom the information or records pertain;

(B) notations of arrests, detentions, indictments, or other formal criminal charges pertaining to such individual; and

(C) any disposition to a notation described in subparagraph (B), including acquittal, sentencing, correctional supervision, or release; and

(2) the term "IAFIS" means the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation, which serves as the national depository for fingerprint, biometric, and criminal history information, through which fingerprints are processed electronically.

(c) IDENTIFICATION OF INFORMATION.—The Attorney General shall identify—

(1) the number of criminal history record checks requested, including the type of information requested;

(2) the usage of different terms and definitions regarding criminal history information; and

(3) the variation in fees charged for such information and who pays such fees.

(d) RECOMMENDATIONS.—The Attorney General shall make recommendations to Congress for improving, standardizing, and consolidating the existing statutory authorization, programs, and procedures for the conduct of criminal history record checks for non-criminal justice purposes. In making these recommendations to Congress, the Attorney General shall consider—

(1) the effectiveness and efficiency of utilizing commercially available databases as a supplement to IAFIS criminal history information checks;

(2) any security concerns created by the existence of these commercially available databases concerning their ability to provide sensitive information that is not readily available about law enforcement or intelligence officials, including their identity, residence, and financial status;

(3) the effectiveness of utilizing State databases;

(4) any feasibility studies by the Department of Justice of the resources and structure of the Federal Bureau of Investigation to establish a system to provide criminal history information;

(5) privacy rights and other employee protections, including—

(A) employee consent;

(B) access to the records used if employment was denied;

(C) the disposition of the fingerprint submissions after the records are searched;

(D) an appeal mechanism; and

(E) penalties for misuse of the information;

(6) the scope and means of processing background checks for private employers utilizing data maintained by the Federal Bureau of Investigation that the Attorney General should be allowed to authorize in cases where the authority for such checks is not available at the State level;

(7) any restrictions that should be placed on the ability of an employer to charge an employee or prospective employee for the cost associated with the background check;

(8) which requirements should apply to the handling of incomplete records;

(9) the circumstances under which the criminal history information should be disseminated to the employer;

(10) the type of restrictions that should be prescribed for the handling of criminal history information by an employer;

(11) the range of Federal and State fees that might apply to such background check requests;

(12) any requirements that should be imposed concerning the time for responding to such background check requests;

(13) any infrastructure that may need to be developed to support the processing of such checks, including—

(A) the means by which information is collected and submitted in support of the checks; and

(B) the system capacity needed to process such checks at the Federal and State level;

(14) the role that States should play; and

(15) any other factors that the Attorney General determines to be relevant to the subject of the report.

(e) CONSULTATION.—In developing the report under this section, the Attorney General shall consult with representatives of State criminal history record repositories, the National Crime Prevention and Privacy Compact Council, appropriate representatives of private industry, and representatives of labor, as determined appropriate by the Attorney General.

Subtitle F—Grand Jury Information Sharing

SEC. 6501. GRAND JURY INFORMATION SHARING.

(a) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking “or state subdivision or of an Indian tribe” and inserting “, state subdivision, Indian tribe, or foreign government”;

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: “An attorney for the government may also disclose any grand jury matter involving, within the United States or elsewhere, a threat of attack or other grave hostile acts of a foreign power or its agent, a threat of domestic or international sabotage or terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by its agent, to any appropriate Federal, State, State subdivision, Indian tribal, or foreign government official, for the purpose of preventing or responding to such threat or activities.”; and

(ii) in clause (i)—

(I) by striking “federal”; and

(II) by adding at the end the following: “Any State, State subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney Gen-

- eral and the Director of National Intelligence shall jointly issue.”; and*
- (C) *in subparagraph (E)—*
- (i) *by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;*
- (ii) *by inserting after clause (ii) the following:*
“(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;”; and
- (iii) *in clause (iv), as redesignated—*
- (I) *by striking “state or Indian tribal” and inserting “State, Indian tribal, or foreign”; and*
- (II) *by striking “or Indian tribal official” and inserting “Indian tribal, or foreign government official”; and*
- (2) *in paragraph (7), by inserting “, or of guidelines jointly issued by the Attorney General and the Director of National Intelligence pursuant to Rule 6,” after “Rule 6”.*
- (b) *CONFORMING AMENDMENT.—Section 203(c) of Public Law 107–56 (18 U.S.C. 2517 note) is amended by striking “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserting “Rule 6(e)(3)(D)”.*

Subtitle G—Providing Material Support to Terrorism

SEC. 6601. SHORT TITLE.

This subtitle may be cited as the “Material Support to Terrorism Prohibition Enhancement Act of 2004”.

SEC. 6602. RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

Chapter 113B of title 18, United States Code, is amended by adding after section 2339C the following new section:

“§2339D. Receiving military-type training from a foreign terrorist organization

“(a) OFFENSE.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act as a foreign terrorist organization shall be fined under this title or imprisoned for ten years, or both. To violate this subsection, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

“(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section. There is jurisdiction over an offense under subsection (a) if—

“(1) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act) or an alien lawfully admitted for permanent residence in the

United States (as defined in section 101(a)(20) of the Immigration and Nationality Act);

“(2) an offender is a stateless person whose habitual residence is in the United States;

“(3) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

“(4) the offense occurs in whole or in part within the United States;

“(5) the offense occurs in or affects interstate or foreign commerce; or

“(6) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

“(c) DEFINITIONS.—As used in this section—

“(1) the term ‘military-type training’ includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2));

“(2) the term ‘serious bodily injury’ has the meaning given that term in section 1365(h)(3);

“(3) the term ‘critical infrastructure’ means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports); and

“(4) the term ‘foreign terrorist organization’ means an organization designated as a terrorist organization under section 219(a)(1) of the Immigration and Nationality Act.”.

SEC. 6603. ADDITIONS TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended—

(1) in section 2332b(g)(5)(B)(i)—

(A) by inserting “1361 (relating to government property or contracts),” before “1362”; and

(B) by inserting “2156 (relating to national defense material, premises, or utilities),” before “2280”; and

(2) in section 2339A—

(A) by striking “or” before “section 46502”; and

(B) by inserting “or any offense listed in section 2332b(g)(5)(B) (except for sections 2339A and 2339B)” after “section 60123(b) of title 49.”.

(b) *DEFINITIONS.*—Section 2339A(b) of title 18, United States Code, is amended to read as follows:

“(b) *DEFINITIONS.*—As used in this section—

“(1) the term ‘material support or resources’ means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

“(2) the term ‘training’ means instruction or teaching designed to impart a specific skill, as opposed to general knowledge; and

“(3) the term ‘expert advice or assistance’ means advice or assistance derived from scientific, technical or other specialized knowledge.”

(c) *ADDITION TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.*—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking “, within the United States or subject to the jurisdiction of the United States,”; and

(2) by adding at the end the following: “To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).”

(d) *FEDERAL AUTHORITY.*—Section 2339B(d) of title 18 is amended by striking “There” and inserting the following:

“(1) *IN GENERAL.*—There is jurisdiction over an offense under subsection (a) if—

“(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)));

“(B) an offender is a stateless person whose habitual residence is in the United States;

“(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

“(D) the offense occurs in whole or in part within the United States;

“(E) the offense occurs in or affects interstate or foreign commerce; or

“(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person

over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).”

“(2) EXTRATERRITORIAL JURISDICTION.—There”.

(e) DEFINITION.—Section 2339B(g)(4) of title 18, United States Code, is amended to read as follows:

“(4) the term ‘material support or resources’ has the same meaning given that term in section 2339A (including the definitions of ‘training’ and ‘expert advice or assistance’ in that section);”

(f) ADDITIONAL PROVISIONS.—Section 2339B of title 18, United States Code, is amended by adding at the end the following:

“(h) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term ‘personnel’ unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself) to work under that terrorist organization’s direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization’s direction and control.

“(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

“(j) EXCEPTION.—No person may be prosecuted under this section in connection with the term ‘personnel’, ‘training’, or ‘expert advice or assistance’ if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General. The Secretary of State may not approve the provision of any material support that may be used to carry out terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act).”

(g) SUNSET PROVISION.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

(A) is prohibited by this section or amendments made by this section; and

(B) began or occurred before December 31, 2006.

SEC. 6604. FINANCING OF TERRORISM.

(a) FINANCING TERRORISM.—Section 2339c(c)(2) of title 18, United States Code, is amended—

(1) by striking “, resources, or funds” and inserting “or resources, or any funds or proceeds of such funds”;

(2) in subparagraph (A), by striking “were provided” and inserting “are to be provided, or knowing that the support or resources were provided,”; and

(3) in subparagraph (B)—

(A) by striking “or any proceeds of such funds”; and

(B) by striking “were provided or collected” and inserting “are to be provided or collected, or knowing that the funds were provided or collected,”.

(b) **DEFINITIONS.**—Section 2339c(e) of title 18, United States Code, is amended—

(1) by striking “and” at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

“(13) the term ‘material support or resources’ has the same meaning given that term in section 2339B(g)(4) of this title; and”.

Subtitle H—Stop Terrorist and Military Hoaxes Act of 2004

SEC. 6701. SHORT TITLE.

This subtitle may be cited as the “Stop Terrorist and Military Hoaxes Act of 2004”.

SEC. 6702. HOAXES AND RECOVERY COSTS.

(a) **PROHIBITION ON HOAXES.**—Chapter 47 of title 18, United States Code, is amended by inserting after section 1037 the following:

“§ 1038. False information and hoaxes

“(a) **CRIMINAL VIOLATION.**—

“(1) **IN GENERAL.**—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49, shall—

“(A) be fined under this title or imprisoned not more than 5 years, or both;

“(B) if serious bodily injury results, be fined under this title or imprisoned not more than 20 years, or both; and

“(C) if death results, be fined under this title or imprisoned for any number of years up to life, or both.

“(2) **ARMED FORCES.**—Any person who makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged—

“(A) shall be fined under this title, imprisoned not more than 5 years, or both;

“(B) if serious bodily injury results, shall be fined under this title, imprisoned not more than 20 years, or both; and

“(C) if death results, shall be fined under this title, imprisoned for any number of years or for life, or both.

“(b) *CIVIL ACTION.*—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

“(c) *REIMBURSEMENT.*—

“(1) *IN GENERAL.*—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any state or local government, or private not-for-profit organization that provides fire or rescue service incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

“(2) *LIABILITY.*—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

“(3) *CIVIL JUDGMENT.*—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

“(d) *ACTIVITIES OF LAW ENFORCEMENT.*—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.”.

(b) *CLERICAL AMENDMENT.*—The table of sections as the beginning of chapter 47 of title 18, United States Code, is amended by adding after the item for section 1037 the following:

“1038. False information and hoaxes.”.

SEC. 6703. OBSTRUCTION OF JUSTICE AND FALSE STATEMENTS IN TERRORISM CASES.

(a) *ENHANCED PENALTY.*—Section 1001(a) and the third undesignated paragraph of section 1505 of title 18, United States Code, are amended by striking “be fined under this title or imprisoned not more than 5 years, or both” and inserting “be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both”.

(b) *SENTENCING GUIDELINES.*—Not later than 30 days of the enactment of this section, the United States Sentencing Commission shall amend the Sentencing Guidelines to provide for an increased offense level for an offense under sections 1001(a) and 1505 of title 18, United States Code, if the offense involves international or domestic terrorism, as defined in section 2331 of such title.

SEC. 6704. CLARIFICATION OF DEFINITION.

Section 1958 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “facility in” and inserting “facility of”; and

(2) in subsection (b)(2), by inserting “or foreign” after “interstate”.

Subtitle I—Weapons of Mass Destruction Prohibition Improvement Act of 2004

SEC. 6801. SHORT TITLE.

This subtitle may be cited as the “Weapons of Mass Destruction Prohibition Improvement Act of 2004”.

SEC. 6802. WEAPONS OF MASS DESTRUCTION.

(a) *EXPANSION OF JURISDICTIONAL BASES AND SCOPE.—Section 2332a of title 18, United States Code, is amended—*

(1) so that paragraph (2) of subsection (a) reads as follows:

“(2) against any person or property within the United States, and

“(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

“(B) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

“(C) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

“(D) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;”;

(2) in paragraph (3) of subsection (a), by striking the comma at the end and inserting “; or”;

(3) in subsection (a), by adding the following at the end:

“(4) against any property within the United States that is owned, leased, or used by a foreign government,”;

(4) at the end of subsection (c)(1), by striking “and”;

(5) in subsection (c)(2), by striking the period at the end and inserting “; and”; and

(6) in subsection (c), by adding at the end the following:

“(3) the term ‘property’ includes all real and personal property.”.

(b) *RESTORATION OF THE COVERAGE OF CHEMICAL WEAPONS.—Section 2332a of title 18, United States Code, as amended by subsection (a), is further amended—*

(1) in the section heading, by striking “certain”;

(2) in subsection (a), by striking “(other than a chemical weapon as that term is defined in section 229F)”; and

(3) in subsection (b), by striking “(other than a chemical weapon (as that term is defined in section 229F))”.

(c) *EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—Section 175b(d)(2) of title 18, United States Code, is amended—*

(1) in subparagraph (G) by—

(A) inserting “(i)” after “(G)”;

(B) inserting “, or (ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph” after “terrorism”; and

(C) striking “or” after the semicolon.

(2) in subparagraph (H) by striking the period and inserting “, or”; and

(3) by adding at the end the following new subparagraph:

“(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).”.

(d) **CONFORMING AMENDMENT TO REGULATIONS.**—

(1) Section 175b(a)(1) of title 18, United States Code, is amended by striking “as a select agent in Appendix A” and all that follows and inserting the following: “as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.”.

(2) The amendment made by paragraph (1) shall take effect at the same time that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

(e) **ENHANCING PROSECUTION OF WEAPONS OF MASS DESTRUCTION OFFENSES.**—Section 1961(1)(B) of title 18, United States Code, is amended by adding at the end the following: “sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials).”.

SEC. 6803. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.

(a) Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking “in the production of any special nuclear material” and inserting “or participate in the development or production of any special nuclear material”.

(b) Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended—

(1) by inserting “, inside or outside of the United States,” after “for any person”; and

(2) by inserting “participate in the development of,” after “interstate or foreign commerce.”.

(c) Title 18, United States Code, is amended—

(1) in the table of sections at the beginning of chapter 39, by inserting after the item relating to section 831 the following:

“832. Participation in nuclear and weapons of mass destruction threats to the United States.”;

(2) by inserting after section 831 the following:

“§ 832. Participation in nuclear and weapons of mass destruction threats to the United States

“(a) Whoever, within the United States or subject to the jurisdiction of the United States, willfully participates in or knowingly provides material support or resources (as defined in section 2339A) to a nuclear weapons program or other weapons of mass destruction

program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

“(b) There is extraterritorial Federal jurisdiction over an offense under this section.

“(c) Whoever without lawful authority develops, possesses, or attempts or conspires to develop or possess a radiological weapon, or threatens to use or uses a radiological weapon against any person within the United States, or a national of the United States while such national is outside of the United States or against any property that is owned, leased, funded, or used by the United States, whether that property is within or outside of the United States, shall be imprisoned for any term of years or for life.

“(d) As used in this section—

“(1) ‘nuclear weapons program’ means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons;

“(2) ‘weapons of mass destruction program’ means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as defined in section 2332a(c));

“(3) ‘foreign terrorist power’ means a terrorist organization designated under section 219 of the Immigration and Nationality Act, or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 or section 620A of the Foreign Assistance Act of 1961; and

“(4) ‘nuclear weapon’ means any weapon that contains or uses nuclear material as defined in section 831(f)(1).”; and

(3) in section 2332b(g)(5)(B)(i), by inserting after “nuclear materials,” the following: “832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)”.

Subtitle J—Prevention of Terrorist Access to Destructive Weapons Act of 2004

SEC. 6901. SHORT TITLE.

This subtitle may be cited as the “Prevention of Terrorist Access to Destructive Weapons Act of 2004”.

SEC. 6902. FINDINGS AND PURPOSE.

(a) *FINDINGS.*—Congress makes the following findings:

(1) *The criminal use of man-portable air defense systems (referred to in this section as “MANPADS”) presents a serious threat to civil aviation worldwide, especially in the hands of terrorists or foreign states that harbor them.*

(2) *Atomic weapons or weapons designed to release radiation (commonly known as “dirty bombs”) could be used by terrorists to inflict enormous loss of life and damage to property and the environment.*

(3) *Variola virus is the causative agent of smallpox, an extremely serious, contagious, and sometimes fatal disease. Variola virus is classified as a Category A agent by the Centers for Disease Control and Prevention, meaning that it is believed to pose the greatest potential threat for adverse public health impact and has a moderate to high potential for large-scale dis-*

semination. The last case of smallpox in the United States was in 1949. The last naturally occurring case in the world was in Somalia in 1977. Although smallpox has been officially eradicated after a successful worldwide vaccination program, there remain two official repositories of the variola virus for research purposes. Because it is so dangerous, the variola virus may appeal to terrorists.

(4) The use, or even the threatened use, of MANPADS, atomic or radiological weapons, or the variola virus, against the United States, its allies, or its people, poses a grave risk to the security, foreign policy, economy, and environment of the United States. Accordingly, the United States has a compelling national security interest in preventing unlawful activities that lead to the proliferation or spread of such items, including their unauthorized production, construction, acquisition, transfer, possession, import, or export. All of these activities markedly increase the chances that such items will be obtained by terrorist organizations or rogue states, which could use them to attack the United States, its allies, or United States nationals or corporations.

(5) There is no legitimate reason for a private individual or company, absent explicit government authorization, to produce, construct, otherwise acquire, transfer, receive, possess, import, export, or use MANPADS, atomic or radiological weapons, or the variola virus.

(b) PURPOSE.—The purpose of this subtitle is to combat the potential use of weapons that have the ability to cause widespread harm to United States persons and the United States economy (and that have no legitimate private use) and to threaten or harm the national security or foreign relations of the United States.

SEC. 6903. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.

Chapter 113B of title 18, United States Code, is amended by adding after section 2332f the following:

“§ 2332g. Missile systems designed to destroy aircraft

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

“(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

“(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

“(ii) otherwise direct or guide the rocket or missile to an aircraft;

“(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

“(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

“(2) *NONWEAPON*.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

“(3) *EXCLUDED CONDUCT*.—This subsection does not apply with respect to—

“(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

“(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

“(b) *JURISDICTION*.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;

“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) *CRIMINAL PENALTIES*.—

“(1) *IN GENERAL*.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

“(2) *OTHER CIRCUMSTANCES*.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

“(3) *SPECIAL CIRCUMSTANCES*.—If the death of another results from a person’s violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by imprisonment for life.

“(d) *DEFINITION*.—As used in this section, the term ‘aircraft’ has the definition set forth in section 40102(a)(6) of title 49, United States Code.”.

SEC. 6904. ATOMIC WEAPONS.

(a) *PROHIBITIONS*.—Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended—

(1) by inserting at the beginning “a.” before “It”;

(2) by inserting “knowingly” after “for any person to”;

(3) by striking “or” before “export”;

(4) by striking “transfer or receive in interstate or foreign commerce,” before “manufacture”;

(5) by inserting “receive,” after “acquire,”;

(6) by inserting “, or use, or possess and threaten to use,” before “any atomic weapon”; and

(7) by inserting at the end the following:

“b. Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

“(2) the offense is committed against a national of the United States while the national is outside the United States;

“(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.”.

(b) VIOLATIONS.—Section 222 of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by—

(1) inserting at the beginning “a.” before “Whoever”;

(2) striking “, 92,”; and

(3) inserting at the end the following:

“b. Any person who violates, or attempts or conspires to violate, section 92 shall be fined not more than \$2,000,000 and sentenced to a term of imprisonment not less than 25 years or to imprisonment for life. Any person who, in the course of a violation of section 92, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than \$2,000,000 and imprisoned for not less than 30 years or imprisoned for life. If the death of another results from a person’s violation of section 92, the person shall be fined not more than \$2,000,000 and punished by imprisonment for life.”.

SEC. 6905. RADIOLOGICAL DISPERSAL DEVICES.

Chapter 113B of title 18, United States Code, is amended by adding after section 2332g the following:

“§ 2332h. Radiological dispersal devices

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

“(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

“(B) or any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

“(2) EXCEPTION.—This subsection does not apply with respect to—

“(A) conduct by or under the authority of the United States or any department or agency thereof; or

“(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;

“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

“(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

“(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person’s violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by imprisonment for life.”.

SEC. 6906. VARIOLA VIRUS.

Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following:

“§ 175c. Variola virus

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

“(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;

“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

“(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

“(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person’s violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by imprisonment for life.

“(d) DEFINITION.—As used in this section, the term ‘variola virus’ means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.”.

SEC. 6907. INTERCEPTION OF COMMUNICATIONS.

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

(1) in paragraph (a), by inserting “2122 and” after “sections”;

(2) in paragraph (c), by inserting “section 175c (relating to variola virus),” after “section 175 (relating to biological weapons),”; and

(3) in paragraph (q), by inserting “2332g, 2332h,” after “2332f.”.

SEC. 6908. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i)—

(A) by inserting before “2339 (relating to harboring terrorists)” the following: “2332g (relating to missile systems designed to destroy aircraft), 2332h (relating to radiological dispersal devices),”; and

(B) by inserting “175c (relating to variola virus),” after “175 or 175b (relating to biological weapons),”; and

(2) in clause (ii)—

(A) by striking “section” and inserting “sections 92 (relating to prohibitions governing atomic weapons) or”; and

(B) by inserting “2122 or” before “2284”.

SEC. 6909. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.

Section 1956(c)(7)(D), title 18, United States Code, is amended—

(1) by inserting after “section 152 (relating to concealment of assets; false oaths and claims; bribery),” the following: “section 175c (relating to the variola virus);”

(2) by inserting after “section 2332(b) (relating to international terrorist acts transcending national boundaries),” the following: “section 2332g (relating to missile systems designed to destroy aircraft), section 2332h (relating to radiological dispersal devices);” and

(3) striking “or” after “any felony violation of the Foreign Agents Registration Act of 1938,” and after “any felony violation of the Foreign Corrupt Practices Act,” striking “,” and inserting “,” or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)”.

SEC. 6910. EXPORT LICENSING PROCESS.

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by striking “or” before “(xi);” and

(2) by inserting after clause (xi) the following: “or (xii) section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b);”.

SEC. 6911. CLERICAL AMENDMENTS.

(a) CHAPTER 113B.—The table of sections for chapter 113B of title 18, United States Code, is amended by inserting the following after the item for section 2332f:

“2332g. Missile systems designed to destroy aircraft.
“2332h. Radiological dispersal devices.”.

(b) CHAPTER 10.—The table of sections for chapter 10 of title 18, United States Code, is amended by inserting the following item after the item for section 175b:

“175c. Variola virus.”.

Subtitle K—Pretrial Detention of Terrorists

SEC. 6951. SHORT TITLE.

This subtitle may be cited as the “Pretrial Detention of Terrorists Act of 2004”.

SEC. 6952. PRESUMPTION FOR PRETRIAL DETENTION IN CASES INVOLVING TERRORISM.

Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting “or” before “the Maritime”; and

(B) by inserting “or an offense listed in section 2332b(g)(5)(B) of title 18, United States Code, for which a maximum term of imprisonment of 10 years or more is prescribed” after “or 2332b of this title;” and

(2) in subsections (f)(1)(A) and (g)(1), by inserting “, or an offense listed in section 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed” after “violence” each place such term appears.

TITLE VII—IMPLEMENTATION OF 9/11 COMMISSION RECOMMENDATIONS

SEC. 7001. SHORT TITLE.

This title may be cited as the “9/11 Commission Implementation Act of 2004”.

Subtitle A—Diplomacy, Foreign Aid, and the Military in the War on Terrorism

SEC. 7101. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) *Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.*

(2) *To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.*

(3) *The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.*

(4) *The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.*

SEC. 7102. TERRORIST SANCTUARIES.

(a) *FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:*

(1) *Complex terrorist operations require locations that provide such operations sanctuary from interference by Government or law enforcement personnel.*

(2) *A terrorist sanctuary existed in Afghanistan before September 11, 2001.*

(3) *The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.*

(4) *Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.*