

VIOLENT CRIME AND ANTI-TERRORISM ACT OF 2007

SEC. 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the “Violent Crime and Anti-Terrorism Act of 2007.”

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1 **TITLE I—VIOLENT CRIME PREVENTION &**
2 **ENFORCEMENT**

3 **Subtitle A—Improving Violent Crime Prevention &**
4 **Strengthening Anti-Gang Measures**

5 **SEC. 101. GRADUATED PENALTIES FOR CIVIL VIOLATIONS BY FEDERAL**
6 **FIREARMS LICENSEES.**

7 (a) In General- Section 923 of title 18, United States Code, is amended by striking
8 subsection (e) and inserting the following:

9 “(e)(1)(A) If the Attorney General determines that a licensee under this section
10 has willfully violated any provision of this chapter or any regulation prescribed
11 under this chapter, the Attorney General may--

12 “(i) if the violation is of a minor nature--

13 “(I) impose on the licensee a civil money penalty of not more than
14 \$1,000 for each instance of such violation, except that the total
15 amount of penalties imposed on a licensee under this subclause for
16 violations arising from a single inspection shall not exceed \$5,000;
17 or

18 “(II) suspend the license for not more than 30 days, if in the period
19 for which the license has been in effect, the licensee on at least one
20 prior occasion has received a written notice of violation(s) of this
21 chapter or any regulations prescribed under this chapter, and
22 specify the circumstances under which the suspension is to be
23 terminated; or

24 “(ii) if the violation is of a serious nature--

25 “(I) impose on the licensee a civil money penalty of not more than
26 \$2,500 for each instance of such violation, except that the total
27 amount of penalties imposed on a licensee under this subclause for
28 a violations arising from a single inspection shall not exceed
29 \$15,000;

1 “(II) suspend the license for not more than 90 days, and specify the
2 circumstances under which the suspension is to be terminated;
3 “(III) revoke the license; or
4 “(IV) take the actions described in subclauses (I) and (II), or
5 subclauses (I) and (III).

6 “(B)(i)(I) In determining the amount of a civil money penalty to impose under
7 subparagraph (A) on a licensee, the nature and severity of the violation involved,
8 the size of the firearms business operated by the licensee, and the prior record of
9 the licensee shall be considered.

10 “(II) On request of the licensee, the Attorney General may consider the
11 ability of the licensee to pay a civil money penalty, and may allow the licensee to
12 submit documents and information to establish the ability of the licensee to pay.
13 The Attorney General shall not make part of any public record any document or
14 information so submitted, and shall return to the licensee any such document or
15 information.

16 “(III) The total amount of penalties imposed on a licensee under
17 subparagraph (A) with respect to violations of a minor nature and of a serious
18 nature arising from a single inspection or examination shall not exceed \$15,000.

19 “(ii) For purposes of subparagraph (A), violation of a provision of this chapter
20 with respect to 2 or more firearms during a single transaction shall be considered
21 a single violation of the provision.

22 “(iii) The Attorney General may defer, or suspend, in whole or in part, the
23 imposition of a civil money penalty on a licensee whose license is suspended
24 under this paragraph.

25 “(C) For purposes of subparagraph (A), the Attorney General shall prescribe
26 by regulation which violations of this chapter shall be considered to be of a
27 serious nature.

28 “(D) The Attorney General may not commence an enforcement action under
29 subparagraph (A) with respect to any violation after the 2-year period that begins
30 on the date the violation is discovered. The limitations period does not prevent the

1 Attorney General from introducing evidence of any violation to establish
2 willfulness.

3 “(2)(A) Not less than 30 days before the effective date of any penalty imposed
4 on a licensee by reason of a determination made under paragraph (1), or of any
5 denial of an application for a license pursuant to subsection (d)(2) of this section,
6 the Attorney General shall send the licensee a written notice--

7 “(i) of the determination or denial, and the grounds on which the
8 determination or denial was made;

9 “(ii) of the nature of the penalty; and

10 “(iii) that the licensee may, within 30 days after receipt of the notice,
11 request a hearing to review the determination or denial.

12 “(B) A hearing to review a determination or denial made under paragraph (1)
13 or subsection (d)(2) of this section with respect to a licensee shall not be held
14 unless the licensee requests such a hearing within 30 days after receiving the
15 notice of the determination or denial sent pursuant to subparagraph (A).

16 “(3) This subsection shall not be interpreted to affect the authority of the
17 Attorney General under section 922(t)(5) or section 924(p).”

18 (b) Conforming amendment— Subsection (f) of section 923 of title 18, United
19 States Code, is amended by—

20 (1) Striking paragraph (1) and renumbering the paragraphs that follow;

21 (2) In paragraph (1), as amended—

22 (A) inserting after “or revokes, a license” the words “or otherwise
23 imposes a sanction pursuant to subsection (e)”;

24 (B) striking “or revocation” and inserting the words “or sanction
25 pursuant to subsection (e)”;

26 (C) striking “In the case of a revocation of a license, the” and
27 inserting the word “The”; and

28 (D) striking “date of the revocation” and inserting the words “date
29 of the sanction.”

30 (3) In paragraph (2), as amended—

31 (A) striking “(2)” wherever it appears and inserting “(1)”;

1 (B) striking “or revoke a license” and inserting the words “or
2 impose a sanction pursuant to subsection (e)”;
3 (C) striking “or revocation” and inserting the words “or sanction
4 under subsection (e)”;
5 (D) striking “or to revoke the license” and inserting “or to impose
6 the sanction under subsection (e).”

7 (c) Effective date— The amendments made by this section shall take effect 270
8 days after the date of enactment of this Act.

9 **SEC. 102. AMENDMENTS RELATING TO VIOLENT CRIME.**

10 (a) Clarification of Illegal Gun Transfers to Commit Drug Trafficking Crime or
11 Crimes of Violence- Section 924(h) of title 18, United States Code, is amended to read as
12 follows:

13 “(h) Whoever, in or affecting interstate or foreign commerce, knowingly transfers
14 a firearm, knowing that the firearm will be used to commit, or possessed in furtherance
15 of, a crime of violence or drug trafficking crime (as defined in subsection (c)(2)), shall be
16 fined under this title and imprisoned not more than 20 years.”.

17 (b) Conspiracy Penalty— Section 371 of title 18, United States Code, is amended
18 by striking ‘five years, or both.’ and inserting ‘20 years (unless the maximum penalty for
19 the crime that served as the object of the conspiracy has a maximum penalty of
20 imprisonment of less than 20 years, in which case the maximum penalty under this
21 section shall be the penalty for such crime), or both. This paragraph does not supersede
22 any other penalty specifically set forth for a conspiracy offense.’.

23 **SEC. 103. POSSESSION OF FIREARMS BY DANGEROUS FELONS.**

24 (a) In General- Section 924(e) of title 18, United States Code, is amended by
25 striking paragraph (1) and inserting the following:

26 “(1) In the case of a person who violates section 922(g) of this title and has
27 previously been convicted by any court referred to in section 922(g)(1) of a violent felony
28 or a serious drug offense shall—

29 “(A) in the case of 1 such prior conviction, where a period of not more
30 than 10 years has elapsed since the later of the date of conviction and the date of

1 release of the person from imprisonment for that conviction, be imprisoned for
2 not more than 15 years, fined under this title, or both;

3 “(B) in the case of 2 such prior convictions, committed on occasions
4 different from one another, and where a period of not more than 10 years has
5 elapsed since the later of the date of conviction and the date of release of the
6 person from imprisonment for the most recent such conviction, be imprisoned for
7 not more than 20 years, fined under this title, or both; and

8 “(C) in the case of 3 such prior convictions, committed on occasions
9 different from one another, be fined under this title and imprisoned not less than
10 15 years or more than life, and notwithstanding any other provision of law, the
11 court shall not suspend the sentence of, or grant a probationary sentence to, such
12 person with respect to the conviction under section 922(g).”.

13 (b) Amendment to Sentencing Guidelines—

14 Pursuant to its authority under section 994(p) of title 28, United States Code, the
15 United States Sentencing Commission shall amend the Federal Sentencing Guidelines to
16 provide for an appropriate increase in the offense level for violations of section 922(g) of
17 title 18, United States Code, in accordance with section 924(e) of that title 18, as
18 amended by subsection (a).

19 **SEC. 104. GRANTS TO IMPROVE THE NATIONAL INSTANT CRIMINAL**
20 **BACKGROUND CHECK SYSTEM.**

21 Consistent with applicable law, the Attorney General shall prioritize applications
22 by eligible grantees for competitively awarded funds for improving the National Instant
23 Criminal Background Check System that propose to meet standards established by the
24 Attorney General for the complete, accurate, prompt, and automated provision to the
25 Attorney General of—

26 (a) records of arrest dispositions;

27 (b) information identifying the existence of mental health adjudications, findings,
28 or orders that disqualify an individual from receiving or possessing a firearm;

29 (c) records qualified for entry into the Federal Bureau of Investigation’s National
30 Crime Information Center’s Protection Order File; or

1 (d) information identifying convictions of misdemeanor crimes of domestic
2 violence, as that term is defined in 18 U.S.C. 921(a)(33).

3 **SEC. 105. EXPANSION OF REBUTTABLE PRESUMPTION AGAINST**
4 **RELEASE OF PERSONS CHARGED WITH FIREARMS**
5 **OFFENSES.**

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

7 (1) in subsection (e), in the matter following paragraph (3), by inserting ‘an
8 offense under subsection (g)(1), (g)(2), (g)(4), (g)(5), (g)(8), or (g)(9) of section 922,’
9 after ‘that the person committed’;

10 **SEC. 106. CONFORMING AMENDMENT.**

11 The matter preceding paragraph (1) in section 922(d) of title 18, United States
12 Code, is amended by inserting ‘, transfer,’ after ‘sell’.

13 **SEC. 107. INCREASED PENALTIES FOR INTERSTATE AND FOREIGN**
14 **TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING.**

15 Section 1952 of title 18, United States Code, is amended—

16 (1) in subsection (a), by striking ‘perform’ and all that follows through the end of
17 the subsection and inserting ‘perform or attempts to perform an act described in
18 paragraph (1), (2), or (3), or conspires to do so, shall be punished as provided in
19 subsection (d).’; and

20 (2) by adding at the end following:

21 “(d) The punishment for an offense under subsection (a) is—

22 “(1) in the case of a violation of paragraph (1) or (3), a fine
23 under this title and imprisonment for not more than 20 years;

24 and

25 “(2) in the case of a violation of paragraph (2), a fine under
26 this title and imprisonment for any term of years or for life,
27 but if death results the offender may be sentenced to death.”.

28 **SEC. 108. INCREASED PENALTIES FOR USE OF INTERSTATE COMMERCE**
29 **FACILITIES IN THE COMMISSION OF MURDER-FOR-HIRE**
30 **AND OTHER FELONY CRIMES OF VIOLENCE.**

31 (a) In General- Section 1958 of title 18, United States Code, is amended—

1 (1) by striking the section heading and inserting the following:

2 **“Sec. 1958. Use of interstate commerce facilities in the commission of**
3 **murder-for-hire and other felony crimes of violence”;**

4 (2) in subsection (a), by inserting ‘or other crime of violence, punishable
5 by imprisonment for more than one year,’ after ‘intent that a murder’; and

6 (3) in subsection (a), by striking ‘shall be fined’ the first place it appears
7 and all that follows through the end of such subsection and inserting the following:

8 “shall, in addition to being subject to a fine under this title—

9 “(1) if death results, be sentenced to death or life in prison;

10 “(2) if the crime of violence is kidnapping, aggravated sexual abuse (as defined in
11 section 521), or maiming, or a conspiracy to commit such a crime of violence, be
12 imprisoned any term of years or for life;

13 “(3) if the crime of violence is an assault, or a conspiracy to assault, that results in
14 serious bodily injury (as defined in section 1365), be imprisoned not more than 30 years;
15 and

16 “(4) in any other case, be imprisoned not more than 20 years.’.

17 (b) Clerical Amendment—

18 The item relating to section 1958 in the table of sections at the beginning of
19 chapter 95 of title 18, United States Code, is amended to read as follows:

20 “1958. Use of interstate commerce facilities in the commission of murder-for-hire
21 and other felony crimes of violence.”.

22 **SEC. 109. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

23 (a) In General—Chapter 213 of title 18, United States Code, is amended by
24 adding at the end the following:

25 **“Sec. 3299A. Violent crime offenses**

26 “No person shall be prosecuted, tried, or punished for any noncapital felony crime
27 of violence, including any racketeering activity or gang crime which involves any crime
28 of violence, unless the indictment is found or the information is instituted not later than
29 10 years after the date on which the alleged violation occurred or the continuing offense
30 was completed.”.

1 (b) Clerical Amendment—The table of sections at the beginning of chapter 213 of
2 title 18, United States Code, is amended by adding at the end the following:

3 “3299A. Violent crime offenses.”.

4 **SEC. 110. STATUTE OF LIMITATIONS FOR TERRORISM OFFENSES.**

5 Section 3286(a) of title 18, United States Code, is amended—

6 (1) in the subsection heading, by striking ‘Eight-Year’ and inserting ‘Ten-Year’;

7 and

8 (2) in the first sentence, by striking ‘8 years’ and inserting ‘10 years’.

9 **SEC. 111. CRIMES OF VIOLENCE AND DRUG CRIMES COMMITTED BY**
10 **ILLEGAL ALIENS.**

11 (a) Offenses- Title 18 of the United States Code, is amended by inserting after
12 chapter 51 the following new chapter:

13 **“CHAPTER 52—ILLEGAL ALIENS**

14 **“Sec. 1131. Enhanced penalties for certain crimes committed by illegal aliens**

15 “(a) In General—Whoever, being an alien who is present in the United States in
16 violation of section 275 or 276 of the Immigration and Nationality Act (8 U.S.C. 1325
17 and 1326), knowingly commits, conspires, or attempts to commit a felony crime of
18 violence for which imprisonment for a period of more than 1 year may be imposed, or a
19 drug trafficking crime (as defined in section 924(c)), shall be fined under this title,
20 imprisoned not more than 20 years, or both.

21 “(b) Previously Ordered Removed- If the defendant in a prosecution under
22 subsection (a) was previously ordered removed under the Immigration and Nationality
23 Act on the grounds of having committed a crime, the defendant shall be fined under this
24 title, imprisoned not more than 30 years, or both.

25 “(c) Running of Sentence- A term of imprisonment imposed for an offense
26 pursuant to this section may not run concurrently with any other sentence of
27 imprisonment imposed for another offense.”.

28 (b) Clerical Amendment—The table of chapters at the beginning of part I of title
29 18, United States Code, is amended by inserting after the item relating to chapter 51 the
30 following new item:

31 “Chapter 52. Illegal Aliens”.

Subtitle B—The Sentencing Reform Act

SEC. 112. SENTENCING GUIDELINE MAXIMA AND ADVISORY MAXIMA.

Section 994(b)(2) of title 28, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2)(A)(i) If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall be the maximum term of imprisonment otherwise authorized by statute, or, in a case involving multiple counts of conviction, the sum of such maximum terms of imprisonment for the counts of conviction.

“(ii) If a sentence specified by the guidelines includes a fine, the maximum of the range established for such a fine shall be the maximum fine authorized by the application of section 3571 of title 18 or, in a case involving multiple counts of conviction, the sum of such maximum fines for the counts of conviction.

“(iii) If a sentence specified by the guidelines includes a term of probation or supervised release, the maximum of the range established for such a term shall be the maximum term of probation or supervised release authorized by the application of section 3561 or 3583 of title 18.

“(B) The Commission shall provide an advisory maximum for each guideline range that may differ from the maximum referred to in subparagraph (A). The advisory maximum for a guideline range shall be considered by a court in imposing sentence as provided in section 3553(a)(4) of title 18, but shall not be binding on a court in imposing sentence and shall not be deemed the maximum of the guideline range. If a sentence specified by the guidelines includes a term of imprisonment, the advisory maximum for the range established for such a term shall not exceed the minimum of that range by more than the greater of 25 percent or six months, except that, if the minimum term of the range is 30 years or more, the advisory maximum may be life imprisonment.”.

SEC. 113. APPLICATION.

(a) The amendments to section 994(b)(2) of title 28, United States Code, made by section 384 shall apply immediately in sentencing or resentencing for federal crimes

1 committed after the enactment of this Act and, to the extent constitutionally permissible,
2 in sentencing or resentencing for other federal crimes whenever committed,
3 notwithstanding any other provision of law.

4 (b) The United States Sentencing Commission may promulgate such amendments
5 to the Guidelines Manual as it determines are necessary in light of this Act in accordance
6 with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law
7 101-82), as though the authority under that Act had not expired.

8 **SEC. 114. USE OF INFORMATION FOR SENTENCING.**

9 (a) 18 U.S.C. § 3661 is stricken in its entirety.

10 **SEC. 115. IMPOSITION OF A SENTENCE.**

11 Section 3553(a) of title 18, United States Code, is amended by striking “imposed,
12 shall consider—” and inserting, “imposed within the sentencing range, from the
13 minimum guidelines sentence to the maximum term of imprisonment otherwise
14 authorized by statute, shall consider—”

15 **SEC. 116. APPELLATE REVIEW OF A SENTENCE.**

16 Section 3742 of title 18, United States Code, is amended—

17 (a) in subsection (a)(3)—

18 (1) by striking “is greater” and all that follows through “that the sentence”;
19 and

20 (2) by striking “the maximum established in the guideline range” in each
21 place it appears and inserting “the established minimum for the applicable
22 guideline range”;

23 (b) in subsection (e)—

24 (1) in paragraph (3)(C), by striking “; or” and inserting “;”

25 (2) by redesignating paragraph (4) as paragraph (5); and

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

27 “(4) is greater than the minimum for the applicable guideline range and is
28 unreasonable, having regard for the factors to be considered in imposing a sentence, as
29 set forth in section 3553(a) and the reasons for the imposition of the particular sentence,
30 as stated by the district court pursuant to the provisions of section 3553(c); or”;

1 (c) in subsection (f)(2), by inserting after “degree,” the following: “or the sentence
2 is greater than the minimum for the applicable guideline range and is unreasonable,”; and

3 (d) in subsection (g)(1), by inserting after “3553(a)(4)” the following: “and the
4 advisory maximum for that range”.

5 **Subtitle C—Death Penalty Procedures Improvement** 6 **Act**

7 **SEC. 117. SHORT TITLE**

8 This Act may be cited as the “Death Penalty Procedures Improvement Act of
9 2007”.

10 **SEC. 118. ELIMINATION OF DEATH PENALTY HEARING DISCREPANCIES**

11 (a) TITLE 18 AMENDMENTS.—

12 (1) Section 3595 of title 18, United States Code, is amended in subsection
13 (b)(4), by striking “3593(d)” and inserting “3593(e)”;

14 (2) Section 3599(g) of Title 18, United States Code, is amended in
15 subsection (1) by striking “\$125” and inserting “\$160”.

16
17 (b) TITLE 28 AMENDMENTS. —Chapter 153 of title 28, United States Code, is
18 amended—

19 (1) in section 2254(h) by striking “section 408 of the Controlled
20 Substances Act” and inserting “section 3599 of title 18”;

21 (2) in section 2255 by striking “section 408 of the Controlled Substances
22 Act” and inserting “section 3599 of title 18”.

23 **SEC. 119. AMENDMENTS RELATING TO SECTION 3593 OF TITLE 18**

24 Section 3593 of title 18, United States Code, is amended—

25 (1) in subsection (a)—

26 (A) by striking “, a reasonable time before trial or before acceptance by
27 the court of a plea of guilty,”;

28 (B) by inserting after paragraph (2) the following: “The notice must be
29 filed a reasonable time before trial or before acceptance by the court of a plea of
30 guilty. The court shall, where necessary to ensure adequate preparation time for

1 the defense, grant a reasonable continuance of the trial. If the government has not
2 filed a notice of intent to seek the death penalty or informed the court that a notice
3 of intent to seek the death penalty will not be filed, the court shall not accept a
4 plea of guilty to an offense described in section 3591 without the concurrence of
5 the government.”; and

6 (C) by inserting in the second to last sentence immediately after “other
7 relevant information” the following: ”, including any factor concerning the state
8 of mind, intent, or other aspect of culpability of the defendant in committing the
9 offense.”;

10 (2) in subsection (b) by inserting after paragraph (3) the following: “The court
11 shall retain alternate jurors to until the completion of the sentencing hearing, unless the
12 sentencing is before the court alone under 3593(b)(3). The replacement of jurors with
13 alternate jurors during the sentencing hearing will be conducted in accordance with Rule
14 24 of the Rules of Criminal Procedure.

15 (3) in subsection (c)—

16 (A) in the fourth sentence, by inserting “for which notice has been
17 provided under subsection (b)” before the period;

18 (B) in the fifth sentence, by inserting “, including information pertaining
19 to criminal conduct that has not resulted in a conviction” before the period;

20 (C) by inserting after the eighth sentence the following: “The government
21 shall be permitted to cross-examine the defendant regarding any statements or
22 testimony by the defendant to the sentencing jury.”;

23 (D) by inserting after the fourth sentence the following: “If the defendant
24 has raised the issue of mental retardation as required under subsection (b), the
25 defendant may introduce information relevant to mental retardation.”; and

26 (E) by inserting at the end the following: “The defendant shall have the
27 burden of proving mental retardation by the preponderance of the information.”;

28 (4) in subsection (d)—

29 (A) in the second sentence by inserting “determine the truth of the
30 allegations in the notice filed under subsection (a) of this section regarding any
31 mental state set forth in section 3591(a), and” after “It shall”;

1 (B) by inserting after the second sentence the following: “In any case in
2 which the defendant has raised the issue of mental retardation as required under
3 subsection (b), the jury, or if there is no jury, the court, shall determine the issue
4 of mental retardation only if any aggravating factor set forth in section 3592 is
5 found to exist. Such determination shall occur prior to the consideration of any
6 mitigating factor.”; and

7 (C) by inserting at the end the following: “If the jury, or if there is no jury,
8 the court, determines that the defendant is mentally retarded, the court shall
9 sentence the defendant to life imprisonment without the possibility of release, or
10 some other lesser sentence authorized by law.”;

11 (5) in subsection (e)—

12 (A) by inserting before the last sentence the following: “In assessing the
13 appropriateness of a sentence of death, the jury, or if there is no jury, the court
14 must base the decision on the facts of the offense and the aggravating and
15 mitigating factors and avoid any influence of passion, prejudice, or other arbitrary
16 factor when imposing sentence.”

17 (B) by striking “, to life imprisonment without the possibility of release or
18 some other lesser sentence”; and

19 (C) by inserting at the end the following: “The jury’s sentencing
20 recommendation must be unanimous. In cases in which the jury unanimously
21 rejects a sentence of death but finds at least one aggravating factor under section
22 3592 and the existence of at least one intent factor necessary under section 3591
23 to impose a sentence of death, the court shall impose a sentence of life without the
24 possibility of release.”

25 (6) by redesignating subsections (b) through (f) as subsections (c) through (g); and

26 (7) by adding after subsection (a) the following:

27 “(b) Notice by the defendant.

28 “(1) If, as required under subsection (a), the government has filed notice
29 seeking a sentence of death, the defendant shall, a reasonable time before the trial,
30 sign and file with the court, and serve on the attorney for the government, notice
31 setting forth the mitigating factor or factors that the defendant proposes to prove

1 mitigate against imposition of a sentence of death. In any case in which the
2 defendant intends to raise the issue of mental retardation as precluding a sentence
3 of death, the defendant shall, a reasonable time before trial, sign and file with the
4 court, and serve on the attorney for the government, notice of such intent.

5 “(2) When a defendant makes a claim of mental retardation or intends to
6 rely on evidence of mental impairment, or other mental defect or disease as a
7 mitigating factor under this section, the government shall have the right to an
8 independent mental health examination of the defendant. If the court finds it
9 appropriate, more than one such professional shall perform the examination. To
10 facilitate the examination, the court may commit the person to be examined for a
11 reasonable period, to the custody of the Attorney General for placement in a
12 suitable facility.

13 “(3) Following the filing of a defendant’s notice under this subsection, the
14 court shall, where necessary to ensure adequate preparation time for the
15 government, grant a reasonable continuance of the trial.

16 “(4) For purposes of this chapter, a defendant is mentally retarded if, since
17 some point in time prior to age 18, he or she has continuously had an intelligence
18 quotient of 70 or lower and, as a result of that significantly subaverage mental
19 functioning, has since that point in time continuously had a diminished capacity to
20 understand and process information, abstract from mistakes and learn from
21 experience, engage in logical reasoning, control impulses, and understand others'
22 reactions.”

23 **SEC. 120. AMENDMENTS RELATING TO SECTION 3592 OF TITLE 18**

24 Section 3592 of title 18, United States Code, is amended—

25 (1) in subsection (a), by inserting “for which notice has been provided” after
26 “factor”;

27 (2) in subsection (c)(1)—

28 (A) by inserting “section 241 (conspiracy against rights), section 245
29 (federally protected activities), section 247 (interference with religious exercise),”
30 after “section 37 (violence at international airports),”; and

1 (B) by inserting “section 1512 (tampering with a witness, victim, or an
2 informant), section 1513 (retaliating against a witness, victim, or an informant),”
3 after “section 1203 (hostage taking),”;

4 (3) in subsection (c)(2), by striking the existing language and inserting lieu
5 thereof the following:

6 “Previous conviction of violent felony involving firearm. The defendant has
7 previously been convicted of a Federal or State offense punishable by a term of
8 imprisonment of more than one year, involving the use or attempted use or threatened use
9 of a firearm (as defined in section 921) against another person.

10 (4) in subsection (c)(8)—

11 (A) by striking “or”; and

12 (B) by inserting “or in order to retain possession” before “of anything”;

13 (5) in subsection (c)(12), by striking “had previously” each place that term
14 appears and inserting “has previously”;

15 (6) by adding after subsection (c)(16) the following new subsection:

16 “(17) Obstruction of Justice. – The defendant in commission of the offense, or in
17 an attempt to avoid apprehension, or conviction for the offense, engaged in conduct,
18 which resulted in harm or a threat of harm to another person, intending to obstruct the
19 investigation or prosecution of any offense.”

20 **SEC. 121. AMENDMENTS RELATING TO SECTION 3594 OF TITLE 18**

21 Section 3594 of title 18, United States Code, is amended—

22 (1) in the first sentence—

23 (A) by striking “3593(e)” and inserting “3593(f); and

24 (B) by striking “or life imprisonment without the possibility of release”;

25 (2) in the second sentence—

26 (A) by inserting “life imprisonment without the possibility of release, or”
27 after “shall impose”;

28 (B) by inserting “as limited by section 3593(f)” before the period.

29 **SEC. 122. AMENDMENTS RELATING TO SECTIONS 3596 AND 3597 OF**
30 **TITLE 18**

31 (a) Section 3596 of title 18, United States Code, is amended—

1 (1) in subsection (a), by striking “When the sentence is to be
2 implemented” and all that follows through “such law” and inserting the following:
3 “A sentence of death for any offense against the United States shall be
4 implemented pursuant to regulations promulgated by the Attorney General”; and

5 (2) in subsection (c)—

6 (A) by striking the first sentence; and

7 (B) by adding at the end the following: “The government shall not
8 be limited in its opportunities to seek rehearing, based on changed
9 circumstances, of a finding of mental incapacity under this subsection.”;

10 (b) Section 3597 of title 18, United States Code is amended—

11 (1) in the heading, by striking “State”;

12 (2) in subsection (a), by striking “A United States marshal” and all that
13 follows through “Attorney General” and inserting the following: “An official
14 charged with supervising the implementation of a sentence of death shall use
15 appropriate Federal or State facilities for the purpose”;

16 (3) by adding at the end the following new subsection:

17 “(c) Confidentiality.- Notwithstanding any other law, the identity of any employee
18 of the United States Department of Justice, the Federal Bureau of Prisons, the United
19 States Marshals Service, or any State department of corrections, or of any person
20 providing services under contract or victim or victim's survivor, who participates in or
21 witnesses the administration of an execution pursuant to this section shall not be publicly
22 disclosed, absent the consent of any such individual.”

23 (c) Conforming amendment.—The analysis for chapter 228 of title 18, United
24 States Code is amended by striking the item relating to section 3597 and inserting the
25 following:

26 “3597. Use of facilities.”

27 **Subtitle D—Clarifying the Authority to Issue Cell**
28 **Location Orders**

29 **SEC. 123. AMENDMENT TO 18 U.S.C. SEC. 2703 TO CLARIFY ONGOING**
30 **SCOPE OF ORDERS AND WARRANTS.**

1 (a) Section 2703 of title 18, United States Code, is amended by adding the
2 following paragraph at the end:

3 “(h) A court order under subsection (d) or a warrant under subsection (c)(1)(A)
4 may require that records or other information (not including the contents of
5 communications) be disclosed to a governmental entity on an ongoing basis.

6 “(1) Standard.—The court shall issue an order or warrant requiring such
7 ongoing disclosure if—

8 “(A) in the case of a court order under subsection (d), the court
9 finds that the application contains specific and articulable facts showing
10 that there are reasonable grounds to believe that the records or other
11 information (not including the contents of communications) will be
12 relevant and material to an ongoing criminal investigation; or,

13 “(B) in the case of a warrant under subsection (c)(1)(A), the court
14 finds that probable cause supports issuing the warrant.

15 “(2) Duration.—An order or warrant requiring ongoing disclosure under
16 this subsection may require ongoing disclosure for a period not to exceed sixty
17 days. Extensions of such an order or warrant may be granted, but only upon an
18 application for an extension under this subsection and upon the judicial finding
19 required by subsection (h)(1) of this section. The period of extension shall be for a
20 period not to exceed sixty days.

21 “(3) Nondisclosure.—An order or warrant requiring ongoing disclosure
22 under this subsection shall direct that—

23 “(A) the order or warrant be sealed until otherwise ordered by the
24 court; and,

25 “(B) the person or entity who is obligated by the order or warrant
26 to disclose records or other information on an ongoing basis to the
27 applicant shall not disclose the existence of the order or warrant or the
28 existence of the investigation to any other person, unless or until otherwise
29 ordered by the court.

30 “(4) Scope and assistance.—

1 “(A) An order or warrant requiring ongoing disclosure under this
2 subsection, upon service of that order or warrant, shall apply to any person
3 or entity providing wire or electronic communication service or remote
4 computing service in the United States whose assistance may facilitate the
5 execution of the order or warrant. Whenever such an order or warrant is
6 served on any person or entity not specifically named in the order or
7 warrant, upon request of such person or entity, the attorney for the
8 Government or law enforcement or investigative officer that is serving the
9 order or warrant shall provide written or electronic certification that the
10 order or warrant applies to the person or entity being served.

11 “(B) Upon the request of an attorney for the Government or an
12 officer of a law enforcement agency authorized to receive the results of an
13 order or warrant requiring ongoing disclosure under this subsection, a
14 provider of a wire or electronic communication service or a provider of
15 remote computing services shall furnish such investigative or law
16 enforcement officer all information, facilities, technical and other
17 assistance including execution of such warrant or order unobtrusively and
18 with no more interference with the services that the person so ordered by
19 the court accords the party with respect to whom the warrant or order
20 pertains than is necessary to effect the disclosure required under the
21 warrant or order, if such installation and assistance is directed by a court.
22 Unless otherwise ordered by the court, records or other information
23 disclosed under such warrant or order shall be furnished to the officer of a
24 law enforcement agency designated in the court order, at reasonable
25 intervals during regular business hours for the duration of the order.
26 Pursuant to section 2522, an order may be issued to enforce the assistance
27 capability and capacity requirements under the Communications
28 Assistance for Law Enforcement Act.

29 “(5) Non-exclusivity. — Nothing in this subsection shall preclude a
30 governmental entity from requiring or receiving the production on an ongoing
31 basis of records or other information (not including the contents of

1 communications) with consent of the subscriber or user, or under any other lawful
2 authority.”.

3 (b) Subsection 2703(c)(1) of title 18, United States Code, is amended by
4 renumbering subparagraph E as subparagraph F, and inserting before it the following:

5 “(E) certifies in writing that it is investigating the disappearance of the subscriber
6 or customer, that it has the purpose of locating that subscriber or customer, and—

7 “(i) the subscriber or customer is a minor; or

8 “(ii) the governmental entity reasonably believes that the subscriber or
9 customer is suffering from a condition or circumstance that may create an
10 imminent danger of his or her death or serious physical injury, and the customer
11 or subscriber’s spouse, parent, lawful guardian, adult child, or adult sibling has
12 consented to the disclosure; or”.

13 **SEC. 124. PEN REGISTER AND TRAP AND TRACE AMENDMENT.**

14 Section 3121 of title 18, United States Code, is amended—

15 (a) in subsection 3121(a), by inserting “2703(h) or section” after “under section”;

16 (b) in subsection 3121(b), by deleting “by a provider of electronic or wire
17 communication service”;

18 (c) in subsection 3121(b)(1), by inserting “by a provider of electronic or wire
19 communication service,” before “relating to”;

20 (d) in subsection 3121(b)(2), in inserting “by a provider of electronic or wire
21 communication service,” before “to record”;

22 (e) by deleting subsection 3121(b)(3) and inserting in its place the following:

23 “(3) with the consent of a party to a communication, or under any other
24 circumstances in which the contents of a communication may be lawfully
25 intercepted under chapter 119 of this title.

26 “(4) by a government agency, or a provider of electronic or wire
27 communication service acting upon the written request of a government agency,
28 when the government agency certifies in writing that it is investigating the
29 disappearance of a subscriber, customer, or user, that it has the purpose of
30 locating such subscriber, customer, or user, and—

31 “(a) the subscriber, customer, or user is a minor; or

1 “(b) the governmental entity reasonably believes that the
2 subscriber, customer, or user is suffering from a condition or circumstance
3 that may create an imminent danger of his or her death or serious physical
4 injury, and the subscriber, customer, or user’s spouse, parent, lawful
5 guardian, adult child, or adult sibling has consented to the use of the pen
6 register or trap and trace device.”

7 **SEC. 125. AMENDMENT TO MOBILE TRACKING DEVICES STATUTE.**

8 Section 3117 of title 18, United States Code, is amended—

9 (a) by adding “Nothing in this section shall be construed to require a warrant
10 when the Constitution of the United States does not require a warrant.” at the end of
11 subsection (a),

12 (b) by adding “(1)” before “the term” in subsection (b), and

13 (c) by adding “(2) the term ‘installation’ means the physical attachment to a
14 person or object.” at the end of subsection (b).

15 **SEC. 126. AMENDMENT TO COMMUNICATIONS ASSISTANCE FOR LAW
16 ENFORCEMENT ACT.**

17 Section 1002(a)(2) of title 47, United States Code, is amended by striking
18 “(except to the extent that the location may be determined from the telephone number)”
19 and inserting in its place “(except to the extent that the location may be determined from
20 the telephone number or other device identifier). Such call-identifying information may
21 include information that may disclose such physical location if it is acquired pursuant to a
22 court order or warrant, under section 2703 of title 18, or other lawful authorization.”

23 **TITLE II—ENDING DEMAND FOR CHILD
24 PORNOGRAPHY AND CHILD SEXUAL
25 EXPLOITATION**

26 **SEC. 201. MANDATORY MINIMUM FOR POSSESSION OF CHILD
27 PORNOGRAPHY.**

28 (a) Subsection (b)(2) of section 2252 of title 18, United States Code, is amended
29 by—

30 (1) striking “or imprisoned not more than 10 years, or both” and inserting

1 in lieu thereof “and imprisoned not less than 2 years nor more than 15 years”.

2 (b) Subsection (b)(2) of section 2252A of title 18, United States Code, is amended
3 by—

4 (1) striking “or imprisoned not more than 10 years, or both” and inserting
5 in lieu thereof “and imprisoned not less than 2 years nor more than 15 years”.

6 **SEC. 202. STRENGTHENING SECTION 13032 OF TITLE 42 TO ENSURE**
7 **THAT CHILD PORNOGRAPHY IS EFFECTIVELY REPORTED.**

8 Section 13032 of title 42 of the United States Code is amended—

9 (a) By amending paragraph (4) of subsection (b) to read as follows:

10 “(4) Failure to report.

11 “(A) A provider of electronic communication services or remote
12 computing services described in paragraph (1) who knowingly and willfully fails
13 to make a report under that paragraph shall be fined—

14 “(i) in the case of an initial failure to make a report, not more than
15 \$150,000; and

16 “(ii) in the case of any second or subsequent failure to make a
17 report, not more than \$ 300,000.

18 “(B) A provider of electronic communication services or remote
19 computing services described in paragraph (1) who negligently fails to make a
20 report under that paragraph shall be subject to a civil penalty of—

21 “(i) in the case of an initial failure to make a report, not more than
22 \$ 50,000; and

23 “(ii) in the case of any second or subsequent failure to make a
24 report, not more than \$100,000.

25 For the purposes of this paragraph, the Federal Communications
26 Commission shall have the authority to levy civil penalties and shall promulgate
27 regulations, in consultation with the Attorney General, to effectuate the purposes
28 of this paragraph and to provide for appropriate administrative review of any civil
29 penalties levied thereunder.”

30 **SEC. 203. KNOWINGLY ACCESSING CHILD PORNOGRAPHY.**

31 (a) Subsection (a)(4)(A) of section 2252 of title 18, United States Code, is

1 amended by—

2 (1) inserting after “possesses,” the following: “or knowingly accesses with
3 intent to view,”.

4 (b) Subsection (a)(4)(B) of section 2252 of title 18, United States Code, is
5 amended by—

6 (1) inserting after “possesses,” the following: “or knowingly accesses with
7 intent to view,”.

8 (c) Subsection (a)(5)(A) of section 2252A of title 18, United States Code, is
9 amended by—

10 (1) inserting after “possesses,” the following: “or knowingly accesses
11 with intent to view,”.

12 (d) Subsection (a)(5)(B) of section 2252A of title 18, United States Code, is
13 amended by—

14 (1) inserting after “possesses,” the following: “or knowingly accesses with
15 intent to view,”.

16 **SEC. 204. CONSPIRACY PROVISION FOR CHAPTER 77 OFFENSES.**

17 (a) Subsection (a) of section 1594 of title 18 of the United States Code is amended
18 by—

19 (1) inserting after “attempts” the following: “or conspires to”.

20 **SEC. 205. MANDATORY RESTITUTION FOR CERTAIN CHILD SEX**
21 **OFFENSES.**

22 (a) Chapter 117 of title 18, United States Code, is amended by adding at the end
23 the following:

24 **“§ 2429. Mandatory restitution.**

25 “(a) IN GENERAL. Notwithstanding section 3663 or 3663A, and in addition to
26 any other civil or criminal penalty authorized by law, the court shall order restitution for
27 any offense under this chapter.

28 “(b) SCOPE AND NATURE OF ORDER.

29 “(1) Directions. The order of restitution under this section shall direct the
30 defendant to pay the victim (through the appropriate court mechanism) the full
31 amount of the victim’s losses as determined by the court pursuant to paragraph

1 (2).

2 “(2) Enforcement. An order of restitution under this section shall be issued
3 and enforced in accordance with section 3664 in the same manner as an order
4 under section 3663A.

5 “(3) Definition. For purposes of this subsection, the term "full amount of
6 the victim’s losses" includes any costs incurred by the victim for—

7 “(A) medical services relating to physical, psychiatric, or
8 psychological care as a proximate result of the offense;

9 “(B) physical and occupational therapy or rehabilitation as a
10 proximate result of the offense;

11 “(C) necessary transportation, temporary housing, and child care
12 expenses as a proximate result of the offense;

13 “(D) lost income as a proximate result of the offense;

14 “(E) attorneys’ fees, as well as other costs incurred as a proximate
15 result of the offense; and

16 “(F) any other losses suffered by the victim as a proximate result of
17 the offense.

18 “(4) Order mandatory.

19 “(A) The issuance of a restitution order under this section is
20 mandatory.

21 “(B) A court may not decline to issue an order under this section
22 because of—

23 “(i) the economic circumstances of the defendant; or

24 “(ii) the fact that a victim has received, or is entitled to
25 receive, compensation for his or her injuries from the proceeds of
26 insurance or any other source.

27 “(c) DEFINITION. For purposes of this section, the term "victim" means the
28 individual harmed as a result of a commission of a crime under this chapter, including, in
29 the case of a victim who is under 18 years of age, incompetent, incapacitated, or
30 deceased, the legal guardian of the victim or representative of the victim’s estate, another
31 family member, or any other person appointed as suitable by the court, but in no event

1 shall the defendant be named as such representative or guardian.”.

2 **SEC. 206. AMEND DEFINITION OF ILLICIT SEXUAL CONDUCT.**

3 (a) Subsection (f) of section 2423 of title 18, United States Code, is amended
4 by—

5 (1) striking “or”;

6 (2) deleting the period at the end of the subsection and inserting in lieu
7 thereof “; or (3) production of child pornography, as defined in section 2256(8).”

8 **SEC. 207. EXPAND THE USE OF THE SEX TRAFFICKING STATUTE.**

9 (a) Subsection (b)(2) of section 2252 of title 18, United States Code, is amended
10 by—

11 (1) inserting after “this chapter,” the following: “section 1591,”.

12 (b) Subsection (b)(2) of section 2252A of title 18, United States Code, is amended
13 by—

14 (1) inserting after “this chapter,” the following: “section 1591,”.

15 (c) Subsection (b)(1)(A) of section 2426 of title 18, United States Code, is
16 amended by—

17 (1) following “109A,” striking “or”; and

18 (2) inserting after “chapter 110” the following “or section 1591”.

19 (d) Subsection (a)(4)(C) of section 3156 of title 18, United States Code, is
20 amended by—

21 (1) inserting after “117” the following: “, or section 1591”.

22 (e) Subsection (a)(1)(D) of section 3486 of title 18, United States Code, is
23 amended by—

24 (1) inserting after “1201,” the following: “1591,”.

25 **TITLE III—THE PROCEEDS OF CRIME ACT**

26 **SEC. 301. SHORT TITLE.**

27 This title may be cited as the “Proceeds of Crime Act of 2007”.

28 **Subtitle A—Property Subject to Forfeiture to the**
29 **United States**

30 **SEC. 302. ADDITIONS TO THE GENERAL FORFEITURE STATUTE.**

1 (a) TERRORISM.—Section 981(a)(1) of title 18, United States Code, is amended
2 in subparagraph (H) by striking “section 2339C” and inserting “sections 2339A, 2339B,
3 2339C or 2339D”.

4 (b) FRAUD AND COMPUTER CRIMES.—

5 (1) Section 981(a)(1) of title 18, United States Code, is amended by
6 adding the following at the end:

7 “(I)(i) Any computer, internet domain name, photostatic reproduction machine,
8 electronic communications device or other article, apparatus, device or thing made,
9 possessed, fitted, used or intended to be used to commit, or to facilitate the commission
10 of a violation of sections 513, 514, 1028 through 1032, and 1341 through 1350 of this
11 title, or a conspiracy to commit such offense, and any property traceable to such
12 property.”

13 (2) Section 982(a)(2) of title 18, United States Code, is amended by—

14 (A) striking “, affecting a financial institution”; and

15 (B) inserting the following at the end:

16 “For purposes of this subsection, if the violation giving rise to the forfeiture is
17 part of a continuing scheme or plan, the court must order the person convicted of the
18 offense to forfeit the proceeds of the entire scheme or plan.”

19 (c) PROPERTY USED TO COMMIT A CRIMINAL OFFENSE.—Section
20 981(a)(1)(C) of title 18, United States Code, is amended to read as follows:

21 “(C) Any property, real or personal, that constitutes or is derived from the
22 proceeds of any offense constituting a specified unlawful activity (as defined in Section
23 1956(c)(7)), or a conspiracy to commit such offense, any property used or intended to be
24 used to commit or to facilitate the commission of such offense, and any property
25 traceable thereto.”

26 (d) ODOMETER TAMPERING OFFENSES.— Section 981(a)(1)(F) of title 18,
27 United States Code, is amended—

28 (1) by striking “or” at the end of clause (iv);

29 (2) by striking the period at the end of clause (v) and inserting “; or”;

30 (3) by inserting the following after clause (v), as amended:

1 “(vi) sections 32703 (motor vehicle odometer tampering), 32704 (odometer
2 tampering by replacing odometers), and 32705(a)(2) (false odometer certification) of title
3 49, United States Code.”; and

4 (4) by adding the following after the last period:

5 “In the case of a violation described in clause (i) or (vi), any vehicles or other
6 property involved in the commission of the offense shall also be subject to forfeiture.”

7 (e) REPEAL OF OBSOLETE PROVISION.—Section 981(a)(1)(E) is repealed.

8 **SEC. 303. DRUGS AND MONEY LAUNDERING.**

9 (a) MONEY LAUNDERING CONSPIRACIES.—Section 982(a)(1) of title 18,
10 United States Code, is amended by inserting “, or any conspiracy to commit any such
11 offense” after “of this title”.

12 (b) PROPERTY USED TO COMMIT A DRUG OFFENSE.—

13 (1) Section 511(a)(4) of the Controlled Substances Act (21 U.S.C.
14 881(a)(4)) is amended to read as follows:

15 “(4) Any property used or intended to be used to commit or to facilitate
16 the commission of an offense under this subchapter punishable by more than one
17 year’s imprisonment, and any property traceable to such property.”

18 (2) Section 511(a)(7) of the Controlled Substances Act (21 U.S.C.
19 § 881(a)(7)) is amended by inserting “, and any property traceable to such
20 property” after “one year’s imprisonment”.

21 (c) NEGOTIABLE INSTRUMENTS, SECURITIES AND OTHER THINGS OF
22 VALUE.—Section 511(a)(6) of the Controlled Substances Act (21 U.S.C. 881(a)(6)) is
23 amended—

24 (1) by inserting “, and any property traceable to such property” after “this
25 subchapter” the second time it appears, and

26 (2) by inserting “or other things of value” before “used or intended to be
27 used”.

28 (d) AMMUNITION.—Section 511(a)(11) of the Controlled Substances Act (21
29 U.S.C. § 881(a)(11)) is amended by striking “Any firearm (as defined in section 921 of
30 Title 18) and inserting “Any firearm or ammunition (as defined in section 921 of Title
31 18) or any holster or other carrying case, body armor, sighting device or magazine”.

1 (e) BODY ARMOR.— Section 924(d)(1) of Title 18, United States Code is
2 amended by inserting “or any body armor involved in or used in any knowing violation
3 of section 931,” after “by clear and convincing evidence,” ;

4 (f) CRIMINAL FORFEITURE.—

5 (1) Section 413(a)(2) of the Controlled Substances Act (21 U.S.C.
6 § 853(a)(2)) is amended by adding “, or any property traceable thereto” before the
7 semi-colon.

8 (2) Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)), is
9 amended by adding the following sentence at the end:

10 “In addition to any other money judgment that may be imposed under this section,
11 a person who does not receive any proceeds from the sale, importation or distribution of a
12 controlled substance because the person is arrested, or the controlled substance is seized,
13 before the sale, importation or distribution is complete, shall pay a money judgment equal
14 to the amount of money that would have been paid if such sale, importation or
15 distribution had been completed.”

16 (g) SUMMARY FORFEITURE OF CONTRABAND.—

17 (1) IN GENERAL.—Chapter 46 of title 18, United States Code, is
18 amended by adding the following after Section 987:

19 **“§ 988. Summary Forfeiture of Contraband**

20 “(a) Any property constituting contraband, as defined in this section, that is
21 lawfully seized or obtained by a federal law enforcement officer, or that is lawfully
22 delivered to a federal law enforcement officer by a state, local or foreign law enforcement
23 officer, may be summarily forfeited to the United States.

24 “(b) No person shall have standing to contest the forfeiture of property subject to
25 summary forfeiture under this section, and no person shall be entitled to notice of such
26 forfeiture.

27 “(c) The federal law enforcement agency in possession of the property subject to
28 summary forfeiture may destroy or otherwise dispose of such property and any
29 equipment or container that cannot be separated safely from it.

30 “(d) For purposes of this section, contraband means—

1 “(1) any controlled substance, hazardous raw material, equipment or
2 container, plants or other property subject to summary forfeiture pursuant to
3 Section 511(f) or (g) of the Controlled Substances Act (21 U.S.C. § 881(f) or (g));

4 “(2) any controlled substance imported into the United States in violation
5 of law;

6 “(3) any money or other thing of value given voluntarily to a federal law
7 enforcement officer, or person acting at the direction of a federal law enforcement
8 officer, in the course of an undercover or “sting” operation; or

9 “(4) any property that is illegal to possess.”

10 (2) CONFORMING AMENDMENT.—The section analysis for chapter
11 46 of title 18, United States Code, is amended by inserting the following after the
12 entry relating to Section 987:

13 **“Sec. 988. Summary Forfeiture of Contraband”**

14 **SEC. 304. ALIEN SMUGGLING.**

15 (a) REAL PROPERTY USED IN ALIEN SMUGGLING.—Section 274(b)(1) of
16 the Immigration and Nationality Act (8 U.S.C. § 1324(b)(1)) is amended by—

17 (1) striking “Any conveyance, including any vessel, vehicle, or aircraft,
18 that has been used in the commission of a violation” and inserting “Any property,
19 real or personal, used or intended to be used to commit or to facilitate the
20 commission of a violation”; and

21 (2) striking “such conveyance” and inserting “such property”.

22 (b) PROCEEDS OF ALIEN SMUGGLING.—Section 274(b) of the Immigration
23 and Nationality Act (8 U.S.C. § 1324(b)) is amended by adding the following after
24 paragraph (3):

25 “(4) For purposes of this subsection and Section 982(a)(6) of title 18, the
26 term “proceeds” includes any property, real or personal, or interest in such
27 property obtained or retained as a consequence of an act or omission in violation
28 of this section”.

29 (c) TECHNICAL CORRECTIONS.—

1 (1) Section 274(b)(2) of the Immigration and Nationality Act (8 U.S.C.
2 § 1324(b)(2)) is amended by inserting “or the Secretary for Homeland Security”
3 after “Attorney General”.

4 (2) Section 274(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C.
5 § 1324(b)(2)(B)) is amended by striking “the Service” and inserting “the
6 Department of Homeland Security”.

7 **SEC. 305. RESERVED.**

8 **SEC. 306. RESERVED.**

9 **SEC. 307. RESERVED.**

10 **SEC. 308. FOOD STAMP FRAUD.**

11 Section 15(h) of the Food Stamp Act of 1977 (7 U.S.C. 2024(h)) is amended to
12 read as follows:

13 “(h) **Forfeiture**

14 “(1) Any property, real or personal,

15 “(A) used or intended to be used to commit or to facilitate the
16 commission of a violation (other than a misdemeanor) of subsection (b) or
17 (c), or

18 “(B) constituting, derived from, or traceable to proceeds of a
19 violation of subsection (b) or (c),
20 shall be subject to forfeiture to the United States.

21 “(2) The provisions of chapter 46 of title 18 relating to civil forfeitures
22 shall extend to any seizure or civil forfeiture under this section.”

23 **SEC. 309. DEVICES USED TO CREATE OR REPLICATE COUNTERFEIT**
24 **COMPUTER SOFTWARE.**

25 (a) IN GENERAL.—Section 2318(d) of title 18, United States Code, is amended
26 to read as follows:

27 “(d) **Forfeitures.**

28 “(1) The following property is subject to forfeiture to the United States—

29 “(A) any counterfeit label and any article to which a counterfeit
30 label has been affixed or which was intended to have such label affixed;

1 “(B) any implement, device, or equipment used or intended to be
2 used in the manufacture of counterfeit labels; and

3 “(C) any replicator or other device or thing used or intended to be
4 used to copy or produce a computer program or other item to which a
5 counterfeit label has been affixed.

6 “(2) The provisions of chapter 46 of this title relating to civil forfeitures
7 shall extend to any seizure or civil forfeiture under this section.

8 (b) CONFORMING AMENDMENT.—Section 492 of title 18, United States
9 Code, is amended by striking “or 1720” and inserting “, 1720 or 2318”.

10 **SEC. 310. PROPERTY USED TO ESCAPE FEDERAL CUSTODY OR REMAIN**
11 **A FUGITIVE.**

12 Section 981(a)(1) of title 18, United States Code, is amended by adding the
13 following after sub-paragraph (I), as added by this Act:

14 “(J) Any property, real or personal, used or intended to be used—

15 “(i) to commit, or to facilitate the commission of a violation of section 751
16 or 752 of this title, or

17 “(ii) to facilitate the efforts of any person to remain a fugitive from justice,
18 as defined in Section 2466(a)(1) of title 28, and any property traceable to such
19 property.”.

20 **SEC. 311. COPYRIGHT VIOLATIONS.**

21 Section 2319A(b) of title 18, United States Code, is amended to read as follows:

22 “(b) **Forfeitures.**

23 “(1) The following property is subject to forfeiture to the United States—

24 “(A) all copies or phonorecords made, as well as any plates, molds,
25 matrices, masters, tapes, and film negatives by means of which such
26 copies or phonorecords may be made;

27 “(B) all implements, devices, or equipment used, in any manner or
28 part, to commit or to facilitate the commission of a violation of subsection
29 (a);

30 “(2) The provisions of chapter 46 of this title relating to civil forfeitures
31 shall extend to any seizure or civil forfeiture under this section.”

1 **SEC. 312. RESERVED.**

2 **SEC. 313. TRADE SECRETS.**

3 Section 1834 of title 18, United States Code, is amended to read as follows:

4 **“§ 1834. Forfeiture.**

5 “(a) The following property is subject to forfeiture to the United States:

6 “(1) any property constituting or derived from any proceeds obtained
7 directly or indirectly as a result of a violation of this chapter;

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

10 “(b) The provisions of chapter 46 of this title relating to civil forfeitures shall
11 extend to any seizure or civil forfeiture under this section.”.

12 **SEC. 314. CONTRABAND CIGARETTES.**

13 Section 2344(c) of title 18, United States Code, is amended to read as follows:

14 “(c) Forfeitures.

15 “(1) Any contraband cigarettes involved in any violation or conspiracy to
16 violate any of the provisions of this chapter, and any proceeds of such violation or
17 conspiracy to commit such violation, or any property traceable thereto, shall be
18 subject to seizure and forfeiture to the United States.

19 “(2) The provisions of chapter 46 of this title relating to civil forfeitures
20 shall extend to any seizure or civil forfeiture under this section.”.

21 **SEC. 315. RECENTLY-ENACTED TITLE 31 VIOLATIONS.**

22 Section 5317 of title 31, United States Code, is amended by—

23 (a) in paragraph (c)(1)(A), by striking “or” after 5316, and adding “, 5331, or
24 5363” after 5324; and

25 (b) in paragraph (c)(2), by striking “or” after 5316, and adding “, 5331, or 5363”
26 after 5324.

27 **SEC. 316. ARCHAEOLOGICAL RESOURCES PROTECTION ACT.**

28 (a) FORFEITURE UNDER THE ARCHAEOLOGICAL RESOURCES PROTECTION ACT.—

29 Section 8(b) of the Archeological Resources Protection Act of 1979 (Public Law 96-
30 95;16 U.S.C. § 477gg(b)) is repealed:

31 (b) CODIFICATION OF ARCHAEOLOGICAL RESOURCE PROTECTION ACT’S

1 CRIMINAL PROVISION IN TITLE 18.—

2 (1) Section 6 of the Archaeological Resources Protection Act of 1979
3 (Public Law 96-95; 16 U.S.C. §§ 470ee) is repealed.

4 (2) Chapter 65 of title 18, United States Code, is amended by adding at the
5 end the following new section:

6 “Section 1370. Archaeological Resources—Prohibited Acts and Criminal
7 Penalties.

8 “(a) No person may excavate, remove, damage, or otherwise alter or deface or
9 attempt to excavate, remove, damage, or otherwise alter or deface any archaeological
10 resource located on public lands or Indian lands unless such activity is pursuant to a
11 permit issued under section 4 of the Archaeological Resources Protection Act of 1979 (16
12 U.S.C. §§ 470aa *et seq.*), a permit referred to in section 4(h)(2) of the Archaeological
13 Resources Protection Act of 1979 (16 U.S.C. §§ 470aa *et seq.*), or the exemption
14 contained in section 4(g)(1) of the Archaeological Resources Protection Act of 1979 (16
15 U.S.C. §§ 470aa *et seq.*).

16 “(b) No person may sell, purchase, exchange, transport, receive, or offer to sell,
17 purchase, or exchange any archaeological resource if such resource was excavated or
18 removed from public lands or Indian lands in violation of—

19 “(1) the prohibition contained in subsection (a) of this section, or

20 “(2) any provision, rule, regulation, ordinance, or permit in effect under
21 any other provision of Federal law.

22 “(c) No person may sell, purchase, exchange, transport, receive, or offer to sell,
23 purchase, or exchange, in interstate or foreign commerce, any archaeological resource
24 excavated, removed, sold, purchased, exchanged, transported, or received in violation of
25 any provision, rule, regulation, ordinance, or permit in effect under State or local law.

26 “(d) Any person who knowingly violates, or counsels, procures, solicits, or
27 employs any other person to violate, any prohibition contained in subsection (a), (b), or
28 (c) of this section shall, upon conviction, be fined in accordance with this title, or
29 imprisoned not more than 10 years, or both; but if the sum of the commercial and
30 archaeological value of the archaeological resources involved and the cost of restoration
31 and repair does not exceed \$500, such person shall be fined under this title, imprisoned

1 not more than one year, or both. In the case of a second or subsequent such violation,
2 upon conviction such person shall be fined in accordance with this title, or imprisoned
3 not more than 20 years, or both.

4 “(e) The prohibitions contained in this section shall take effect on October 31,
5 1979.

6 “(f) Nothing in subsection (b)(1) of this section shall be deemed applicable to any
7 person with respect to any archaeological resource which was in the lawful possession of
8 such person prior to October 31, 1979.

9 “(g) Nothing in subsection (d) of this section shall be deemed applicable to any
10 person with respect to the removal of arrowheads located on the surface of the ground.

11 “(h) Forfeitures.

12 “(1) The following property is subject to forfeiture to the United States—

13 “(A) all archeological resources involved in a violation of
14 subsection (a), (b) or (c) of this section;

15 “(B) all proceeds derived directly or indirectly from such violation;

16 “(C) any vehicle, equipment or other property used or intended to
17 be used to commit or to facilitate the commission of such violation; and

18 “(D) all property traceable to such property.

19 “(2) The provisions of chapter 46 of this title relating to civil forfeitures
20 shall extend to any seizure or civil forfeiture under this section.”

21 (3) The table of sections at the beginning of chapter 65 of title 18, United
22 States Code, is amended by adding at the end the following new item:

23 “Section 1370. Archaeological Resources—Prohibited Acts and Criminal Penalties.”

24 (c) STATUTE OF LIMITATIONS FOR CRIMINAL VIOLATIONS OF ARCHAEOLOGICAL
25 RESOURCES PROTECTION ACT.

26 (1) Chapter 213 of title 18, United States Code, is amended by adding at
27 the end the following new section:

28 “§3298. Archeological Resources Offenses. “No person shall be prosecuted, tried,
29 or punished for a violation of or conspiracy to violate section 1370, title 18, United States
30 Code, unless the indictment is returned or the information is filed within 20 years after
31 the commission of the offense.”

1 (2) The table of sections at the beginning of chapter 213 of title 18, United
2 States Code, is amended by adding at the end the following new item:
3 “Section 3298. Archaeological Resources—Prohibited Acts and Criminal Penalties.”.

4 **SEC. 317. COMPUTER FRAUD.**

5 Section 1030 of title 18, United States Code, is amended by inserting the
6 following after subsection (h):

7 “(i)(1) The court, in imposing sentence on any person convicted of a violation of
8 this section, or convicted of conspiracy to violate this section, shall order, in addition to
9 any other sentence imposed and irrespective of any provision of State law, that such
10 person forfeit to the United States—

11 “(A) such person’s interest in any personal property that was used or
12 intended to be used to commit or to facilitate the commission of such violation;
13 and

14 “(B) any property, real or personal, constituting or derived from, any
15 proceeds that such person obtained, directly or indirectly, as a result of such
16 violation;

17 “(2) The criminal forfeiture of property under this subsection, any seizure and
18 disposition thereof, and any judicial proceeding in relation thereto, shall be governed by
19 the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control
20 Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

21 “(j)(1) The following shall be subject to forfeiture to the United States and no
22 property right shall exist in them:

23 “(A) any personal property used or intended to be used to commit or to
24 facilitate the commission of any violation of this section, or a conspiracy to
25 violate this section; and

26 “(B) any property, real or personal, which constitutes or is derived from
27 proceeds traceable to any violation of this section, or a conspiracy to violate this
28 section.

29 “(2) The provisions of chapter 46 of this title relating to civil forfeiture shall apply
30 to any seizure or civil forfeiture under this subsection.”.

31 **SEC. 318. FALSE IMPERSONATION.**

1 (a) IN GENERAL.—Chapter 43 of title 18, United States Code, is amended by
2 inserting the following after Section 917:

3 **“§ 918. Forfeiture.**

4 “(a)(1) The court, in imposing sentence on any person convicted of a violation of
5 this chapter or convicted of conspiracy to violate this section, shall order, in addition to
6 any other sentence imposed and irrespective of any provision of State law, that such
7 person forfeit to the United States—

8 “(A) any property that was used or intended to be used to commit or to
9 facilitate the commission of such violation; and

10 “(B) any property constituting or derived from, any proceeds that such
11 person obtained, directly or indirectly, as a result of such violation;

12 “(2) The criminal forfeiture of property under this subsection, any seizure and
13 disposition thereof, and any judicial proceeding in relation thereto, shall be governed by
14 the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control
15 Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

16 “(b)(1) The following shall be subject to forfeiture to the United States and no
17 property right shall exist in them:

18 “(A) any property used or intended to be used to commit or to facilitate the
19 commission of any violation of this chapter or any conspiracy to commit such
20 violation, and any property traceable to such property; and

21 “(B) any property that constitutes or is derived from proceeds traceable to
22 any violation of this chapter or a conspiracy to commit such violation.

23 “(2) The provisions of chapter 46 of this title relating to civil forfeiture shall apply
24 to any seizure or civil forfeiture under this subsection.”

25 (b) CONFORMING AMENDMENT.—The Chapter analysis for Chapter 43 of
26 title 18, United States Code, is amended by adding the following at the end:

27 “918. Forfeiture.”

28 **SEC. 319. CONSPIRACIES INVOLVING TRAFFICKING IN PERSONS.**

29 (a) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States
30 Code, is amended by inserting “section 241 (involving conspiracies against rights),”
31 before “section 351”.

1 (b) ASSET FORFEITURE.—Section 1594(b) of title 18, United States Code, is
2 amended by inserting “or a conspiracy to commit such violation” after “a violation of this
3 chapter”.

4 **Subtitle B—Money Laundering**

5 **SEC. 320. INTERSTATE TRANSPORTATION OF CRIMINAL PROCEEDS** 6 **AND “REVERSE” MONEY LAUNDERING.**

7 (a) IN GENERAL.—Section 1957(a) of title 18, United States Code, is amended
8 to read as follows:

9 “(a)(1) Whoever, in any of the circumstances set forth in subsection (d)—

10 “(A) conducts or attempts to conduct a monetary transaction
11 involving property of a value greater than \$10,000 that is derived from
12 specified unlawful activity, knowing that the property is derived from
13 some form of unlawful activity, or

14 “(B) conducts or attempts to conduct a monetary transaction
15 involving property of a value greater than \$10,000, with the intent to
16 promote the carrying on of specified unlawful activity,

17 “shall be punished as provided in subsection (b).

18 “(2) Whoever, in the any of the circumstances set forth in subsection (d),
19 transports, attempts to transport, or conspires to transport more than \$10,000 in
20 currency in interstate commerce—

21 “(A) knowing that the currency was derived from some form of
22 unlawful activity, or

23 “(B) knowing that the currency was intended to be used to promote
24 some form of unlawful activity,

25 “shall be punished as provided in subsection (b).”.

26 (b) PENALTY.—Section 1957(b) of title 18, United States Code, is amended—

27 (1) in paragraph (1) by striking “paragraph (2)” and inserting “paragraphs
28 (2) and (3)”; and

29 (2) by inserting the following after paragraph (2):

30 “(3) The maximum period of incarceration for a person convicted of an offense
31 under subsection (a)(1)(B) must not exceed the statutory maximum for the offense being

1 promoted.”.

2 (c) CONFORMING AMENDMENT.—Section 1957(f) of title 18, United States
3 Code, is amended by inserting the following at the end:

4 “(4) the term ‘conducts’ has the same meaning as it does for purposes of Section
5 1956 of this title.”.

6 (d) STATUTORY HEADING.—Section 1957 of title 18, United States Code, is
7 amended by inserting “or in support of criminal activity” after “specified unlawful
8 activity” in the heading.

9 (e) CHAPTER ANALYSIS.—The item relating to section 1957 in the table of
10 sections for chapter 95 of title 18, United States Code, is amended to read as follows:
11 “1957. Conducting monetary transactions in property derived from specified unlawful
12 activity or in support of criminal activity”

13 **SEC. 321. FREEZING BANK ACCOUNTS OF PERSONS ARRESTED FOR**
14 **OFFENSES INVOLVING THE MOVEMENT OF MONEY**
15 **ACROSS INTERNATIONAL BORDERS.**

16 Section 981(b) of title 18, United States Code, is amended by adding the
17 following after paragraph (4):

18 “(5) **Temporary freeze of bank account.**

19 “(A) If a person is arrested or charged in connection with an offense
20 described in (C) involving the movement of funds into or out of the United States,
21 the Attorney General may apply to any Federal judge or magistrate judge in the
22 district in which the arrest is made or the charges are filed for an *ex parte* order
23 restraining any account held by the person arrested or charged for not more than
24 30 days, except that the time may be extended for good cause shown at a hearing
25 conducted in the manner provided in Rule 43(e) of the Federal Rules of Civil
26 Procedure. The court may receive and consider evidence and information
27 submitted by the Government that would be inadmissible under the Federal Rules
28 of Evidence.

29 “(B) The application for the restraining order referred to in (A) shall—

30 “(i) identify the offense for which the person has been arrested or
31 charged;

1 “(ii) identify the location and description of the accounts to be
2 restrained; and

3 “(iii) state that the restraining order is needed to prevent the
4 removal of the funds in the account by the person arrested or charged, or
5 by others associated with such person, during the time needed by the
6 Government to conduct such investigation as may be necessary to
7 establish whether there is probable cause to believe that the funds in the
8 accounts are subject to forfeiture in connection with the commission of
9 any criminal offense.”

10 “(C) A restraining order may be issued pursuant to (A) if a person is
11 arrested or charged with any offense for which forfeiture is authorized under this
12 title, title 31, or the Controlled Substances Act.

13 “(D) For purposes of this section,—

14 “(i) the term ‘account’ includes any safe deposit box and any
15 account (as defined in section 5318A(e)(1) and (e)(2)) at any financial
16 institution;

17 “(ii) the term ‘account held by the person arrested or charged’
18 includes an account held in the name of such person, and any account over
19 which such person has effective control as a signatory or otherwise.”

20 “(E) Restraint pursuant to this subsection shall not be deemed a ‘seizure’
21 for purposes of subsection 983(a) of this Title.”

22 “(F) A restraining order issued pursuant to this subsection may be
23 executed in any district in which the subject account is found, or transmitted to
24 the central authority of any foreign state for service in accordance with any treaty
25 or other international agreement.”.

26 **SEC. 322. PROCEDURE FOR ISSUING SUBPOENAS IN CERTAIN MONEY**
27 **LAUNDERING AND FORFEITURE CASES.**

28 (a) IN GENERAL.—Section 986 of title 18, United States Code, is amended—

29 (1) in subsection (a)—

30 (A) by inserting “(1)” before “At any time”;

31 (B) by striking “section 1956, 1957, or 1960 of this title, section

1 5322 or 5324 of title 31, United States Code” and inserting “section 981 or
2 982 of this title, or sections 5317 and 5332 of title 31”;

3 (C) by striking “in rem”; and

4 (D) by striking the last sentence and inserting the following:

5 “(2) The United States may request the Clerk of the Court in any district where a
6 civil forfeiture action may be filed pursuant to 28 U.S.C. § 1355(b) to issue a subpoena
7 duces tecum under paragraph (1) before the filing of the verified complaint.”.

8 (2) in subsection (c), by inserting “or the Federal Rules of Criminal
9 Procedure” after “Procedure”.

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

11 “(e) **Procedure for Issuing Subpoenas.**—The Attorney General, a United States
12 Attorney, an Assistant United States Attorney, or an attorney in the Criminal Division of
13 the Department of Justice may issue a subpoena for evidence in any investigation of a
14 violation of Sections 1956, 1957 or 1960 of this title 18, or Section 5332 of title 31, in the
15 manner set forth in Section 3486 of this title.”.

16 (b) **GRAND JURY SUBPOENAS.**—Section 5318(k)(3)(A) of title 31, United
17 States Code, is amended by—

18 (1) striking the words “related to such correspondent account” in clause
19 (i); and

20 (2) adding the following after clause (ii):

21 “(iii) **GRAND JURY OR TRIAL SUBPOENA.**—In addition to a subpoena issued
22 by the Attorney General or the Secretary of the Treasury, a subpoena under clause (i)
23 may also be a grand jury or trial subpoena.”.

24 (c) **FAIR CREDIT REPORTING ACT AMENDMENT.**—Section 604(a)(1) of
25 the Fair Credit Reporting Act (15 U.S.C. § 1681b(a)(1)) is amended by inserting before
26 the period at the end “, or an investigative subpoena issued pursuant to 31 U.S.C.
27 § 5318”.

28 (d) **OBSTRUCTION OF JUSTICE.**—Section 1510(b) of title 18, United States
29 Code, is amended—

30 (1) in paragraph (b)(2)(A), by inserting “or an investigative subpoena
31 issued pursuant to 31 U.S.C. § 5318” after “grand jury subpoena”; and

1 (2) in paragraph (b)(3)(B), by inserting “, an investigative subpoena issued
2 pursuant to 31 U.S.C. § 5318,” after “grand jury subpoena”.

3 (e) RIGHT TO FINANCIAL PRIVACY ACT.—Section 3420 of title 12, United
4 States Code, is amended—

5 (1) in subsection (b)(1) by inserting “, or an investigative subpoena issued
6 pursuant to 31 U.S.C. § 5318,” after “grand jury subpoena”;

7 (2) in subsection (b)(1)(A) by deleting the current text and replacing it
8 with the following: “crime against any financial institution or supervisory agency
9 or crime involving a violation of the Controlled Substance Act [21 U.S.C. § 801
10 et seq.], the Controlled Substances Import and Export Act [21 U.S.C. 951 et seq.],
11 section 1956, 1957, or 1960 of Title 18, sections 5313, 5316, 5322, 5324, 5331, or
12 5332 of Title 31, or section 6050I of Title 26; or”; and

13 (3) in subsection (a)(1) by inserting “or to the Government” after “to the
14 grand jury”.

15 **SEC. 323. USING BLANK CHECKS IN BEARER FORM TO SMUGGLE**
16 **MONEY.**

17 Section 5316 of title 31, United States Code, is amended by adding the following
18 at the end:

19 “(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT BLANK.—For
20 purposes of this section, a monetary instrument that has the amount left blank shall be
21 considered to have a value in excess of \$10,000 if the instrument was drawn on an
22 account that contained or was intended to contain more than \$10,000 at the time the
23 instrument was being transported, or at the time it was negotiated or was intended to be
24 negotiated.”.

25 **SEC. 324. TREATING ELECTRONIC FUNDS AS FUNGIBLE PROPERTY.**

26 Section 5317(c) of title 31, United States Code, is amended by adding the
27 following after paragraph (2):

28 “(3)(A) In any civil forfeiture action brought pursuant to this section, section
29 5332, or section 981(a)(1)(A) of title 18, currency, precious metals, gemstones, and funds
30 held in any account or safe deposit box at any financial institution shall be considered
31 fungible property identical to other property located in the same place or account at an

1 earlier time.

2 “(B) In any case where (A) applies, it shall not be necessary for the
3 Government to identify the specific property involved in the offense that is the
4 basis for the forfeiture, nor shall it be a defense that the property involved in such
5 offense has been removed and replaced by identical property.”.

6 **SEC. 325. BULK CASH SMUGGLING.**

7 Section 5332(a) of title 31, United States Code, is amended in subsection (b)(1),
8 by striking “5” and inserting “10”.

9 **SEC. 326. MAKING THE INTERNATIONAL MONEY LAUNDERING
10 STATUTE APPLY TO TAX EVASION.**

11 Section 1956(a)(2)(A) of title 18, United States Code, is amended by—

12 (a) inserting “(i)” before “with the intent to promote”; and

13 (b) inserting the following after “or”:

14 “(ii) with the intent to engage in conduct constituting a violation of section 7201
15 or 7206 of the Internal Revenue Code of 1986; or”.

16 **SEC. 327. PROHIBITING MONEY LAUNDERING THROUGH HAWALAS,
17 OTHER INFORMAL VALUE TRANSFER SYSTEMS, AND
18 CLOSELY RELATED TRANSACTIONS.**

19 Section 1956(a)(1) of title 18, United States Code, is amended by striking “For
20 purposes of this paragraph, a financial transaction” and inserting “For purposes of this
21 paragraph and Section 1957, a financial transaction or a monetary transaction”.

22 **SEC. 328. SECTION 1957 VIOLATIONS INVOLVING COMMINGLED FUNDS
23 AND STRUCTURED TRANSACTIONS.**

24 Section 1957 of title 18, United States Code, is amended by adding the following
25 after subsection (f):

26 “(g) The Government may satisfy the \$10,000 requirement in subsection (a)(1) by
27 showing that—

28 “(1) the monetary transaction involved the transfer, withdrawal,
29 encumbrance or other disposition of more than \$10,000 from an account in which
30 more than \$10,000 in proceeds of specified unlawful activity was commingled
31 with other funds; or

1 “(2) the defendant conducted a series of monetary transactions in amounts
2 under \$10,000 that exceeded \$10,000 in the aggregate and that were closely
3 related to each other in terms of such factors as time, the identity of the parties
4 involved, the nature or purpose of the transactions or the manner in which they
5 are conducted.”.

6 **SEC. 329. CHARGING MONEY LAUNDERING AS A COURSE OF CONDUCT.**

7 (a) IN GENERAL.—Section 1956 of title 18, United States Code, as amended by
8 this Act is further amended by inserting the following new subsection:

9 “(k) Multiple violations of this section that are part of the same scheme or
10 continuing course of conduct may be charged, at the election of the Government, in a
11 single count in an indictment or information.”

12 (b) CONSPIRACIES.—Section 1956(h) of title 18 is amended by inserting “, or
13 section 1960” after “section 1957.”.

14 **SEC. 330. KNOWLEDGE THAT THE PROPERTY IS THE PROCEEDS OF A**
15 **SPECIFIC FELONY.**

16 (a) PROCEEDS OF A FELONY.—Section 1956(c)(1) of title 18, United States
17 Code, is amended by inserting “, and regardless of whether or not the person knew that
18 the activity constituted a felony” before the semicolon at the end.

19 (b) INTENT TO CONCEAL OR DISGUISE.—Sections 1956(a)(1)(B)(i) and
20 1956(a)(2)(B)(i) are amended by striking “specified unlawful activity” and inserting
21 “some form of unlawful activity”.

22 **SEC. 331. OTHER SPECIFIED ACTIVITY FOR MONEY LAUNDERING.**

23 (a) AMENDMENTS TO RICO.—Section 1961(1) of title 18, United States Code,
24 is amended—

25 (1) BURGLARY AND EMBEZZLEMENT.—in subparagraph (A), by
26 inserting “burglary, embezzlement,” after “robbery,”;

27 (2) SECURITIES FRAUD.— (A) in subparagraph (D), by striking “fraud
28 in the sale of securities” and inserting “fraud in the purchase or sale of securities”;
29 and (B) in subparagraph (B) by inserting “section 1348 (relating to securities
30 fraud), section 1349 (relating to attempt and conspiracy),” before “section 1425”;

31 (3) ALIEN SMUGGLING.—in subparagraph (F), by inserting “and

1 274A” after “274”;

2 (b) IDENTITY THEFT.—

3 (1) Section 1956(c)(7)(D) of title 18, United States Code, is amended by
4 inserting the following at the end before the semi-colon: “, or 42 U.S.C. § 408
5 (relating to obtaining funds through misuse of a social security number)”.

6 (2) Section 1961(1)(B) of title 18, United States Code, is amended by
7 inserting “section 1028A (relating to aggravated identity theft),” before “section
8 1029”.

9 (c) COUNTERFEITING.—Section 1956(c)(7)(D) of title 18, United States Code,
10 is amended by inserting “sections 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, or
11 488 (relating to counterfeiting),” before “any of sections 500 through 503”.

12 (d) FORGERY.—Section 1956(c)(7)(D) of title 18, United States Code, is
13 amended by inserting “, section 510 (relating to forgery)” before “section 513”.

14 (e) EXPLOSIVES.—Section 1956(c)(7)(D) of title 18, United States Code, is
15 amended by striking “section 844(f) or (i)” and inserting “sections 842 and 844”.

16 (f) FOREIGN AGENTS.—Section 1956(c)(7)(D) of title 18, United States Code,
17 is amended by inserting “section 951 (relating to agents of foreign governments),” after
18 “section 924(n) (relating to firearms trafficking),”.

19 (g) OBSCENITY.—Section 1956(c)(7)(D) of title 18, United States Code, is
20 amended by inserting “section 1470 (relating to obscenity and minors),” before “section
21 1708”, and by inserting “section 2252B (relating to misleading internet domain names),”
22 before “section 2280”.

23 (h) FALSE CLAIMS.—Section 1956(c)(7)(D) of title 18, United States Code, is
24 amended by inserting “sections 286-87 (relating to false claims against the United
25 States),” before “section 351”.

26 (i) PROTECTION OF NATURAL RESOURCES AND CULTURAL
27 ASSETS.—Section 1956(c)(7) of title 18, United States Code, is amended—

28 (1) in subparagraph (E), by striking “or” and inserting “, or the Clean Air
29 Act (42 U.S.C. 7401 et seq.), the Federal Insecticide, Fungicide and Rodenticide
30 Act of 1988 (7 U.S.C. 136 et seq.), the Federal Cave Resources Protection Act (16
31 U.S.C. § 4301 et seq.), or any wildlife protection offense, as defined in section

1 49,” after “the Resources Conservation and Recovery Act (42 U.S.C. 6901 et
2 seq.)”; and

3 (2) by inserting the following after paragraph (F):

4 “(G) any violation of the Archaeological Resources Protection Act (16 U.S.C.
5 § 470aa, *et seq.* and 18 U.S.C. § 1370), or the Native American Graves Protection and
6 Repatriation Act (25 U.S.C. 3001, *et seq.*).

7 (j) WILDLIFE PROTECTION OFFENSE.—

8 (1) Chapter 3 of title 18, United States Code, is amended by inserting the
9 following after section 48:

10 **“§ 49. Definition of Wildlife Protection Offense**

11 “(a) As used in this title, the term “wildlife protection offense” means any
12 violation of a provision of this chapter or of any Act listed in subsection (b), or any
13 regulation promulgated thereunder, that may be prosecuted as a criminal offense.

14 “(b) The statutes referred to in subsection (a) include the following:

15 “(1) the Lacey Act (16 U.S.C. §§ 3371-78 and 18 U.S.C. § 42);

16 “(2) the Endangered Species Act (16 U.S.C. §§ 1538-1540);

17 “(3) the Marine Mammal Protection Act (16 U.S.C. §§ 1371-1377);

18 “(4) the African Elephant Conservation Act (16 U.S.C. §§ 4222-24);

19 “(5) the Wild Exotic Bird Conservation Act (16 U.S.C. §§ 4910-4912);

20 “(6) the Bald and Golden Eagle Protection Act (16 U.S.C. § 668);

21 “(7) the Migratory Bird Treaty Act (16 U.S.C. §§ 703-707);

22 “(8) the Migratory Bird Hunting Conservation Stamp Act (16 U.S.C.

23 § 718f);

24 “(9) the Airborne Hunting Act (16 U.S.C. § 742j-1);

25 “(10) the Antarctic Conservation Act (16 U.S.C. §§ 2403-2410);

26 “(11) the National Wildlife Refuge System Administration Act (16 U.S.C.
27 § 668dd);

28 “(12) the Rhinoceros and Tiger Conservation Act (16 U.S.C. § 5305a);

29 “(13) the Antarctic Marine Living Resources Convention (16 U.S.C.
30 § 2435); and

31 “(14) the Fur Seal Act (16 U.S.C. § 1152 – 1156).”

1 (2) The Chapter Analysis for Chapter 3 of title 18, United States Code, is
2 amended by inserting “49. Definition of wildlife protection offense” after the
3 analysis for section 48.

4 **SEC. 332. ILLEGAL MONEY TRANSMITTING BUSINESSES.**

5 (a) “MONEY TRANSMITTING BUSINESS” DEFINED.—Section 1960(b)(2)
6 of title 18, United States Code, is amended to read as follows:

7 “(2) the term ‘money transmitting business’ means any business other than the
8 United States Postal Service, which provides check cashing, currency exchange, money
9 transmitting or remittance services, or issues, sells or redeems money orders, travelers’
10 checks, or other similar instruments or, any other person or association of persons, formal
11 or informal, engaging as a business in transporting, transferring, exchanging or
12 transmitting currency or funds in any form, including any person or association of
13 persons, formal or informal, engaging as a business in any informal money transfer
14 system or any network of people who engage as a business in facilitating the transfer of
15 money domestically or internationally outside of the conventional financial institutions
16 systems.”.

17 (b) GENERAL INTENT REQUIREMENT FOR SECTION 1960(b)(1)(B).—
18 Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting the
19 following before the semi-colon: “, whether or not the defendant knew that the operation
20 was required to comply with such registration requirements”.

21 (c) AUTHORITY TO INVESTIGATE.—Section 1960 of title 18, United States
22 Code, is amended by adding the following at the end:

23 “(c) Violations of this section may be investigated by the Attorney General, the
24 Secretary of the Treasury and the Secretary of the Department of Homeland Security.”

25 (d) TECHNICAL AMENDMENTS.—Section 1960 of title 18, United States
26 Code, is amended—

27 (1) in the title by striking “unlicensed” and inserting “illegal”;

28 (2) in subsection (a) by striking “unlicensed” and inserting “illegal”;

29 (3) in subsection (b)(1) by striking “unlicensed” and inserting “illegal”;

30 and

31 (4) in subsection (b)(1)(C) by inserting “, exchange” after “transportation.”

1 **SEC. 333. TECHNICAL CORRECTION TO THE USA PATRIOT ACT.**

2 Section 5317(c) of title 31, United States Code, is amended by inserting “5314,”
3 after “5313,”.

4 **SEC. 334. TECHNICAL AMENDMENT TO RESTORE WIRETAP AUTHORITY**
5 **FOR CERTAIN MONEY LAUNDERING OFFENSES.**

6 (a) CURRENCY REPORTING OFFENSES.—Section 2516(1)(g) of title 18,
7 United States Code, is amended by striking “or Section 5324 of title 31, United States
8 Code (relating to structuring transactions to evade reporting requirement prohibited” and
9 inserting “or Sections 5324 and 5332 of title 31, United States Code (relating to
10 structuring financial transactions and bulk cash smuggling)”.

11 (b) MONEY LAUNDERING.—Section 2516(1)(c) is amended by inserting
12 “section 1960 (relating to illegal money transmitting businesses),” before “section 659”.

13 **SEC. 335. MISCELLANEOUS MINOR AND TECHNICAL AMENDMENTS.**

14 (a) CRIMINAL FORFEITURE.—Section 982(b) of title 18, United States Code,
15 is amended in subsection (b)(2), by striking “The substitution” and inserting “With
16 respect to a forfeiture under subsection (a)(1), the substitution”.

17 (b) DEFINITION OF FINANCIAL INSTITUTION.—Section 1956(c)(6) of title
18 18, United States Code, is amended by:

- 19 (1) striking “and” at the end of subparagraph (A);
20 (2) inserting “and” after the semi-colon at the end of sub-paragraph (B); and
21 (3) inserting the following at the end:
22 “(Y) a bail bondsman;”.

23 (c) OTHER AMENDMENTS TO SECTIONS 1956 AND 1957.—

24 (1) Section 1956(b) of title 18, United States Code, is amended by
25 inserting the following after paragraph (4):

26 “(5) If a civil action is filed under this subsection, either party may move to stay
27 the action in accordance with Section 981(g) of this title.”

28 (2) Section 1956(c) of title 18, United States Code, is amended—

29 (A) in paragraph (7)(F), by inserting “, as defined in section 24”
30 before the period; and

31 (B) by inserting the following after paragraph (8):

1 “(9) the term “proceeds” means any property or interest in property obtained or
2 retained as a consequence of an act or omission.”

3 (d) OBSTRUCTION OF JUSTICE.—Section 1510(b)(3)(B) of title 18, United
4 States Code, is amended by striking “or” the first time it appears and inserting “, a
5 subpoena issued pursuant to 28 U.S.C. § 1782, or”.

6 (e) CLARIFYING TECHNICAL CORRECTION TO 31 U.S.C. § 5324(a).—
7 Section 5324(a) of title 31, United States Code, is amended by inserting “the
8 recordkeeping requirements of” after “section 5313(a) or”, the first time it appears.

9 **SEC. 336. TECHNICAL CORRECTION REGARDING FORFEITURE**

10 **AUTHORITY FOR SECRETARY, HOMELAND SECURITY.**

11 Section 981 of title 18, United States Code, is amended—

12 (a) by adding the following after “the Secretary of the Treasury” wherever it
13 appears: “, Secretary of Homeland Security”; and

14 (b) in subsection (j) by

15 (1) striking “and” in subparagraph (1);

16 (2) by striking the period after “delegate” and inserting “; and” in
17 subparagraph (2); and

18 (3) by inserting the following new subparagraph after subparagraph (2):

19 “(3) the term ‘Secretary of Homeland Security’ means the Secretary of Homeland
20 Security or his delegate.”

21 **SEC. 337. STORED VALUE CARDS.**

22 Section 5312(a)(3) of title 31, United States Code, is amended by—

23 (1) striking “and” at the end of sub-paragraph (B);

24 (2) striking the period and inserting “; and” before the period at the end of sub-
25 paragraph (C); and

26 (3) inserting the following thereafter:

27 “(D) as the Secretary of the Treasury shall provide by regulation for purposes of
28 sections 5316 and 5331, stored value cards or other similar devices including funds or
29 monetary value represented in digital electronics format (whether or not specially
30 encrypted) and stored or cable of storage on electronic media in such a way as to be
31 retrievable and transferable electronically.”

1 **Subtitle C—Recovering the Proceeds of Crime and**
2 **Victim Restitution**

3 **CHAPTER 1—CRIMINAL FORFEITURE PROCEDURE**

4 **SEC. 338. RESTRAINT OF PROPERTY SUBJECT TO CRIMINAL**
5 **FORFEITURE.**

6 (a) Section 413(e)(1) of the Controlled Substances Act (21 U.S.C. § 853(e)(1)) is
7 amended by—

8 (1) inserting the following before the dash: “, including property that may
9 be forfeited upon the defendant’s conviction to satisfy a money judgment”; and

10 (2) inserting the following before “to preserve”:

11 “to prevent the unlawful use of the property while a criminal action is pending,
12 or”.

13 (b) Section 413(c) of the Controlled Substances Act (21 U.S.C. § 853(c)), is
14 amended by striking “subsection (a)” and inserting “subsection (a) or (p)”.

15 (c) Section 413(e)(3) of the Controlled Substances Act (21 U.S.C. § 853(e)) is
16 amended by inserting “(A)” before “The court” and by adding the following after the
17 period:

18 “(B) The court shall issue any protective order necessary to prevent the premature
19 disclosure of any ongoing law enforcement operation or investigation or the identity of
20 any witness at the hearing. In addition, in any case involving an ongoing investigation,
21 the court shall permit the presentation of evidence *ex parte* and under seal.”

22 (d) Section 413(e) of the Controlled Substances Act is amended by adding the
23 following new paragraph after paragraph (4):

24 “(5)(A) A restraining order entered pursuant to paragraph (1)(A) shall remain in
25 effect through the conclusion of the criminal case, unless modified by the court.

26 “(B) At the request of the defendant, the court may conduct a pre-trial
27 hearing to determine whether the restraining order should be vacated or modified
28 with respect to some or all of the restrained property, if the defendant —

29 “(i) establishes by a preponderance of the evidence that there are
30 no assets, other than the restrained property, available to the defendant to

1 retain counsel in the criminal case, and

2 “(ii) makes a prima facie showing of a bona fide reason to believe
3 that there is no probable cause for the forfeiture of the restrained property,
4 or for the entry of a money judgment that the restrained property would be
5 used to satisfy.

6 “The government shall have an opportunity to cross-examine the defendant and
7 any witnesses the defendant may present on these issues.

8 “(C) If the court determines that the defendant has satisfied the
9 requirements of (B)(i) and (ii), it may hold a hearing to determine whether there is
10 probable cause for the forfeiture of the property. In making such determination,
11 the court shall give due deference to any finding made by a grand jury that there is
12 probable cause to believe that the property is subject to forfeiture.

13 “(D) If the court determines that no probable cause exists for the forfeiture
14 of the property, it shall modify the restraining order to the extent necessary to
15 release the property from restraint.

16 “(E) In any hearing under this paragraph where probable cause is at issue,
17 the court shall limit its inquiry to the existence of probable cause for the forfeiture
18 of the restrained assets, or for the entry of a money judgment that the restrained
19 assets would be used to satisfy. The court shall not entertain challenges to the
20 grand jury’s finding of probable cause regarding the criminal offense giving rise
21 to the forfeiture.

22 “(F) A person other than the defendant who has a legal interest in the
23 restrained property may move to modify or vacate the restraining order on the
24 ground that the order causes a substantial hardship to the moving party and less
25 intrusive means exist to preserve the subject property for forfeiture. In
26 accordance with subsection (k), such person may not object to a restraining order
27 on grounds that may only be asserted in the ancillary proceeding pursuant to
28 subsection (n).”

29 **SEC. 339. AUTHORIZING FORFEITURE PURSUANT TO A GUILTY PLEA.**

30 Section 413 of the Controlled Substances Act (21 U.S.C. § 853) is amended by
31 adding at the end the following new subsection:

1 **“(r) Guilty Pleas**

2 “(1) A defendant who pleads guilty to a criminal offense may, as part of a
3 plea agreement, agree to the forfeiture of any property derived from or used to
4 commit that offense and any other offense that is part of the same scheme or plan
5 or pattern of related conduct.

6 “(2) Upon acceptance of the defendant’s guilty plea, the court shall enter a
7 preliminary order of forfeiture, pursuant to Rule 32.2 of the Federal Rules of
8 Criminal Procedure, with respect to any property that the defendant has agreed to
9 forfeit pursuant to this subsection.”

10 **SEC. 340. CRIMINAL SEIZURE WARRANTS.**

11 Section 413(f) of the Controlled Substances Act (21 U.S.C. § 853(f)) is amended
12 to read as follows:

13 “(f)(1) Property subject to forfeiture under this section may be seized pursuant to
14 Section 981(b) of title 18, United States Code.

15 “(2) If property subject to criminal forfeiture under this section is already
16 in the custody of the United States or any agency thereof, it shall not be necessary
17 to seize or restrain the property for the purpose of criminal forfeiture.

18 “(3) If the seizure warrant is obtained after the property to be seized has
19 been listed in an indictment or criminal information or related bill of particulars,
20 the requirement that the warrant be executed within 10 days under Rule 41,
21 Federal Rules of Criminal Procedure, shall not apply.”

22 **SEC. 341. DISCOVERY PROCEDURE FOR LOCATING FORFEITED ASSETS.**

23 Section 413(m) of the Controlled Substances Act (21 U.S.C. 853(m)) is amended
24 by inserting before the period at the end the following:

25 “to the extent that the provisions of the Rule are consistent with the purposes for
26 which discovery is conducted under this subsection. Because this subsection applies
27 only to matters occurring after the defendant has been convicted and the property of the
28 defendant has been declared forfeited, the provisions of Rule 15 requiring the presence of
29 the defendant at the deposition of any other witness, or a waiver by the defendant of a
30 right to be present, shall not apply”.

31 **SEC. 342. COLLECTION OF CRIMINAL FORFEITURE JUDGMENT.**

1 Section 413 of the Controlled Substances Act (21 U.S.C. § 853) is amended by
2 adding at the end the following new subsection:

3 **“(s) Collection of criminal forfeiture judgment.**

4 “An order of forfeiture in a criminal case may take the form of a money judgment
5 and may be enforced —

6 “(1) in the manner provided for the collection and payment of fines in
7 subchapter B of chapter 229 of title 18, United States Code;

8 “(2) in the same manner as a judgment in a civil action;

9 “(3) pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure;

10 or

11 “(4) pursuant to the Federal Debt Collection Act (28 U.S.C. § 3001 *et*
12 *seq.*).”

13 **SEC. 343. ABATEMENT OF FORFEITURE WHEN DEFENDANT DIES.**

14 (a) IN GENERAL.—Section 413 of the Controlled Substances Act (21 U.S.C.
15 853) is amended by adding at the end the following new subsection:

16 **“(t) Special civil forfeiture proceedings when the defendant dies.**

17 “(1)(A) In any case in which criminal forfeiture has been alleged, if a
18 defendant dies after a plea of guilty or *nolo contendere* has been accepted or a
19 verdict of guilty has been returned, but before the defendant’s time for direct
20 appeal from the conviction or from a criminal order of forfeiture has expired, or
21 before any such appeal by the defendant, or any post-trial motion or appeal by the
22 Government bearing on the forfeiture or the underlying criminal conviction, has
23 finally been resolved, the criminal forfeiture proceeding shall be converted to a
24 special civil forfeiture proceeding notwithstanding the expiration of any civil
25 forfeiture statute of limitations or any time limitation set forth in section 983(a) of
26 Title 18, and shall be concluded as provided herein.

27 “(B) For purposes of this subsection, a plea of guilty or *nolo contendere*
28 shall be considered to have been “accepted” if a court has determined, pursuant to
29 Rule 11(b) of the Federal Rules of Criminal Procedure, that the plea is voluntary
30 and supported by a factual basis, notwithstanding that final acceptance may have
31 been deferred pending review of a presentence report or otherwise; a verdict is

1 “returned” when it is orally stated in open court; and “direct appeal” refers to an
2 appeal filed, within the period provided by the applicable rule of appellate
3 procedure, from the entry of the judgment or order of forfeiture, up to and
4 including review by the Supreme Court.

5 “(2)(A) If a defendant dies after a plea of guilty or *nolo contendere* has
6 been accepted or a verdict of guilty has been returned, but before entry of a
7 criminal order of forfeiture, the court, after a hearing at which the defendant’s
8 personal representative shall have the same rights to present evidence and
9 argument as the defendant would have had if he had survived, shall enter a special
10 civil order of forfeiture if the court finds, by a preponderance of the evidence, that
11 property, including substitute property pursuant to subsection (p) of this section,
12 is forfeitable as a result of defendant’s conviction.

13 “(B) The special civil order of forfeiture shall forfeit to the United States
14 all property, including substitute property, that would have been subject to
15 criminal forfeiture if the defendant had survived, and may constitute, or include, a
16 civil money judgment against the defendant’s estate and any person holding
17 property that would have been forfeitable in the criminal case if the defendant had
18 survived.

19 “(C) Any third-party interests in property subject to a special civil order of
20 forfeiture shall be determined by the court pursuant to subsection (n) of this
21 section as if the defendant had survived. While the defendant’s personal
22 representative may contest forfeitability of particular property and the amount of
23 any money judgment in a special civil order of forfeiture, third-party claimants
24 under this subsection, as under subsection (n) as applied to criminal orders of
25 forfeiture, may contest only issues of ownership.

26 “(3)(A) If a defendant dies after entry of a criminal order of forfeiture, but
27 before the defendant’s time for direct appeal from the underlying criminal
28 conviction or from the criminal order of forfeiture has expired, or before any such
29 appeal by the defendant has finally been resolved, the criminal order of forfeiture
30 shall become a special civil order of forfeiture by operation of law, and
31 proceedings bearing on the forfeiture shall continue, and be concluded, pursuant

1 to this section.

2 “(B) If a defendant dies during the pendency of a post-trial motion or
3 appeal by the Government concerning a court’s failure to announce or enter a
4 requested order of forfeiture or to include such an order in the judgment, other
5 error by the court with respect to the forfeiture, or a court’s post-verdict dismissal
6 of a criminal conviction that was a basis for criminal forfeiture, the court in which
7 the matter is pending, on the Government’s motion, shall continue and conclude
8 the proceeding pursuant to this section, and, if the Government prevails, shall
9 enter, or direct the entry by the district court of, a special civil order of forfeiture
10 if the Government makes the showing required by paragraph (2)(A), or the court
11 determines that such a showing was made before the defendant’s death during the
12 proceedings that are the subject of the pending post-trial motion or appeal.

13 “(4)(A) In all proceedings concerning a special civil order of forfeiture,
14 the court shall consider the relevant portions of the record of the criminal case.
15 That record, including any agreements, admissions, stipulations, findings of fact,
16 conclusions of law, or verdicts bearing upon the defendant’s guilt or the
17 forfeitability of any property of the defendant, and any failure by the defendant to
18 demand a jury verdict on forfeiture, shall be binding on the defendant’s personal
19 representative in the district court, and on any appeal, to the extent that it would
20 have bound the defendant in the criminal case. The record shall be binding upon
21 any third-party claimants to the extent that it would have bound them if the
22 defendant had survived.

23 “(B) The defendant’s personal representative or the Government may file
24 or pursue an otherwise permissible direct appeal, or an otherwise permissible
25 motion under this section or the Federal Rules of Criminal Procedure (other than a
26 motion under Rule 33(b)(1) filed after death or after judgment), to challenge,
27 enforce, correct, amend, modify, or reinstate a special civil order of forfeiture, or
28 to challenge or reinstate a verdict or plea of guilty or *nolo contendere* on which
29 such an order is, or should be, based. In any such appeal or motion, the death of
30 the defendant shall not itself be a basis for relief.

31 “(5)(A) Proceedings concerning a special civil order of forfeiture,

1 including any appeal or motion to challenge, enforce, correct, amend, modify, or
2 reinstate such an order or to challenge or reinstate a verdict or plea of guilty or
3 *nolo contendere* underlying such an order, shall be governed by the provisions of
4 this section and the law and procedures that would have applied if the defendant
5 had survived and the forfeiture proceedings had been conducted and concluded in
6 the criminal case, except that the special civil order of forfeiture need not be
7 included in any criminal sentence or judgment, and the personal representative of
8 the defendant shall be substituted for the defendant. Section 983 of Title 18 and
9 section 2465(b) of Title 28 shall not apply.

10 “(B) A personal representative, if not otherwise appointed, shall be
11 appointed by the district court before which the criminal case was filed or by the
12 court of appeals if the matter is pending on appeal at the time of defendant’s
13 death. Counsel may be appointed for the personal representative of the defendant
14 if counsel would have been available to the defendant under 18 U.S.C. § 3006A.
15 The court may toll any applicable deadline during the period necessary to appoint
16 the personal representative and, where appropriate, counsel.

17 “(C) Appeals by any party from or concerning a special civil order of
18 forfeiture shall be governed by the rules applicable to civil appeals. A special
19 civil order of forfeiture shall be final as to the defendant and the defendant’s
20 estate upon initial entry, and shall be final as to any third-party interests upon
21 entry of any order, or amended order, finally determining such interests pursuant
22 to subsection (n).

23 “(6) Any forfeiture protective orders in effect at the time of a defendant’s
24 death shall continue in effect unless modified by the court after hearing or
25 pursuant to a motion by the Government. Upon the Government’s motion, the
26 court shall take any action necessary to preserve the availability of property for
27 forfeiture pursuant to this subsection.”.

28 (b) CONFORMING AMENDMENTS.—

29 (1) Section 983 of title 18, United States Code, is amended by adding the
30 following new subsection after subsection (j)

31 “(k) **Non-abatement of forfeiture**

1 “(1) The death of an individual does not affect the Government’s ability to
2 seek, or to continue to pursue, civil *in rem* forfeiture of property as authorized by
3 law, except as provided herein. Notwithstanding the expiration of any civil
4 forfeiture statute of limitations or any time limitation set forth in subsection (a),
5 the Government may commence *in rem* civil forfeiture proceedings, within the
6 greater of the time period otherwise authorized by law or two years after the
7 death of an individual against whom a criminal indictment alleging forfeiture is
8 pending at the time of death, against all interests in any property alleged to be
9 forfeitable in the indictment.

10 “(2) The effect of the death of a defendant upon criminal forfeiture shall
11 be governed by section 413(t) of the Controlled Substances Act (21 U.S.C. §
12 853(t)).”.

13 (2) Section 983(i)(2) of title 18, United States Code, is amended by adding
14 at the end the following new subparagraph:

15 “(F) special civil forfeiture proceedings pursuant to Section 413(t) of the
16 Controlled Substances Act (21 U.S.C. § 853(t)).”.

17 **SEC. 344. FORFEITABLE PROPERTY TRANSFERRED TO THIRD PARTIES.**

18 Section 413(c) of the Controlled Substances Act (21 U.S.C. § 853(c)), as amended
19 by this Act, is further amended—

20 (a) by designating the present matter as paragraph (1);

21 (b) in paragraph (1), by striking “subsection (a)” and inserting “subsection (a) or
22 (p)”; and

23 (c) by adding the following new paragraph:

24 “(2)(A) If, as provided in paragraph (1), property transferred to a transferee is
25 ordered forfeited, the transferee shall deposit the forfeited property in the registry of the
26 Court, or with the United States Marshals Service or other Government custodian,
27 pending the conclusion of any ancillary proceeding pursuant to subsection (n).

28 “(B) If the transferee fails to establish pursuant to subsection (n)(6)(B) that the
29 transferee is a bona fide purchaser for value of the forfeited property, but the transferee is
30 unable, due to the transferee’s act or omission, to surrender the forfeited property to the
31 United States, the transferee shall owe the United States a sum of money equal to the

1 greater of—

2 “(i) the value of the property at the time of the transfer, plus interest from
3 the time of the transfer;

4 “(ii) the value of the property at the time it was converted by the third
5 party, plus interest from the time of the conversion, or

6 “(iii) the value of the property at the time the third party is found liable to
7 the Government under this subsection.

8 “(C) Once the ancillary proceedings regarding the transferee’s claim to be a bona
9 fide purchaser are concluded, the district court that issued the order of forfeiture shall
10 issue a judgment in favor of the United States and against the transferee for the amount of
11 money to which the United States is entitled. All money collected pursuant to such a
12 judgment shall constitute forfeited property under this section.”.

13 **SEC. 345. FORFEITURE OF THIRD-PARTY INTERESTS IN CRIMINAL**
14 **CASES.**

15 (a) IN GENERAL.—Section 413 of the Controlled Substances Act (21 U.S.C.
16 § 853) is amended by adding at the end the following new subsection:

17 **“(u) Forfeiture of third party interests**

18 “In lieu of filing a parallel civil forfeiture action, and notwithstanding the
19 expiration of any statute of limitations regarding such action, the government may seek
20 the forfeiture of a third party’s interest in property subject to forfeiture under this section
21 at the conclusion of the ancillary proceeding described in subsection (n). Such
22 proceeding shall be an in rem proceeding in which the third party shall first have the
23 burden of establishing a legal interest in the property pursuant to subsection (n), after
24 which the government shall have the burden of establishing the forfeitability of the third
25 party’s interest in the manner provided for civil forfeitures in chapter 46, title 18, United
26 States Code, and the third party shall have the burden of establishing an innocent owner
27 defense pursuant to such chapter.”.

28 (b) CONFORMING AMENDMENT.—Section 413(n)(6) of the Controlled
29 Substances Act (21 U.S.C. § 853(n)(6)) is amended by adding “, unless the government
30 notifies the court that it will seek to forfeit the petitioner’s interest pursuant to subsection
31 (u)” after “in accordance with its determination”.

1 **SEC. 346. SEVERANCE OF JOINTLY HELD PROPERTY.**

2 (a) IN GENERAL.—Section 413 of the Controlled Substances Act (21 U.S.C.
3 § 853) is amended by adding at the end the following new subsection:

4 **“(v) Severance of jointly held property.**

5 “(1) If the court determines, pursuant to subsection (n) or (u), that a third
6 party had a partial non-forfeitable interest in property otherwise subject to
7 forfeiture, or a joint tenancy or tenancy by the entirety in such property, the court
8 shall enter an appropriate order—

9 “(A) severing the property;

10 “(B) transferring the property to the government with a provision
11 that the government compensate the third party to the extent of his or her
12 non-forfeitable ownership interest once a final order of forfeiture has been
13 entered and the property has been reduced to liquid assets; or

14 “(C) if neither (A) nor (B) is reasonably practical under all of the
15 circumstances, permitting the third party to retain the property subject to a
16 lien in favor of the government to the extent of the forfeitable interest in
17 the property, and entering any order necessary to ensure that the value of
18 the property is maintained, including—

19 “(i) permitting the inspection, photographing, and inventory
20 of the property;

21 “(ii) fixing a bond in accordance with Rule E(5) of the
22 Supplemental Rules for Admiralty or Maritime Claims and Asset
23 Forfeiture Actions; and

24 “(iii) requiring the property owner to obtain or maintain
25 insurance on the subject property.”

26 “(2) To effectuate the purposes of this subsection, a joint tenancy or
27 tenancy by the entireties shall be converted to a tenancy in common by order of
28 the court, irrespective of state law, so that a lien created pursuant to (1)(C) will
29 entitle the Government to the forfeitable portion of the property’s value at the
30 time title to the property is transferred.”

31 (b) CONFORMING AMENDMENT.—Section 983(d)(5) of title 18, United

1 States Code, is amended—

2 (1) by amending subparagraph (C) to read as follows:

3 “(C) if neither (A) nor (B) is reasonably practical under all of the circumstances,
4 permitting the third party to retain the property subject to a lien in favor of the
5 government to the extent of the non-forfeitable interest in the property, and entering any
6 order necessary to ensure that the value of the property is maintained, including—

7 “(i) permitting the inspection, photographing, and inventory of the
8 property;

9 “(ii) fixing a bond in accordance with Rule E(5) of the Supplemental
10 Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions; and

11 “(iii) requiring the property owner to obtain or maintain insurance on the
12 subject property.”; and

13 (2) by adding the following sentence at the end, starting at the margin:

14 “To effectuate the purposes of this subsection, a joint tenancy or tenancy by the
15 entireties shall be converted to a tenancy in common by order of the court, irrespective of
16 state law, so that a lien created pursuant to (1)(C) will entitle the Government to the
17 forfeitable portion of the property’s value at the time title to the property is transferred.”

18 **SEC. 347. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE**
19 **THROUGH BANKRUPTCY.**

20 Section 413(c) of the Controlled Substances Act (21 U.S.C. § 853(c)), as amended
21 by this Act, is further amended by adding at the end the following new paragraph:

22 “(3) Forfeiture under this section shall have priority over any bankruptcy proceed-
23 ing instituted after the commission of the offense giving rise to the forfeiture.”

24 **SEC. 348. UNIFORM PROCEDURES FOR CRIMINAL FORFEITURE.**

25 (a) IN GENERAL.—Section 3554 of title 18, United States Code, is amended to
26 read as follows:

27 “(a) The court, in imposing sentence on a defendant who has been found guilty of
28 an offense for which the forfeiture of property is authorized, shall order, in addition to
29 any sentence imposed pursuant to Section 3551, the forfeiture of the property to the
30 United States in accordance with Rule 32.2 of the Federal Rules of Criminal Procedure
31 and Section 413 of the Controlled Substances Act (21 U.S.C. § 853).

1 “(b) If any property subject to forfeiture is unavailable, the court shall enter a
2 personal money judgment against the defendant in an amount equal to the value of the
3 unavailable property.

4 “(c) Section 413(d) of the Controlled Substances Act (21 U.S.C. § 853(d)) does
5 not apply to forfeitures under this section unless the defendant is convicted of a violation
6 of the Controlled Substances Act.”.

7 (b) RICO.—Section 1963 of title 18, United States Code, is amended by repealing
8 subsections (b) through (m) and inserting the following after subsection (a):

9 “(n) The forfeiture of property under this section shall be governed by Rule 32.2
10 of the Federal Rules of Criminal Procedure and the provisions of section 413 of the
11 Controlled Substances Act (21 U.S.C. § 853), except for subsection 413(d) which shall
12 not apply to forfeitures under this section.”.

13 (c) ESPIONAGE.—Section 794(d)(3) of title 18, United States Code, is amended
14 to read as follows:

15 “(3) The forfeiture of property under this section shall be governed by Rule 32.2
16 of the Federal Rules of Criminal Procedure and the provisions of section 413 of the
17 Controlled Substances Act (21 U.S.C. § 853), except for subsection 413(d) which shall
18 not apply to forfeitures under this section.”.

19 **SEC. 349. APPEALS.**

20 Section 3742 of title 18, United States Code, is amended by adding the following
21 new subsection:

22 “(k) **Criminal forfeiture.** The Government may file a notice of appeal in the
23 district court for review of any aspect of the forfeiture portion of a sentence, of a court’s
24 failure to include forfeiture in a sentence for any offense for which forfeiture is
25 authorized upon conviction, or of any post-judgment forfeiture order, including orders
26 granting or denying motions pursuant to Rule 32.2(e) of the Federal Rules of Criminal
27 Procedure. The notice may be filed pursuant to Fed. R. App. P. 4(b) within 30 days after
28 the sentencing judgment, or subsequent forfeiture order, is entered, or within 30 days
29 after the district court denies a motion for reconsideration of the forfeiture sentencing
30 issue or forfeiture order.”.

31 **SEC. 350. VICTIMS, RESTITUTION AND FORFEITURE.**

1 Section 413 of the Controlled Substances Act (21 U.S.C. § 853), as amended by
2 this Act, is further amended by adding the following at the end:

3 **“(w) Victims and Restitution.**

4 “The defendant may not use property forfeited under this section to satisfy an
5 order of restitution. If an order of forfeiture is entered pursuant to this section and the
6 defendant has no assets other than the forfeited property to pay restitution to identifiable
7 victims, the Attorney General is authorized to restore or remit forfeited property to
8 victims in accordance with subsection (i)(1) and the applicable provisions of 28 C.F.R. §
9 9, once the ancillary proceeding under subsection (n) has been completed and the costs of
10 the forfeiture action have been deducted.”.

11 **SEC. 351. AUTHORITY OF SECRETARY OF HOMELAND SECURITY.**

12 (a) Subsection 981(d) of Title 18 is amended by inserting after “the Secretary of
13 the Treasury,”: “the Secretary of Homeland Security,”; and

14 (b) Subsection 981(e) of Title 18 is amended by inserting after “the Secretary of
15 the Treasury,” each time it appears: “the Secretary of Homeland Security,”.

16 **CHAPTER 2—INTERNATIONAL PROVISIONS**

17 **SEC. 352. PROCEDURES FOR ENFORCEMENT OF FOREIGN FORFEITURE**
18 **JUDGMENTS AND PROTECTIVE ORDERS.**

19 (a) IN GENERAL.—Section 2467 of title 28, United States Code, is amended to
20 read as follows:

21 **“§ 2467. Enforcement of foreign judgments and protective orders.**

22 “(a) Definitions.—In this section—

23 “(1) the term ‘foreign nation’ means a country or territory that has become
24 a party to the United Nations Convention Against Illicit Traffic in Narcotic Drugs
25 and Psychotropic Substances (referred to in this section as the ‘United Nations
26 Convention’) or a foreign jurisdiction with which the United States has a treaty or
27 other formal international agreement in effect providing for mutual forfeiture
28 assistance or which will render forfeiture assistance to the United States based on
29 assurances of reciprocity;

30 “(2) the term ‘forfeiture or confiscation judgment’ means a final order of a
31 foreign nation compelling a person or entity—

1 “(A) to pay a sum of money representing the proceeds of an
2 offense described in Article 3, Paragraph 1, of the United Nations
3 Convention, any violation of foreign law that would constitute a violation
4 or an offense for which property could be forfeited under Federal law if
5 the offense were committed in the United States, or any foreign offense
6 described in section 1956(c)(7)(B) of title 18, or property the value of
7 which corresponds to such proceeds; or

8 “(B) to forfeit property involved in or traceable to the commission
9 of such offense.

10 “(b) Review by attorney general.—

11 “(1) In general.—A foreign nation seeking to have a forfeiture or
12 confiscation judgment registered and enforced by a district court of the United
13 States under this section shall first submit a request to the Attorney General or the
14 designee of the Attorney General, which request shall include—

15 “(A) a summary of the facts of the case and a description of the
16 proceedings that resulted in the forfeiture or confiscation judgment;

17 “(B) a certified copy of the forfeiture or confiscation judgment;

18 “(C) an affidavit or sworn declaration establishing that the foreign
19 nation took steps, in accordance with the principles of due process, to give
20 notice of the proceedings to all persons with an interest in the property in
21 sufficient time to enable such persons to defend against the charges and
22 that the judgment rendered is in force and is not subject to appeal; and

23 “(D) such additional information and evidence as may be required
24 by the Attorney General or the designee of the Attorney General.

25 “(2) Certification of request.—The Attorney General or the designee of
26 the Attorney General shall determine whether, in the interest of justice, to certify
27 the request, and such decision shall be final and not subject to either judicial
28 review or review under subchapter II of chapter 5, or chapter 7, of title 5
29 (commonly known as the “Administrative Procedure Act”).

30 “(c) Jurisdiction and venue.—

31 “(1) In general.—If the Attorney General or the designee of the Attorney

1 General certifies a request under subsection (b), the United States may file an
2 application in district court of the United States seeking to enforce the foreign
3 forfeiture or confiscation judgment as if the judgment had been entered by a court
4 in the United States.

5 “(2) Proceedings.—In a proceeding filed under paragraph (1)—

6 “(A) the United States shall be the applicant and any person or
7 entity affected by the forfeiture or confiscation judgment shall be the
8 respondent;

9 “(B) venue shall lie in the district court for the District of
10 Columbia or in any other district in which any person or entity against
11 whom the foreign forfeiture or confiscation judgment was entered or may
12 be enforced, or in which the property that may be the basis for satisfaction
13 of a judgment under this section may be found;

14 “(C) The United States shall serve process in accordance with the
15 Federal Rules of Civil Procedure and the Supplemental Rules upon such
16 property as may form the basis for satisfaction of the foreign judgment or
17 upon such persons or entities against whom such foreign order may be
18 executed. The United States shall provide written notice to such persons as
19 may be known to the United States to have an interest in the property
20 against which the foreign judgment is to be executed and shall publish
21 notice of such enforcement action in a publication generally circulated in
22 the district where the action is filed, in a newspaper or legal notice
23 generally circulated in the country that requested the United States to
24 forfeit the property or by posting a notice on an official internet
25 government forfeiture site for at least 30 consecutive days;

26 “(D) Any person claiming an interest in the property may file a
27 response to the application of the United States, except that such response
28 must be filed not later than 30 days after the date of service of the
29 Government’s application or, as applicable, not later than 30 days after the
30 date of final publication of notice of the filing of the application. Such
31 response shall,

1 “(i) identify the specific property being claimed;

2 “(ii) state the respondent’s interest in such property;

3 “(iii) set forth with specificity the basis upon which the
4 foreign judgment should not be enforced in accordance with
5 paragraph (d); and

6 “(iv) be made under oath, subject to penalty of perjury;

7 “(E) The Court, sua sponte, or upon motion of the United States
8 shall strike any response or any portion of a response lodged pursuant to
9 subsection (c)(2)(D) that does not raise a claim upon which the
10 enforcement of the foreign judgment could be denied under paragraph (d);

11 “(F) Foreign forfeiture or confiscation judgments certified for
12 enforcement pursuant to subsection (b)(2) shall be presumptively valid
13 and the burden to establish the invalidity of any such foreign judgment
14 shall be upon the respondent by clear and convincing evidence

15 “(d) Entry and enforcement of judgment.—

16 “(1) In general.—The district court shall enter such orders as may be
17 necessary to enforce the foreign forfeiture or confiscation judgment unless the
18 court finds that—

19 “(A) the judgment was rendered under a system that provides
20 tribunals or procedures incompatible with the requirements of due process
21 of law;

22 “(B) the foreign court lacked personal jurisdiction over the
23 defendant;

24 “(C) the foreign court lacked jurisdiction over the subject matter;

25 “(D) the foreign nation did not take steps, in accordance with the
26 principles of due process, to give notice of the proceedings to a person
27 with an interest in the property of the proceedings in sufficient time to
28 enable him or her to defend; or

29 “(E) the judgment was obtained by fraud.

30 “(2) Process.—

31 “(A) Foreign forfeiture or confiscation orders enforced pursuant to

1 subsection (d)(1) shall have full force and effect as if they were entered in
2 a United States forfeiture proceeding. Upon entry of an order of
3 enforcement pursuant to subsection (d)(1), any interest in property
4 forfeited pursuant to this Section shall vest in the United States as of the
5 time of the commission of the offense that gave rise to the foreign order of
6 forfeiture or confiscation;

7 “(B) In the event that a response is not properly filed within the
8 period set forth in subsection (c)(2)(D), the Court, upon motion of the
9 United States, may enter a default order to enforce the foreign judgment.

10 “(C) The disposition of any assets forfeited to the United States
11 through the enforcement of a foreign forfeiture or confiscation judgment
12 under this section shall be made in the same manner as is authorized for
13 the disposition of assets forfeited to the United States pursuant to sections
14 981(e) and 981(i) of title 18.

15 “(D) The custodian of property subject to an order issued or
16 obtained pursuant to subsection (d)(1) or (3) of this section, will be such
17 officers, agents or other persons as authorized or designated for that
18 purpose under the relevant provisions of section 981(d) of title 18.

19 “(3) Preservation of property.—

20 “(A) In general.—To preserve the availability of property subject
21 to forfeiture or confiscation under foreign law, the Government may apply
22 for, and the court may issue, a protective order utilizing the procedures of
23 sections 981(b)(4) or 983(j) of title 18, at any time before or after an
24 application is filed pursuant to subsection (c)(1) of this section regardless
25 whether the foreign forfeiture proceedings instituted or contemplated are
26 civil or criminal in nature.”

27 “(B) Evidence.—The court, in issuing a protective order under
28 subparagraph (A)—

29 “(i) may rely on information set forth in an affidavit
30 describing the nature of the proceeding or investigation underway
31 in the foreign nation, and setting forth a reasonable basis to believe

1 that the property to be restrained, seized, or otherwise preserved
2 will be named in a judgment of forfeiture at the conclusion of such
3 proceeding; or

4 “(ii) may register and enforce an order restraining, seizing
5 or otherwise preserving property subject to forfeiture that has been
6 issued by a competent legal authority in the foreign nation.

7 “(C) Limit on grounds for objection.—No person may object to a
8 protective order under subparagraph (A) on any ground that is the subject
9 of parallel litigation involving the same property that is pending in a
10 foreign court.

11 “(e) Finality of foreign findings.—In entering orders to enforce the judgment, the
12 court shall be bound by the findings of fact to the extent that they are stated in the foreign
13 forfeiture or confiscation judgment.

14 “(f) Currency conversion.— The rate of exchange in effect at the time the
15 decision to enforce the judgment is entered shall be used in calculating the amount stated
16 in any forfeiture or confiscation judgment requiring the payment of a sum of money
17 submitted for registration.

18 “(g) No person shall have any right of action at law or equity against the United
19 States, its officers, employees or any other person acting on behalf of, or at the direction
20 of, the United States that arises from any action taken pursuant to this section, or the
21 return or release of property restrained, seized or forfeited pursuant to this section,
22 including, but not limited to, actions for damages, costs, interest or attorneys fees.”.

23 (b) CONFORMING AMENDMENT.— The item relating to section 2467 in the
24 Chapter Analysis for Chapter 163 of title 28, United States Code, is amended to read as
25 follows:

26 “2467. Enforcement of foreign judgments and protective orders.”

27 **SEC. 353. EXTRATERRITORIAL JURISDICTION.**

28 Section 1956(f)(1) of title 18, United States Code, is amended— by inserting “or
29 has an effect in the United States” after “conduct occurs in part in the United States”.

30 **SEC. 354. SUSPENSION OF THE STATUTE OF LIMITATIONS TO OBTAIN**
31 **FOREIGN EVIDENCE.**

1 Section 3292 of title 18, United States Code, is amended by adding the following
2 after subsection (d):

3 “(e) Civil forfeitures. In a case in which the United States contemplates filing a
4 civil forfeiture action, the United States may apply to a district court where the action
5 may be filed to suspend the running of the statute of limitations under 19 U.S.C. § 1621
6 pursuant to this section.”.

7 **CHAPTER 3—CIVIL FORFEITURE**

8 **SEC. 355. COMPUTERS AND OTHER DEVICES USED FOR**
9 **COUNTERFEITING.**

10 Section 492 of title 18, United States Code, is amended—

- 11 (a) by striking the third and fourth undesignated paragraphs;
12 (b) by designating the remaining paragraphs as subsections (a) and (b); and
13 (c) by adding the following new subsection after subsection (b):

14 “(c) The provisions of chapter 46 of title 18 relating to civil forfeitures shall
15 extend to any seizure or civil forfeiture under this section.”.

16 **SEC. 356. RESERVED.**

17 **SEC. 357. FUNGIBLE PROPERTY IN BANK ACCOUNTS.**

18 (a) IN GENERAL.—Section 984 of title 18, United States Code, is amended by
19 striking subsection (b) and inserting the following:

20 “(b) The provisions of this section may be invoked only if the action for forfeiture
21 was commenced by the seizure or restraint of the property, or by the filing of a complaint,
22 within 2 years of the completion of the offense that is the basis for the forfeiture.”.

23 (b) DEFINITION OF FUNGIBLE PROPERTY.—Section 984(a) of title 18 is
24 amended—

- 25 (1) by inserting “, jewels or stones” after “precious metals”; and
26 (2) by striking “as defined in section 20 of this title” and inserting “as
27 defined in Section 5312 of title 31”.

28 **SEC. 358. AVAILABILITY OF TAX RECORDS.**

29 (a) IN GENERAL.—Section 6103 of the Internal Revenue Code (26 U.S.C. § 6103)
30 is amended—

- 31 (1) in subparagraph (a)(3), by inserting “paragraph 9 of subsection (i)”

1 after “under subsection (e)(1)(D)(iii)”.

2 (2) in subparagraph (i)(1)(A)(i) by inserting “or civil forfeiture statute”
3 after “enforcement of a specifically designated Federal criminal statute”;

4 (3) in subparagraph (i)(1)(B)(iii) by inserting “or civil forfeiture
5 investigation or proceeding” after “Federal criminal investigation or proceeding”;

6 (4) in subparagraph (i)(4)(A) by replacing “or related civil forfeiture” with
7 “or civil forfeiture statute”;

8 (5) by adding new paragraph (i)(9), after paragraph (i)(8) as follows:

9 “(9) For the purposes of this subsection and subsection (a), an employee of the
10 Department of Justice includes a government contractor who is personally and directly
11 engaged in the activities described in this subsection under the direction of the
12 Department of Justice.”.

13 (b) CONFORMING AMENDMENTS.—(1) Section 7213 of the Internal
14 Revenue Code (26 U.S.C. § 7213) is amended in subparagraph (a)(1) by inserting the
15 following after “employee of the United States” the first time it appears: “, any person
16 described in subsection 6103(i)(9),”.

17 (2) Section 7213A of the Internal Revenue Code (26 U.S.C. § 7213A) is
18 amended in subparagraph (a)(1)(B) by inserting “(i)(9),” after “described in
19 subsection”.

20 **SEC. 359. CIVIL ORDER TO REPATRIATE ASSETS.**

21 Section 983(j) of 18 U.S. Code is amended by adding the following after
22 paragraph (4)—

23 “(5) ORDER TO REPATRIATE AND DEPOSIT.

24 (A) IN GENERAL. Pursuant to its authority to enter a pretrial restraining
25 order under this section, the court may order any person to repatriate any property
26 that may be seized and forfeited, and to deposit that property pending trial in the
27 registry of the court, or with the United States Marshals Service or other
28 Government custodian, in an interest-bearing account, if appropriate.

29 (B) FAILURE TO COMPLY. Failure to comply with an order under this
30 subsection shall be punishable as a civil or criminal contempt of court, and may
31 also result in an enhancement of the sentence of a criminal defendant subject to

1 such an order under the obstruction of justice provision of the Federal Sentencing
2 Guidelines.”.

3 **SEC. 360. CLARIFICATION OF 18 U.S.C. § 3322.**

4 (a) Section 3322(a) of title 18, United States Code, is amended by inserting the
5 following before the period:

6 “, including, but not limited to, disclosing such information in a complaint, or in
7 an application for a seizure warrant or restraining order, or for use at any trial or hearing.
8 Disclosure to an attorney for the Government under this section shall include disclosure
9 to any investigative agency attorney, and any Government or investigative agency
10 employee or contractor engaged in assisting the attorney to whom the information is
11 disclosed in the conduct of civil or criminal forfeiture proceedings”.

12 (b) Subsection 3322(d)(1)(A) is amended—

13 (1) by deleting “or” and

14 (2) by inserting after “1957”: “, or 1960”

15 **SEC. 361. INAPPLICABILITY OF LIABILITY FOR ATTORNEYS FEES IN**
16 **INTERNATIONAL MONEY LAUNDERING CASES.**

17 Section 2465 of title 28, United States Code, is amended by adding the following
18 at the end:

19 “(c) The United States is not liable for attorneys fees or other litigation costs
20 pursuant to subsection (b)(1) if—

21 “(1) the forfeiture action involved the movement of funds across an
22 international border or into or out of an account at a foreign financial institution
23 and the Government established the forfeitability of the property pursuant to the
24 applicable statute by a preponderance of the evidence; or

25 “(2) the Government restrained or seized property, or filed a forfeiture
26 action, pursuant to Section 981(b)(4) of title 18, or Section 2467 of this title, in
27 accordance with a request from a foreign Government or international authority.”

28 **SEC. 362. VENUE FOR PRISONER CHALLENGES TO SEIZURE OF CRIME**
29 **PROCEEDS.**

30 (a) IN GENERAL.—Section 983(e) of title 18, United States Code, is amended—

31 (1) in paragraph (3), by adding the following at the end:

1 “If the person filing the motion was a defendant in a criminal prosecution related
2 to the seizure of the property, the motion must be filed in the district where such
3 prosecution took place, or in the district where the property was seized.”; and

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

5 “(6) Any person entitled to written notice in a judicial forfeiture proceeding under
6 a civil forfeiture statute who does not receive such notice may file a motion to set aside
7 the judgment of forfeiture with respect to that person’s interest in the property in
8 accordance with the procedures for setting aside a non-judicial forfeiture, as set forth in
9 paragraphs (1) through (5).”.

10 (b) EFFECTIVE DATE.—The provisions of section 983(e), United States Code,
11 as amended by Pub. L. 106-185, shall apply to any motion to set aside a declaration or
12 judgment of forfeiture where such motion is filed on or after August 23, 2000.

13 **SEC. 363. AFFORDING PROPERTY OWNERS A HEARING ON THE SEIZURE**
14 **OF REAL PROPERTY.**

15 Section 985(e) of title 18, United States Code, is amended by striking “shall
16 conduct a prompt post-seizure hearing during which the property owner shall have an
17 opportunity to contest the basis for the seizure” and inserting “shall afford the property
18 owner an opportunity for a prompt post-seizure hearing to determine whether there was
19 probable cause for the seizure”.

20 **SEC. 364. JURISDICTION OF MAGISTRATES.**

21 Section 636(a) of title 28, United States Code, is amended—

22 (a) in paragraph (4), by striking “and” after the semicolon;

23 (b) in paragraph (5), by striking the period and inserting “; and”; and

24 (c) by adding at the end the following:

25 “(6) all powers and duties conferred or imposed upon the courts by sections 981-
26 86 of title 18, United States Code, in connection with forfeiture proceedings, but not
27 including the conduct of the trial.”

28 **SEC. 365. MINOR AMENDMENTS TO THE CIVIL ASSET FORFEITURE**
29 **REFORM ACT OF 2000.**

30 (a) CRIMINAL INFORMATION.—Sections 983(a)(3)(B)(ii) and 983(a)(3)(C) of
31 title 18, United States Code, are amended by striking “criminal indictment” each time it

1 appears and inserting “criminal indictment or information”.

2 (b) SECTION 981.—Section 981 of title 18, United States Code, is amended by
3 adding the following after subsection (k):

4 “(l) The procedural provisions of this section shall apply to any civil forfeiture
5 statute, as that term is defined in Section 983(i), except where inconsistent with a
6 provision relating to civil forfeiture procedure that is part of such statute.”

7 (c) INCARCERATED PERSONS.—Section 983(a)(1)(F) of title 18, United
8 States Code, is amended by inserting the following before the period at the end of the last
9 sentence:

10 “; nor shall the Government be required to return property to a person who is
11 incarcerated”.

12 (d) TURNOVER ORDERS.—Section 983(a)(1)(A)(iv) of title 18, United States
13 Code, is amended by adding the following at the end:

14 “In jurisdictions where the state or local law enforcement agency must obtain an
15 order from a State court authorizing the turnover, the period from the date the law
16 enforcement agency applies for the turnover order to the date when such order is issued
17 by the court shall not be included in the 90-day period.”.

18 (e) CLARIFICATION OF DEADLINE FOR CONTESTING NON-JUDICIAL
19 FORFEITURE.—Section 983(a)(2)(B) of title 18, United States Code, is amended by
20 striking “is not received” and inserting “is returned to the sender undelivered”.

21 (f) ENDANGERED SPECIES AND OTHER CONTRABAND.—Section
22 983(d)(4) of title 18, United States Code, is amended by—

23 (1) inserting “(A)” before “Notwithstanding”; and

24 (2) inserting the following at the end following the period:

25 “(B) The term “property that it is illegal to possess” as used in (A) includes, but is
26 not limited to—

27 “(i) animals or animal products that are illegal for the claimant to possess
28 under any law enacted to conserve or protect endangered species or other wildlife
29 or natural resources;

30 “(ii) historic or cultural artifacts, works of art, archaeological or
31 paleontological resources, human remains, fossils and other things that are illegal

1 for the claimant to possess under any law enacted to preserve, protect, recover or
2 restore historic or cultural resources; and

3 “(iii) any firearm, ammunition, explosive, or chemical agent used to
4 commit a crime of violence.”

5 (g) TOLLING TIME FOR FILING COMPLAINT.—Section 983(a)(3) of title 18,
6 United States Code, is amended by adding the following after sub-paragraph (D):

7 “(E) If a person claiming an interest in the seized property files a claim
8 pursuant to paragraph (2), but there is a bona fide dispute as to whether the claim
9 was timely filed or was in the proper form, the time for resolving such dispute
10 shall not be counted within the time for filing a complaint under this paragraph.”

11 (h) STATUTE OF LIMITATIONS.—Section 1621 of title 19, United States
12 Code, is amended by striking “whichever was later” and inserting “whichever time period
13 would result in the later deadline”.

14 (i) TEMPORARY RESTRAINTS IN INTERNATIONAL CASES.—Section
15 981(b)(4) of title 18, United States Code, is amended by striking “30 days” and inserting
16 “90 days”.

17 (j) DISPOSITION OF FORFEITED PROPERTY.

18 Section 981(e) of title 18, United States Code, is amended—

19 (1) by revising the introductory language preceding paragraph (1) to read
20 as follows:

21 “(e) Notwithstanding any other provision of the law, except section 3 of the Anti
22 Drug Abuse Act of 1986 (Pub. L. 99-570, §3, 100 Stat. 3207-1), the Archeological
23 Resources Protection Act of 1979 (16 U.S.C. § 470aa *et seq.* and 18 U.S.C. § 1370), and
24 the Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001 *et seq.*),
25 the Attorney General, the Secretary of Homeland Security, the Secretary of the Treasury,
26 the Secretary of the Interior, or the Postal Service, as the case may be, is authorized to
27 retain property forfeited pursuant to this section, to sell— by public sale or any other
28 commercially feasible means— such forfeited property which is not required to be
29 destroyed by law and which is not harmful to the public, or to transfer such forfeited
30 property on such terms and conditions as he may determine—”; and

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

1 “Notwithstanding any other provision of law, the United States is authorized to
2 retain property forfeited in accordance with this section that may be used as evidence in a
3 criminal proceeding throughout the pendency of such proceeding.”

4 **SEC. 366. PROPERTY DETAINED AT THE BORDER.**

5 Section 983(a)(1) of title 18, United States Code, is amended—

6 (a) in subparagraph (A), by adding the following after clause (v):

7 “(vi) In cases where property is detained at an international border or port of entry
8 for the purpose of examination, testing, inspection, obtaining documentation or other
9 investigation relating to the importation of the property into, or the exportation of the
10 property out of, the United States, such period of detention shall not be included in the
11 60-day period described in clause (i). In such cases, the 60-day period shall begin to run
12 when the period of detention is concluded, and a law enforcement agency of the United
13 States seizes the property will be seized for the purpose of forfeiture to the United
14 States.”; and

15 (b) in subparagraph (D),—

16 (1) by striking “or” at the end of clause (iv);

17 (2) by redesignating clause (v) as clause (vi); and

18 (3) by inserting the following after clause (iv):

19 “(v) initiation of a forfeiture proceeding before the seizing agency has received
20 the results of a scientific test or laboratory analysis of the seized property that is material
21 to the determination whether the property is subject to forfeiture; or”.

22 **SEC. 367. OBSTRUCTION OF JUSTICE.**

23 Section 2232(b) of title 18, United States Code, is amended to read as follows:

24 “(b) Impairment of jurisdiction over property.

25 “Whoever—

26 “(i) knowing that a United States court has exercised, or is about to
27 exercise, jurisdiction over property for purposes of forfeiture under Federal law,
28 or

29 “(ii) knowing that property has been alleged to be forfeitable in any civil
30 or criminal proceeding pending in any United States court,

31 “destroys, damages, wastes, disposes of, transfers, or takes any other action with respect

1 to the property for the purpose of impairing, frustrating, or defeating the court’s
2 jurisdiction over the property, without authority from that court, or attempts or conspires
3 to do so, shall be fined under this title or imprisoned not more than 5 years, or both.”.

4 **SEC. 368. SOURCE OF PAYMENT FOR ATTORNEY’S FEES.**

5 Section 2465 of title 28, United States Code, as amended by this Act, is further
6 amended by adding the following at the end:

7 “(d) (1) Any amounts for which the United States is found to be liable pursuant to
8 subsection (b) shall be paid from the Judgment Fund (28 U.S.C. §1304).

9 “(2) The amount of any attorney fees and other litigation costs for which
10 the United States is found to be liable pursuant to subsection (b) shall be
11 calculated in accordance with the provision for calculating such amounts under
12 the Equal Access to Justice Act (28 U.S.C. § 2412).”.

13 **SEC. 369. EXCESSIVE FINES CHALLENGES.**

14 Section 983(g) of title 18, United States Code, is amended—

15 (a) in paragraph (1), by striking “The claimant under subsection (a)(4)” and
16 inserting “An owner who files a claim under subsection (a)(4)”; and

17 (b) in paragraph (3), by striking “claimant” and inserting “owner”.

18 **SEC. 370. PAYMENT IN LIEU OF FORFEITURE.**

19 Section 981 of title 18, United States Code, is amended by adding the following at
20 the end:

21 “(I) **Payment in lieu of forfeiture.** If a financial institution or other person pays a
22 sum of money to the United States—

23 “(i) in lieu of the commencement of forfeiture proceedings, or

24 “(ii) in settlement of such forfeiture proceedings if commenced,

25 such sum of money shall be treated as forfeited funds and disposed of according to
26 subsection (e).”.

27 **SEC. 371. STATUTORY STANDING.**

28 Section 983(a)(4) of title 18, United States Code, is amended by striking “any
29 person claiming an interest” and inserting “any person with an ownership interest as
30 described in subsection (d)”.

31 **SEC. 372. UPDATING THE CROSS REFERENCE TO FORFEITURE**

1 **PROCEDURES.**

2 Section 2513 of title 18, United States Code, is amended by striking everything
3 after the first sentence and inserting the following:

4 “The procedures set forth in Chapter 46 of this title shall apply to civil forfeitures
5 under this section.”.

6 **SEC. 373. PROTECTING THE RIGHTS OF VICTIMS.**

7 Section 983(d) of title 18, United States Code, is amended by inserting the
8 following after paragraph (6):

9 “(7)(A) In determining whether a claimant is an owner under paragraph (6), the
10 court may not recognize or impose a constructive trust or other equitable remedy if doing
11 so would—

12 “(i) disadvantage other persons who are similarly situated,
13 including other victims of the same offense who did not file claims in the
14 forfeiture proceeding or who cannot trace their property to the property
15 subject to forfeiture, or

16 “(ii) would otherwise interfere with the ability of the Attorney
17 General, the Secretary for Homeland Security, the Secretary of the
18 Treasury or the Postal Service to distribute the property subject to
19 forfeiture on an equitable basis to the victims of an offense pursuant to
20 Sections 981(d) or 981(e)(6), or any other provision of law.

21 “(B) For the purposes of this paragraph, the court may consider a person to
22 be the beneficiary of a constructive trust only if:

23 “(i) the person transferred property to a third party, and that
24 property is traceable to the property that is subject to forfeiture;

25 “(ii) the person was induced to transfer the property to the third
26 party by fraud or false pretenses;

27 “(iii) the person who transferred the property has “clean hands” as
28 that term is applied by a court of equity;

29 “(iv) the person had a confidential or fiduciary relationship with
30 the person to whom he transferred property; and

31 “(v) the person who transferred the property lacks an adequate

1 remedy at law, including the right to seek remission or restoration of the
2 property pursuant to regulations issued by the Attorney General.”.

3 **SEC. 374. OTHER MINOR AND TECHNICAL AMENDMENTS.**

4 (a) DESTRUCTION OF PROPERTY OF LITTLE OR NO VALUE.—

5 (1) Section 413(h) of the Controlled Substances Act (21 U.S.C. § 853(h))
6 is amended by striking “shall direct the disposition of the property” and inserting
7 “shall direct the disposition or destruction of the property.”

8 (2) Section 981(e) of title 18, United States Code, is amended by striking
9 “is authorized to retain property forfeited pursuant to this section” and inserting
10 “is authorized to retain or destroy property forfeited pursuant to this section”.

11 (b) ADMINISTRATIVE FORFEITURE OF FUNDS.—Section 1607(a) of title
12 19, United States Code, is amended by:

13 (1) striking “or” at the end of paragraph (3);

14 (2) inserting “or” after the semi-colon at the end of paragraph (4); and

15 (3) inserting the following after paragraph (4):

16 “(5) such seized merchandise comprises funds held in an account at a financial
17 institution (as defined in section 5312(a)(2) of title 31), or

18 “(6) such seized merchandise comprises funds stored on a stored value card or
19 other portable storage device or funds held in an account at a financial institution (as
20 defined in section 5312(a)(2) of title 31) where such funds may be accessed by a stored
21 value card or other portable storage device;”.

22 (c) EXPLOSIVES.—Section 844(c)(1) of Title 18, United States Code is
23 amended by striking “, and all provisions of the Internal Revenue Code of 1986 relating
24 to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that
25 Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of
26 this chapter”.

27 (d) CONFORMING SEC. 924(D) TO CAFRA.—Section 924(d) of Title 18,
28 United States Code is amended—

29 (1) in subsection (d)(1) by striking “, and all provisions of the Internal
30 Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of
31 firearms, as defined in section 5845(a) of that Code, shall, so far as applicable,

1 extend to seizures and forfeitures under the provisions of this chapter”;

2 (2) in subsection (d)(1) by striking “Any action or proceeding for the
3 forfeiture of firearms or ammunition shall be commenced within one hundred and
4 twenty days of such seizure.”; and

5 (3) by striking subsection (d)(2) and redesignating subsection (d)(3) as
6 subsection (d)(2).

7 (e) TITLE 26.—Section 5872 of Title 26, United States Code is amended in
8 subsection (a) by striking “, and (except as provided in subsection (b)) all the provisions
9 of the internal revenue laws relating to searches, seizures, and forfeitures of unstamped
10 articles are extended to and made to apply to the articles taxed under this chapter, and the
11 persons to whom this chapter applies.”

12 (f) CONFORMING AMENDMENTS TO RULE G.—

13 (1) Section 983(a)(4)(A) of title 18, United States Code, is amended by
14 striking “except that such claim” and all that follows, up to the period.

15 (2) Section 985(c)(1)(C) of title 18, United States Code, is amended to
16 read as follows:

17 “(C) sending notice to the property owner, along with a copy of the complaint, in
18 the manner described in Rule G(4)(b) of the Supplemental Rules for Admiralty or
19 Maritime and Asset Forfeiture Claims.”.

20 (3) Chapter 46 of title 18, United States Code, is amended by striking
21 “Supplemental Rules for Certain Admiralty and Maritime Claims” and inserting
22 “Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Claims”
23 each time it appears.

24 **SEC. 375. FRIVOLOUS CLAIMS BY PRISONERS.**

25 (a) IN GENERAL.—Section 1915(g) of title 28, United States Code is amended
26 by adding the following at the end:

27 “Motions and other actions seeking the return of administratively, civilly, or
28 criminally forfeited property, or otherwise collaterally attacking a forfeiture declaration,
29 order, or judgment, shall be considered civil actions for purposes of this subsection.”.

30 (b) SECTION 983(h).—Section 983(h)(3) of title 18, United States Code, is
31 amended to read as follows:

1 “(3) In addition to the limitations of section 1915 of title 28, United States Code,
2 in no event shall a prisoner—

3 “(A) file a claim under a civil forfeiture statute;

4 “(B) appeal a judgment in a civil action or proceeding based on a civil
5 forfeiture statute;

6 “(C) move for return of administratively, civilly, or criminally forfeited
7 property;

8 “(D) otherwise collaterally attack a forfeiture declaration, order, or
9 judgment; or

10 “(E) appeal from the denial of any such motion or collateral attack,
11 “if the prisoner has, on three or more prior occasions, while incarcerated or detained in
12 any facility, brought an action or appeal in a court of the United States that was dismissed
13 on the grounds that it is frivolous or malicious, unless the prisoner shows extraordinary
14 and exceptional circumstances.”.

15 **TITLE IV—DRUG TRAFFICKING ENFORCEMENT**

16 **Subtitle A—Regulation of Analogue Substances**

17 **SEC. 401. SHORT TITLE**

18 This subtitle may be cited as the Controlled Substance Analogue Reform Act.

19 **SEC. 402. IDENTIFICATION OF ANALOGUES**

20 (a) DEFINITION OF CONTROLLED SUBSTANCE ANALOGUE—Section
21 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by revising subsection
22 (32)(A) to read as follows:

23 “(i) Except as provided in subparagraph (C), the term ‘controlled substance
24 analogue’ means a substance that meets one or more of the following criteria:

25 “(I) the chemical structure is substantially similar to the chemical structure
26 of a controlled substance in schedule I or II and either one of the following:

27 “(AA) the substance has a stimulant, depressant, or hallucinogenic
28 effect on the central nervous system that is substantially similar to or
29 greater than the stimulant, depressant, or hallucinogenic effect on the
30 central nervous system of a controlled substance in schedule I or II; or

1 “(BB) with respect to a particular transaction or proposed
2 transaction, a person represents or intends that the substance has a
3 stimulant, depressant, or hallucinogenic effect on the central nervous
4 system that is substantially similar to or greater than the stimulant,
5 depressant, or hallucinogenic effect on the central nervous system of a
6 controlled substance in schedule I or II;

7 “(II) which is listed in 21 U.S.C. 813(b); or

8 “(III) which the Attorney General has, by rule, in accordance with section
9 553 of title 5, designated as meeting at least one of the following criteria:

10 “(AA) the chemical structure of the substance is substantially
11 similar to the chemical structure of a controlled substance in schedule I or
12 II; or

13 “(BB) the substance meets the definition of a phenethylamine or a
14 tryptamine under 21 U.S.C. 813(b)(3) or (4).

15 “(ii) No inference is intended or may be drawn by the failure of the Attorney
16 General to designate a substance as an analogue under this subsection. The Attorney
17 General is authorized to remove any substance from the list of analogues pursuant to his
18 rulemaking authority.”

19 (b) CONGRESSIONAL DESIGNATION OF SUBSTANCES AS
20 ANALOGUES.—Section 813 of title 21 is amended—

21 (1) By inserting “(a)” before the text in Section 813; and

22 (2) By inserting after paragraph (a) the following:

23 “(b) The following substances shall be deemed controlled substance analogues as
24 that term is used in 21 U.S.C. 802(32)(A), and shall, to the extent intended for human
25 consumption, be treated for the purposes of any Federal law as a controlled substance in
26 schedule I:

27 “(1) Gamma butyrolactone (GBL);

28 “(2) 1,4-butanediol;

29 “(3) Phenethylamines, meaning any phenethylamine that meets one or
30 more of the following conditions: any compound structurally derived from
31 phenethylamine, or from any N-alkylphenethylamine, any alpha-

1 alkylphenethylamine, or any N-alkyl-alpha-alkylphenethylamine, by substitution
2 on the ring to any extent with alkyl, cycloalkyl, cycloalkenyl, alkoxy, alkylthio,
3 alkylhalide, alkylenedioxy, acyloxy, or halide substituents, whether or not further
4 substituted on the ring by one or more other univalent substituents;

5 “(4) Tryptamines, meaning any tryptamine that meet one or more of the
6 following conditions: (I) has a secondary or tertiary amine formed by the
7 substitution on the nitrogen atom of the 2-aminoethyl chain by various alkyl
8 groups, whether in chain, or ring form (for example, N-alkyltryptamine, N,N-
9 dialkyltryptamine, N,N-tetramethylenetryptamine); (II) has an alkyl substitution
10 on the alpha position of the 2-aminoethyl chain (alpha-methyltryptamine or alpha-
11 ethyltryptamine); and/or (III) has substituents on the indole ring system,
12 including, but not restricted to, various alkyl chains, halogens, hydroxyl, alkoxy,
13 acetyl, or alkylthio groups, at one or more positions except the one (indole
14 nitrogen) position.” .

15 (c) SEVERABILITY—If a provision of this Act is held invalid, all valid
16 provisions that are severable shall remain in effect. If a provision is held invalid in on or
17 more of its applications, the provision shall remain in effect in all its valid applications
18 that are severable.

19 **Subtitle B— Clarification of Venue for Certain Drug** 20 **Trafficking Offenses.**

21 **SEC. 403. CLARIFICATION OF VENUE FOR CERTAIN DRUG** 22 **TRAFFICKING OFFENSES.**

23 Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. §
24 959) is amended to read, as follows:

25 “§ 1009. Possession, manufacture, or distribution of controlled substance.

26 “(a) Manufacture or distribution for purpose of unlawful importation.

27 “It shall be unlawful for any person to manufacture or distribute a controlled substance in
28 schedule I or II or flunitrazepam or listed chemical—

1 “(1) intending that such substance or chemical will be unlawfully imported
2 into the United States or into waters within a distance of 12 miles of the coast of
3 the United States; or

4 “(2) knowing that such substance or chemical will be unlawfully imported
5 into the United States or into waters within a distance of 12 miles of the coast of
6 the United States.

7 “(b) Possession, manufacture, or distribution by person on board aircraft.

8 “‘It shall be unlawful for any United States citizen on board any aircraft, or any person on
9 board an aircraft owned by a United States citizen or registered in the United States, to—

10 “(1) manufacture or distribute a controlled substance or listed chemical; or

11 “(2) possess a controlled substance or listed chemical with intent to
12 distribute.

13 “(c) Attempt or conspiracy to commit offense.

14 “Any person who attempts or conspires to commit any offense defined in this section
15 shall be subject to the same penalties as those prescribed for the offense, the commission
16 of which was the object of the attempt or conspiracy.

17 “(d) Acts committed outside territorial jurisdiction of United States.

18 “‘This section is intended to reach acts of manufacture or distribution committed outside
19 the territorial jurisdiction of the United States, including acts in furtherance of a
20 conspiracy or attempt. This section shall apply even if some acts related to the
21 conspiracy or attempt were committed within the United States.

22 “(e) Venue.

23 “Any person who violates this section shall be tried in the United States district court at
24 the point of entry where such person enters the United States, or in the United States
25 District Court for the District of Columbia. A prosecution for an attempt or conspiracy
26 offense under this section shall be tried in the United States district court at the point of
27 entry where such person enters the United States, or in the United States District Court
28 for the District of Columbia.”.

29 **TITLE V—CRIME VICTIMS’ RIGHTS**

1 in economic circumstances that might affect the defendant's ability to pay
2 restitution.

3 "(f)(4) For the purpose of enforcing the restitution order, the United States
4 Attorney may receive, without the need for a court order, any financial information
5 concerning the defendant obtained by the grand jury that indicted the defendant for the
6 crime for which restitution has been awarded, the United States Probation Office, or the
7 Bureau of Prisons. A victim may also provide financial information concerning the
8 defendant to the United States Attorney.

9 "(f)(5) At sentencing or at any time prior to the termination of the restitution
10 obligation under section 3613 of this title, the court may impose special payment
11 directions upon the defendant or modify such directions. The court may direct the
12 defendant to make a single, lump sum payment, partial payments at specified intervals,
13 in-kind payments, or a combination of payments at specified intervals and in-kind
14 payments. The length of time over which scheduled payments are established shall be the
15 shortest time in which full payment reasonably can be made. In-kind payments may be in
16 the form of the return of property, replacement of property, or, if the victim agrees,
17 services rendered to the victim or a person or organization other than the victim. The
18 court may direct the defendant to repatriate any property that constitutes proceeds of
19 the offense of conviction, or property traceable to such proceeds. The court may direct
20 the defendant to surrender to the United States, or to the victim(s) named in the restitution
21 order, any interest of the defendant in any non-exempt asset. The court may enter a
22 restraining order or injunction, require the execution of a satisfactory performance bond,
23 or take any other action to preserve the availability of property for restitution.

24 "(f)(6) In determining whether to impose or modify specific payment directions,
25 the court may consider the need to provide restitution to the victims of the offense; the
26 financial ability of the defendant; the economic circumstances of the defendant, including
27 the financial resources and other assets of the defendant and whether any of those assets
28 are jointly controlled; projected earnings and other income of the defendant; any financial
29 obligations of the defendant, including obligations to dependents; whether the defendant
30 has concealed or dissipated assets or income; and any other appropriate circumstances.

1 Any substantial resources from any source, including inheritance, settlement, or other
2 judgment, shall be applied to any outstanding restitution obligation.

3 “(f)(7) If the court finds from the facts on the record that the economic
4 circumstances of the defendant do not allow the payment of any substantial amount as
5 restitution, the court may direct the defendant to make nominal payments of at least \$100
6 per year toward the restitution obligation. Provided, however, that any money received
7 from the defendant shall be disbursed so that any outstanding assessment imposed under
8 section 3013 of this title is paid first in full.

9 “(f)(8) Court-imposed special payment directions shall not limit the ability of the
10 Attorney General to maintain an Inmate Financial Responsibility Program that
11 encourages sentenced inmates to meet their legitimate financial obligations.

12 “(f)(9) The ability of the Attorney General to enforce restitution obligations as
13 provided in subsection 3664(Q)(2) shall not be limited by an appeal, or the possibility of a
14 correction, modification, amendment, adjustment, or re-imposition, unless the court
15 expressly so orders for good cause shown and stated on the record. Absent exceptional
16 circumstances as determined by the court, the court’s order limiting enforcement shall -
17 (i) require the defendant to deposit, in the registry of the district court, any amount of the
18 restitution that is due; (ii) require the defendant to post a bond or other security to ensure
19 payment of the restitution that is due; or (iii) impose additional restraints upon the
20 defendant to prevent the defendant from transferring or dissipating assets. No such order
21 shall restrain the ability of the United States to continue its investigation of the
22 defendant’s financial circumstances, conduct discovery, record a lien, or seek any
23 injunction or other relief from the court.”

24 **SEC. 503. AMENDMENTS TO 18 U.S.C. § 3572(d).**

25 Subsection 3572(d) of title 18 is amended by striking current subsection 3572(d)
26 and inserting the following:

27 “(d)(1) This subsection shall also apply to the imposition and enforcement of all
28 assessments imposed pursuant to section 3013 of this title.

29 “(d)(2) The court shall order that the fine and assessment imposed be due in full
30 immediately upon imposition.

31 “(d)(3) The court shall

1 “(A) direct the defendant to make a good-faith effort to satisfy the fine and
2 assessment in the shortest time in which full payment can be reasonably made and
3 to refrain from taking any action that conceals or dissipates the defendant’s assets
4 or income. Compliance with all payment directions imposed by subparagraphs
5 (d)(4) and (d)(5) shall be prima facie evidence of a good faith effort, unless it is
6 shown that the defendant has concealed or dissipated assets;

7 “(B) direct the defendant to notify the court of any change in residence;
8 and

9 “(C) order the defendant to notify the United States Attorney for the
10 district in which the defendant was sentenced of any change in residence, and of
11 any material change in economic circumstances that might affect the defendant’s
12 ability to pay restitution.

13 “(d)(4) For the purpose of enforcing the fine or assessment, the United States
14 Attorney may receive, without the need for a court order, any financial information
15 concerning the defendant obtained by a grand jury, the United States Probation Office, or
16 the Bureau of Prisons.

17 “(d)(5) At sentencing or at any time prior to the termination of the obligation
18 under section 3613 of this title, the court may impose special payment directions upon the
19 defendant or modify such directions. The court may direct the defendant to make a single,
20 lump-sum payment, or partial payments at specified intervals. The length of time over
21 which scheduled payments are established shall be the shortest time in which full
22 payment can reasonably be made. The court may direct the defendant to repatriate any
23 property that constitutes proceeds of the offense of conviction, or property traceable to
24 such proceeds. The court may direct the defendant to surrender to the United States any
25 interest of the defendant in any non-exempt asset. If the court directs the defendant to
26 repatriate or surrender any property in which it appears that any person other than the
27 defendant may have a legal interest, the court must take such action as is necessary to
28 protect such third party interest and may direct the United States to initiate any
29 ancillary proceeding to determine such third party interests in accordance with the
30 procedures specified in 21 U.S.C. § 853(n). Except as provided in this section, no person
31 may commence an action against the United States concerning the validity of the party’s

1 alleged interest in the property subject to reparation or surrender. The court may enter a
2 restraining order or injunction, require the execution of a satisfactory performance bond,
3 or take any other action to preserve the availability of property for payment of the fine or
4 assessment.

5 “(d)(6) In determining whether to impose or modify special payment directions,
6 the court may consider the need to satisfy the fine or assessment; the financial ability of
7 the defendant; the economic circumstances of the defendant, including the financial
8 resources and other assets of the defendant and whether any of those assets are jointly
9 controlled; projected earnings and other income of the defendant; any financial
10 obligations of the defendants, including obligations to dependents; whether the defendant
11 has concealed or dissipated assets or income; and any other appropriate circumstances.
12 Any substantial resources from any source, including inheritance, settlement, or other
13 judgment shall be applied to any fine or assessment still owed.

14 “(d)(7) If the court finds from the facts on the record that the economic
15 circumstances of the defendant do not allow the immediate payment of any substantial
16 amount of the fine or assessment imposed, the court may direct the defendant to make
17 nominal payments of at least \$100 per year toward the fine or assessment imposed.

18 “(d)(8) Court-imposed special payment directions shall not limit the ability of the
19 Attorney General to maintain an Inmate Financial Responsibility Program that
20 encourages sentenced inmates to meet their legitimate financial obligations.

21 “(d)(9) The ability of the Attorney General to enforce the fines and assessment as
22 provided in subparagraph 3572(d)(2) shall not be limited by an appeal, or the possibility
23 of a correction, modification, amendment, adjustment, or reimposition, unless the court
24 expressly so orders, for good cause shown and stated on the record. Absent exceptional
25 circumstances as determined by the court, the court’s order limiting enforcement shall—

26 “(i) require the defendant to deposit, in the registry of the district court,
27 any amount of the fine or assessment that is due;

28 “(ii) require the defendant to post a bond or other security to ensure
29 payment of the fine or assessment that is due; or

30 “(iii) impose additional restraints upon the defendant to prevent the
31 defendant from transferring or dissipating assets. No such order shall restrain the

1 ability of the United States to continue its investigation of the defendant’s
2 financial circumstances, conduct discovery, record a lien, or seek any injunction
3 or other relief from the court.”.

4 **SEC. 504. AMENDMENT TO 18 U.S.C. § 3612(b).**

5 Section 3612(b) of title 18 is amended by striking the current text and inserting:

6 “(1) A judgment or order imposing, modifying, or remitting a fine or restitution
7 order of more than \$100 shall include—

8 “(A) the name, social security account number, mailing address, and
9 residence address of the defendant;

10 “(B) the docket number of the case;

11 “(C) the original amount of the fine or restitution order and the amount
12 that is due and unpaid;

13 “(D) payment orders and directions imposed pursuant to subsection
14 3572(d) and subsection 3664(f) of this title; and

15 “(E) a description of any modification or remission.

16 “(2) Not later than ten days after entry of the judgment or order, the court shall
17 transmit a certified copy of the judgment or order to the Attorney General.”.

18 **SEC. 505. AMENDMENTS TO 18 U.S.C. §§ 3663(b) and 3663A(b).**

19 (a) Section 3663 of title 18, United States Code, is amended by:

20 (1) Striking the word “or” in Section 3663(b)(1)(A)

21 (2) Inserting the following after the semicolon in 3663(b)(1)(A):

22 “(B) reimburse the victim for attorneys’ fees reasonably incurred in an attempt to
23 retrieve damaged, lost or destroyed property; or”.

24 (3) In Section 3663(b)(1), renumbering existing “(B)” as “(C)”;

25 (4) In Section 3663(b)(1)(C), inserting “or (B)” after “subparagraph (A)”
26 and before “is impossible,”;

27 (5) In Section 3663(b)(4), inserting “including attorneys’ fees necessarily
28 and reasonably incurred for representation of the victim” after “other expenses
29 related to participation in the investigation and prosecution of the offense” and
30 before “or attendance at proceedings related to the offense;” and,

31 (6) Adding the following after Section 3663(b)(5):

1 “(6) in any case, reimburse the victim for reasonably incurred, attorneys’ fees that
2 are necessary and foreseeable results of the defendant’s crime.

3 “(7) Notwithstanding references to restitution for attorneys’ fees in this
4 subsection, in no case shall restitution be ordered for payment of salaries of Government
5 attorneys.”.

6 (b) Section 3663A of title 18, United States Code, is amended by:

7 (1) Striking the word “or” in Section 3663A(b)(1)(A);

8 (2) Inserting the following after the semicolon in 3663A(b)(1)(A):

9 “(B) reimburse the victim for attorneys’ fees reasonably incurred in an attempt to
10 retrieve damaged, lost, or destroyed property; or”.

11 (3) In Section 3663A(b)(1), renumbering existing “(B)” as “(C)”;

12 (4) In Section 3663A(b)(1)(C), inserting “or (B)” after “subparagraph (A)”
13 and before “is impossible,”

14 (5) In Section 3663A(b)(4), inserting “including attorneys’ fees
15 necessarily and reasonably incurred for representation of the victim” after “other
16 expenses related to participation in the investigation and prosecution of the
17 offense” and before “or attendance at proceedings related to the offense;” and,

18 (6) Adding the following after Section 3663A(b)(4):

19 “(5) in any case, reimburse the victim for reasonably incurred, attorneys’ fees that
20 are necessary and foreseeable results of the defendant’s crime.

21 “(6) Notwithstanding references to restitution for attorneys fees in this subsection,
22 in no case shall restitution be ordered for payment of salaries of Government attorneys.”.

23 **CHAPTER 2—PRESERVING ASSETS FOR RESTITUTION**

24 **SEC. 506. SHORT TITLE.**

25 This chapter may be cited as the “Preservation of Assets for Restitution Act of
26 2007.”

27 **SEC. 507. CREATION OF 18 U.S.C. § 3664A.**

28 (a) IN GENERAL.—Chapter 232 of title 18, United States Code, is amended by
29 inserting the following section after section 3664:

30 **“3664A. Preservation of Assets for Restitution.**

31 “(a) Protective orders to preserve assets.

1 “(1) Upon the Government’s *ex parte* application and a finding of
2 probable cause to believe that a defendant, if convicted, will be ordered to satisfy
3 an order of restitution for an offense punishable by imprisonment for more than
4 one year, the court shall enter a restraining order or injunction, require the
5 execution of a satisfactory performance bond or take any other action necessary to
6 preserve the availability of any property traceable to the commission of the
7 offense(s) charged. Additionally, the court, if it determines that it is in the
8 interests of justice to do so, shall issue any order necessary to preserve any non-
9 exempt asset (as defined in 18 U.S.C. § 3613) of the defendant that may be used
10 to satisfy such restitution order.

11 “(2) Applications and orders issued under (1) shall be governed by the
12 procedures in Section 413(e) of the Controlled Substances Act (21 U.S.C. §
13 853(e)) and in this section.

14 “(3) If the property in question is a monetary instrument (as defined in
15 Section 1956(c)(5) of this title) or funds in electronic form, the protective order
16 issued pursuant to (1) may take the form of a warrant authorizing the Government
17 to seize the property and to deposit it into an interest-bearing account in the
18 Registry of the Court in the district in which the warrant was issued, or into
19 another such account maintained by a substitute property custodian, as the court
20 may direct.

21 “(4) A post-indictment protective order entered pursuant to (1) shall
22 remain in effect through the conclusion of the criminal case, including sentencing
23 and any post-sentencing proceedings, until seizure or other disposition of the
24 subject property, unless modified by the court upon a motion by the Government
25 or pursuant to subsections (b) or (c).

26 “(b) Defendant’s right to a hearing.

27 “(1) In the case of a pre-indictment protective order entered pursuant to
28 (a)(1), the defendant’s right to a post-restraint hearing shall be governed by
29 Sections 413(e)(1)(B) and (2) of the Controlled Substances Act (21 U.S.C.
30 § 853(e)(1)(B) and (2)).

1 “(2) In the case of a post-indictment protective order entered pursuant to
2 (a)(1), the defendant shall have a right to a post-restraint hearing regarding the
3 continuation or modification of the order if the defendant—

4 “(A) establishes by a preponderance of the evidence that there are
5 no assets, other than the restrained property, available to the defendant to
6 retain counsel in the criminal case or to provide for a reasonable living
7 allowance for the necessary expenses of the defendant and the defendant’s
8 lawful dependents; and

9 “(B) makes a prima facie showing that there is bona fide reason to
10 believe that the court’s *ex parte* finding of probable cause under (a)(1) was
11 in error.

12 “(3) If the court determines that the defendant has satisfied the
13 requirements of (2)(A) and (B), it may hold a hearing to determine whether there
14 is probable cause to believe that the defendant, if convicted, will be ordered to
15 satisfy an order of restitution for an offense punishable by imprisonment for more
16 than one year, and that the seized or restrained property may be needed to satisfy
17 such restitution order. If the court finds probable cause, the protective order must
18 remain in effect. If the court finds that no probable cause exists as to some or all
19 of the property, or determines that more property has been seized and restrained
20 than may be needed to satisfy a restitution order, it must modify the protective
21 order to the extent necessary to release the property that should not have been
22 restrained.

23 “(4) The court must afford the Government an opportunity to present
24 rebuttal evidence and to cross-examine any witness that the defendant may
25 present if the court conducts an evidentiary hearing on these issues.

26 “(5) In any pre-trial hearing on protective orders issued under (a)(1), the
27 court may not entertain challenges to the grand jury’s finding of probable cause
28 regarding the criminal offense giving rise to a potential restitution order. The
29 court must also take whatever steps may be necessary to prevent the use of such
30 hearings to obtain disclosure of evidence or the identities of witnesses earlier than
31 required by the Federal Rules of Criminal Procedure and other applicable law.

1 “(c) Third party’s right to post-restraint hearing

2 “(1) A person other than the defendant who has a legal interest in property
3 affected by a protective order issued under (a)(1) may move to modify the order
4 on the grounds that—

5 “(A) the order causes an immediate and irreparable hardship to the
6 moving party; and

7 “(B) less intrusive means exist to preserve the property for the
8 purpose of restitution.

9 “If, after considering any rebuttal evidence offered by the Government, the court
10 determines that the moving party has made the required showings, the court must modify
11 the order to mitigate the hardship to the extent that it is possible to do so while preserving
12 the asset for restitution.

13 “(2) Except as provided in (1) and (3), a person other than a defendant has
14 no right to intervene in the criminal case to object to the entry of any order issued
15 under this section or otherwise to object to an order directing a defendant to pay
16 restitution.

17 “(3) If, at the conclusion of the criminal case, the court orders the
18 defendant to use particular assets to satisfy an order of restitution, including assets
19 that have been seized or restrained pursuant to this section, the court must give
20 persons other than the defendant the opportunity to object to the order on the
21 ground that the property belonged in whole or in part to the third party and not to
22 the defendant, as provided in Section 413(n) of the Controlled Substances Act (21
23 U.S.C. § 853(n)).

24 “(d) Geographic scope of order.

25 “(1) The district courts of the United States shall have jurisdiction to enter
26 orders as provided in this section without regard to the location of the property
27 subject to the order.

28 “(2) If the property subject to an order issued under this section is located
29 outside of the United States, the order may be transmitted to the central authority
30 of any foreign state for service in accordance with any treaty or other international
31 agreement.

1 “(e) No effect on forfeiture. Nothing in this section shall be construed to preclude
2 the Government from seeking the seizure, restraint or forfeiture of assets under the asset
3 forfeiture laws of the United States.

4 “(f) Limitation on rights conferred. Nothing in this section shall be construed to
5 create any enforceable right to have the Government seek the seizure or restraint of
6 property for restitution.

7 “(g) Receivers.

8 “(1) A court issuing an order under this section may appoint a receiver as
9 provided for in section 1956(b)(4) to collect, marshal, and take custody, control,
10 and possession of all assets of the defendant, wherever located, that have been
11 restrained in accordance with this section.

12 “(2) The receiver shall have the power to distribute property in its control
13 under subparagraph (1) to each victim identified in an order of restitution at such
14 time, and in such manner, as the court may authorize.

15 “(b) CONFORMING AMENDMENT.—The section analysis for chapter 232 of
16 title 18, United States Code, is amended by inserting the following after the entry for
17 Section 3664:

18 “3664A. Preservation of Assets for Restitution.”

19 **SEC. 508. AMENDMENTS TO THE ANTI-FRAUD INJUNCTION STATUTE.**

20 18 U.S.C. § 1345(a) is amended as follows:

21 (a) by adding the following after Section 1345(a)(l)(C):

22 “(D) committing or about to commit a Federal offense that may result in an order
23 of restitution:”

24 (b) By striking

25 (1) “banking law,”

26 (2) “(as defined in section 3322(d) of this title)”; and,

27 (3) “health care”

28 (c) By inserting “identified in subsection (a)(l)” after “offense.”

29 **SEC. 509. AMENDMENTS TO THE FEDERAL DEBT COLLECTION**
30 **PROCEDURES ACT.**

1 (a) 28 U.S.C. § 3004(b)(2) is amended by adding the following, after “in which
2 the debtor resides.”:

3 “However, in a criminal case, the district court for the district in which the
4 defendant was sentenced may deny the request.” .

5 (b) 28 U.S.C. § 3101(a) is amended by adding the following, after “the filing of a
6 civil action on a claim for a debt” and before “make application under oath to a court to
7 issue any prejudgment remedy.”:

8 “or in any criminal action where the court may enter an order of restitution”

9 (c) 28 U.S.C. § 3101(d) is amended by adding

10 (1) the following after “The Government wants to make sure [name of
11 debtor] will pay if the court determines that this money is owed.”:

12 “In a criminal action, use the following opening paragraph: You are hereby
13 notified that this (property) is being taken by the United States Government (the
14 Government), which says that (name of debtor), if convicted, may owe as restitution \$
15 (amount). The Government says it must take this property at this time because [recite the
16 pertinent ground or grounds from section 3101(b)]. The Government wants to make sure
17 (name of debtor) will pay if the court determines that restitution is owed.”

18 (2) the following after “a statement that different property may be so
19 exempted with respect to the State in which the debtor resides.”:

20 “[In a criminal action, the statement summarizing the types of property that may
21 be exempt shall list only those types of property that may be exempt under section
22 3613 of title 18, United States Code.]”

23 (3) the following after “You must also send a copy of your request to the
24 Government at [address], so the Government will know you want the proceeding
25 to be transferred.”:

26 “If this Notice is issued in conjunction with a criminal case, the district court
27 where the criminal action is pending may deny your request for a transfer of this
28 proceeding.”

29 (d) 28 U.S.C. § 3202(b) is amended by

30 (1) adding the following after “a statement that different property may be
31 so exempted with respect to the State in which the debtor resides.]”:

1 “[In a criminal action, the statement summarizing the types of property that may
2 be exempt shall list only those types of property that may be exempt under section 3613
3 of title 18, United States Code.]”

4 (2) adding the following after “You must also send a copy of your request
5 to the Government at [address], so the Government will know you want the
6 proceeding to be transferred.”:

7 “If this Notice is issued in conjunction with a criminal case, the district court
8 where the criminal action is pending may deny your request for a transfer of this
9 proceeding.”.

10 **Subtitle B— Technical Amendment to Section 102** 11 **of the Justice for All Act of 2004.**

12 **SEC. 510. SHORT TITLE.**

13 This subtitle may be cited as the Technical Amendment to Section 102 of the
14 Justice for All Act of 2004.

15 **SEC. 511. TECHNICAL AMENDMENT.**

16 18 U.S.C. Sec. 3771(e) is amended to add a new sentence at the end to read as
17 follows:

18 “For cases prosecuted by the United States in the Superior Court of the District of
19 Columbia, the terms ‘court’ and ‘district court’ mean the Superior Court of the District of
20 Columbia and the term ‘court of appeals’ means the District of Columbia Court of
21 Appeals for purposes of this chapter.”

22 **TITLE VI—COUNTER-TERRORISM AND** 23 **NATIONAL SECURITY**

24 **SEC. 601. PROVIDING MATERIAL SUPPORT TO FACILITATE, REWARD,** 25 **OR ENCOURAGE ACTS OF TERRORISM.**

26 (a) Chapter 113B of title 18, United States Code, is amended by adding at the end
27 thereof the following new section:

28 **“§2339E. Providing material support to facilitate, reward, or encourage acts of**
29 **terrorism**

1 “(a) Prohibition—Whoever, in a circumstance provided in subsection (b),
2 provides, or attempts or conspires or agrees to provide, material support or resources to
3 the perpetrator of an act of international terrorism, to a family member of such
4 perpetrator, or to any other person, with the intent to facilitate, reward, or encourage that
5 act or other acts of international terrorism, shall be fined under this title or imprisoned not
6 more than fifteen years, or both, and, if death results, shall be imprisoned for any term of
7 years or for life.

8 “(b) Jurisdictional bases - A circumstance referred to in subsection (a) is—

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

10 “(2) the offense involves the use of the mails or a facility of interstate or
11 foreign commerce;

12 “(3) an offender intends to facilitate, reward, or encourage an act of
13 international terrorism that affects interstate or foreign commerce or would have
14 affected interstate or foreign commerce had it been consummated;

15 “(4) an offender intends to facilitate, reward, or encourage an act of
16 international terrorism that violates the criminal laws of the United States;

17 “(5) an offender intends to facilitate, reward, or encourage an act of
18 international terrorism that is designed to influence the policy or affect the
19 conduct of the United States government;

20 “(6) an offender intends to facilitate, reward, or encourage an act of
21 international terrorism that occurs in part within the United States and is designed
22 to influence the policy or affect the conduct of a foreign government;

23 “(7) an offender intends to facilitate, reward, or encourage an act of
24 international terrorism that causes or is designed to cause death or serious bodily
25 injury to a national of the United States while that national is outside the United
26 States, or substantial damage to the property of a legal entity organized under the
27 laws of the United States (including any of its States, districts, commonwealths,
28 territories, or possessions) while that property is outside of the United States;

29 “(8) the offense occurs in whole or in part within the United States, and an
30 offender intends to facilitate, reward, or encourage an act of international

1 terrorism that is designed to influence the policy or affect the conduct of a foreign
2 government; or

3 “(9) the offense occurs in whole or in part outside of the United States,
4 and an offender is a national of the United States, a stateless person whose
5 habitual residence is in the United States, or a legal entity organized under the
6 laws of the United States (including any of its States, districts, commonwealths,
7 territories, or possessions).

8 “(c) Definitions—For purposes of this section:

9 “(1) ‘material support or resources’ has the same meaning as in section
10 2339A(b) of this title;

11 “(2) ‘the perpetrator of an act’ includes any person who commits the act;
12 any person who aids, abets, counsels, commands, induces, or procures its
13 commission; and any person who attempts, plans, or conspires to commit the act;

14 “(3) ‘international terrorism’ has the same meaning as in section 2331 of
15 this title;

16 “(4) ‘facility of interstate or foreign commerce’ has the same meaning as
17 in section 1958(b)(2) of this title;

18 “(5) ‘serious bodily injury’ has the same meaning as in section 1365 of
19 this title; and

20 “(6) ‘national of the United States’ has the same meaning as in section
21 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”.

22 (b) The table of sections of chapter 113B is amended by adding at the end thereof
23 the following new offenses:

24 “2339D. Receiving military-type training from a foreign terrorist organization.

25 “2339E. Providing material support to facilitate, reward, or encourage acts of terrorism.”.

26 (c) Section 2332b(g)(5)(B)(i) of title 18 is amended by striking all of the text
27 following “2339C”, and inserting the following: “(relating to financing of terrorism),
28 2339E (relating to providing material support to facilitate, reward, or encourage acts of
29 terrorism), or 2340A (relating to torture) of this title;”.

1 **SEC. 602. PROHIBITING ATTEMPTS AND CONSPIRACIES TO OBTAIN**
2 **MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST**
3 **ORGANIZATION.**

4 Section 2339D(a) of title 18, United States Code, is amended by—

5 (a) inserting “, or attempts or conspires to do so,” after “foreign terrorist
6 organization”.

7 **SEC. 603. KIDNAPPING AND RAPE OVERSEAS**

8 Section 2332 of title 18, United States Code, is amended by—

9 (a) designating the current subsections (c) and (d) as subsections (d) and (e),
10 respectively;

11 (b) inserting the following new subsection (c) after subsection (b):

12 “(c) Kidnapping.—Whoever outside the United States unlawfully seizes,
13 confines, inveigles, decoys, kidnaps, abducts, or carries away, or attempts or conspires to
14 seize, confine, inveigle, decoy, kidnap, abduct or carry away, a national of the United
15 States, shall be fined under this title, punished by imprisonment for any term of years or
16 for life, or both; and, if the death of any person results, shall be fined under this title,
17 punished by death or imprisonment for any term of years or for life, or both.”; and

18 (c) in subsection (d) (as redesignated) by—

19 (1) inserting “(as defined in section 1365 of this title, including any
20 conduct that, if the conduct occurred in the special maritime and territorial
21 jurisdiction of the United States, would violate section 2241 or 2242 of this title)”
22 after “injury” in paragraphs (1) and (2); and

23 (2) striking the word “ten” and inserting “25”.

24 **SEC. 604. HOSTAGE-TAKING.**

25 Section 1203 of title 18, United States Code, is amended to read as follows—

26 **“§ 1203. Hostage taking**

27 “(a) Whoever, whether inside or outside the United States, seizes or detains and
28 threatens to kill, to injure, or to continue to detain without lawful authority:

29 “(1) any officer or employee of the United States or of any agency in any
30 branch of the United States Government (including any member of the uniformed
31 services) while such officer or employee is engaged in or on account of the

1 performance of official duties, or any person assisting such an officer or employee
2 in the performance of such duties or on account of that assistance, or whoever
3 attempts or conspires to do so; or

4 “(2) except as provided in subsection (b) of this section, another person in
5 order to compel a third person or a governmental organization to do or abstain
6 from doing any act as an explicit or implicit condition for the release of the person
7 detained, or whoever attempts or conspires to do so,

8 “shall be punished by imprisonment for any term of years or for life and, if the death of
9 any person results, shall be punished by death or life imprisonment.

10 “(b)(1) It is not an offense under subsection (a)(2) if the conduct required for the
11 offense occurred outside the United States unless—

12 “(A) the offender or the person seized or detained is a national of
13 the United States;

14 “(B) the offender is found in the United States; or

15 “(C) the governmental organization sought to be compelled is the
16 Government of the United States.

17 “(2) It is not an offense under subsection (a)(2) if the conduct required for
18 the offense occurred inside the United States, each alleged offender and each
19 person seized or detained are nationals of the United States, and each alleged
20 offender is found in the United States, unless the governmental organization
21 sought to be compelled is the Government of the United States.

22 “(c) As used in this section, the term ‘national of the United States’ has the
23 meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8
24 U.S.C. 1101(a)(22)).”

25 **SEC. 605. INTERFERENCE WITH FLIGHT CREW OR THREAT TO SAFETY**
26 **OF AIRCRAFT.**

27 (a) Section 46504 of title 49, United States Code, is amended by re-titling the
28 provision “Interference with flight crew or threat to safety of aircraft.”; designating the
29 existing language as subsection (a); and adding the following new subsection:

30 “(b) An individual on an aircraft in the special aircraft jurisdiction of the United
31 States who knowingly or recklessly takes any action that poses a serious threat to the

1 safety of the aircraft or other individuals on the aircraft, shall be fined under title 18,
2 imprisoned for not more than 10 years, or both.”

3 **SEC. 606. INCREASED PENALTIES FOR PROVIDING MATERIAL SUPPORT**
4 **TO TERRORISTS.**

5 RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN
6 TERRORIST ORGANIZATION. Section 2339D of title 18, United States Code, is
7 amended by striking “or imprisoned for ten years, or both.” and inserting “and
8 imprisoned for not less than 3 years and not more than 15 years.”.

9 **SEC. 607. DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.**

10 (a) IN GENERAL. Chapter 113B of title 18, United States Code, as amended by
11 this section, is further amended by adding at the end the following:

12 **“SEC. 2339F. DENIAL OF FEDERAL BENEFITS TO TERRORISTS**

13 “(a) In General. Any individual who is convicted of a Federal crime of terrorism
14 (as defined in section 2332b(g)) shall, as provided by the court on motion of the
15 Government, be ineligible for any or all Federal benefits for any term of years or for life.

16 “(b) Federal Benefit Defined. In this section, ‘Federal benefit’ has the meaning
17 given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT. The table of sections
19 for chapter 113B of title 18, United States Code, as amended by this section, is further
20 amended by adding at the end the following:

21 “2339F. Denial of Federal benefits to terrorists.”.

22 **SEC. 608. IMPROVE INVESTIGATION OF TERRORIST CRIMES.**

23 (a) MULTIDISTRICT SEARCH WARRANTS IN TERRORISM
24 INVESTIGATIONS. Rule 41(b)(3) of the Federal Rules of Criminal Procedure is
25 amended to read as follows—

26 “(3) a magistrate judge—in an investigation of—

27 “(A) international terrorism or domestic terrorism (as those terms
28 are defined in section 2331 of title 18, United States Code), or a Federal
29 crime of terrorism (as defined in section 2332b(g)(5) of title 18, United
30 States Code); or

1 “(B) an offense under section 1001 or 1505 of title 18, United
2 States Code, relating to information or purported information concerning a
3 Federal crime of terrorism (as defined in section 2332b(g)(5) of title 18,
4 United States Code)—having authority in any district in which activities
5 related to the Federal crime of terrorism or offense may have occurred,
6 may issue a warrant for a person or property within or outside that
7 district.”.

8 (b) INCREASED PENALTIES FOR OBSTRUCTION OF JUSTICE IN
9 TERRORISM CASES. Sections 1001(a) and 1505 of title 18, United States Code, are
10 amended by striking “8 years” and inserting “10 years”.

11 **SEC. 609. SOLICITATION TO COMMIT A CRIME OF VIOLENCE OR**
12 **TERRORISM**

13 Section 373 of title 18, United States Code, is amended --

14 (a) in subsection (a) by—

15 (1) adding “or a Federal crime of terrorism as defined in section
16 2332b(g)(5),” after “in violation of the laws of the United States,”.

17 (2) adding “or persons” after “another person”

18 (b) in subsection (c) by--

19 (1) adding “or persons” after “the person”

20 (2) striking the word “he” and adding the word “they” in the phrase
21 “because he lacked”

22 (3) striking the words “he was” and adding the words “they were” in the
23 phrase “because he was incompetent”

24 (4) striking the words “he is” and adding the words “they are” in the
25 phrase “because he is immune”

26 (5) striking the word “is” from “is not subject to prosecution”.

27 (c) in the title by inserting the words “or terrorism” after “Solicitation to commit
28 a crime of violence”.

29