

108TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. HATCH (for himself, Mr. SESSIONS, Mr. GRAHAM of South Carolina, Mr. CORNYN, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To combat narco-terrorism, to dismantle narco-terrorist criminal enterprises, to disrupt narco-terrorist financing and money laundering schemes, to enact national drug sentencing reform, to prevent drug trafficking to children, to deter drug-related violence, to provide law enforcement with the tools needed to win the war against narco-terrorists and major drug traffickers, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Vital Interdiction of Criminal Terrorist Organizations
4 Act of 2003” or the “VICTORY Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Severability clause.

TITLE I—COMBATING NARCO-TERRORISTS WHO AID AND
SUPPORT TERRORISTS OR TERRORIST ORGANIZATIONS

- Sec. 101. Prohibition of narco-terrorism.
- Sec. 102. Narco-terrorist criminal enterprises.
- Sec. 103. Increased civil and criminal penalties for persons and entities who facilitate financing of narco-terrorists and terrorists.

TITLE II—PREVENTING AND PUNISHING INTERNATIONAL MONEY
LAUNDERING

Subtitle A—Prohibiting Money Laundering Through Hawalas, “Reverse”
Money Laundering, and Other Money Laundering Schemes

- Sec. 201. Preventing narco-terrorists from laundering money using hawalas.
- Sec. 202. Interstate transportation of criminal proceeds and “reverse” money laundering by currency couriers.
- Sec. 203. Freezing bank accounts of persons arrested for money laundering and bulk cash smuggling.
- Sec. 204. Procedure for issuing subpoenas in money laundering cases.
- Sec. 205. Using blank checks in bearer form to smuggle money.
- Sec. 206. Treating electronic funds as fungible property.
- Sec. 207. Making domestic money laundering statute apply to “reverse” money laundering.
- Sec. 208. Making international money laundering statute apply to tax evasion.
- Sec. 209. Section 1957 violations involving commingled funds and structured transactions.
- Sec. 210. Charging money laundering as a course of conduct.
- Sec. 211. Laundering the proceeds of foreign crimes.
- Sec. 212. Illegal money transmitting businesses.
- Sec. 213. Definition of public official.
- Sec. 214. Other specified activity for money laundering.

Subtitle B—Recovering and Confiscating Criminal Proceeds

- Sec. 221. Criminal forfeiture for money laundering conspiracies.
- Sec. 222. Fungible property.
- Sec. 223. Forfeiting the proceeds of foreign crimes.
- Sec. 224. Recovery of criminal proceeds from third parties.
- Sec. 225. Restraint of proceeds of foreign crime.
- Sec. 226. Extraterritorial jurisdiction.

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- Sec. 227. Availability of tax records.
- Sec. 228. Civil order to repatriate assets.
- Sec. 229. Forfeiture for failure to report large cash transactions.
- Sec. 230. Assets of persons committing terrorist acts against foreign countries.
- Sec. 231. Technical amendment to restore wiretap authority for certain money laundering offenses.
- Sec. 232. Knowledge that the property is the proceeds of a specific felony.
- Sec. 233. Discovery procedure for locating laundered money.
- Sec. 234. Authorization to share recovered property with cooperating foreign governments.
- Sec. 235. Criminal forfeiture of property in government custody.
- Sec. 236. Non-abatement of criminal forfeiture when defendant dies pending appeal.
- Sec. 237. Miscellaneous minor and technical amendments.
- Sec. 238. Venue for prisoner challenges to seizure of crime proceeds.
- Sec. 239. Restoring criminal proceeds to victims.
- Sec. 240. Affording property owners a hearing on the seizure of real property.
- Sec. 241. Jurisdiction of magistrates.
- Sec. 242. Technical amendment regarding the procedures for criminal forfeiture.
- Sec. 243. Clarification of 18 U.S.C. 3322.
- Sec. 244. Minor amendments to the Civil Asset Forfeiture Reform Act of 2000.
- Sec. 245. Collection of criminal forfeiture judgment.
- Sec. 246. Property detained at the border.
- Sec. 247. Exemption from liability for attorney fees in international money laundering cases.
- Sec. 248. Technical correction regarding forfeiture authority for Secretary, Homeland Security.
- Sec. 249. Rule 32.2.
- Sec. 250. Forfeiture of the value of drugs seized.
- Sec. 251. Forfeiture of facilitating property in narco-terrorism cases and property traceable to such property.
- Sec. 252. Forfeiture of instrumentalities of terrorism, fraud, and other offenses.

TITLE III—NATIONAL DRUG SENTENCING REFORM

- Sec. 301. Sentencing guideline conforming changes and enhancements for acts of violence during the course of a drug trafficking offense.
- Sec. 302. Increase in sentence for aggravating factors.
- Sec. 303. Removing sentencing cap on drug traffickers who facilitate the availability and distribution of large quantities of illegal drugs.
- Sec. 304. Additional serious drug offenses as armed career criminal act predicates.
- Sec. 305. Limit on sentencing of certain defendants in drug trafficking cases.
- Sec. 306. Restoration of orderly gradation of sentences to punish large-scale drug traffickers.
- Sec. 307. Conforming sentencing guidelines to conspiracy law.
- Sec. 308. Elderly, nonviolent prisoner pilot program.
- Sec. 309. Emergency amendment authority.

TITLE IV—PROTECTING CHILDREN FROM DRUG TRAFFICKERS
AND PREVENTING DRUG-RELATED VIOLENT CRIME

- Sec. 401. Murder and other violent crimes committed during and in relation to a drug trafficking crime.
- Sec. 402. Protection of children from drug traffickers.

TITLE V—PROVIDING THE TOOLS NEEDED TO WIN THE WAR
AGAINST NARCO-TERRORISM, DRUG TRAFFICKERS WHO SELL
TO CHILDREN, AND VIOLENT DRUG TRAFFICKERS

Sec. 501. Predicate crimes for authorization of interception of wire, oral, and
electronic communications.

Sec. 502. Limiting application of statutory exclusionary rule where law enforce-
ment agents act in good faith.

Sec. 503. Administrative subpoenas for terrorism investigations.

Sec. 504. Administrative subpoenas to apprehend fugitives.

Sec. 505. Expanded jurisdiction to issue orders to intercept communications.

Sec. 506. Directive to United States Sentencing Commission.

1 **SEC. 2. SEVERABILITY CLAUSE.**

2 If any provision of this Act, an amendment made by
3 this Act, or the application of such provision or amend-
4 ment to any person or circumstance is held to be unconsti-
5 tutional, the remainder of this Act, the amendments made
6 by this Act, and the application of the provisions of such
7 to any person or circumstances shall not be affected there-
8 by.

9 **TITLE I—COMBATING NARCO-**
10 **TERRORISTS WHO AID AND**
11 **SUPPORT TERRORISTS OR**
12 **TERRORIST ORGANIZATIONS**

13 **SEC. 101. PROHIBITION OF NARCO-TERRORISM.**

14 Part A of the Controlled Substance Import and Ex-
15 port Act (21 U.S.C. 951 et seq.) is amended by inserting
16 after section 1010 the following:

17 “NARCO-TERRORISTS WHO AID AND SUPPORT

18 TERRORISTS OR FOREIGN TERRORIST ORGANIZATIONS

19 “SEC. 1010A.

1 “(a) PROHIBITED ACTS.—Any person who, in a cir-
2 cumstance described in subsection (c), manufactures, dis-
3 tributes, imports, exports, or possesses with intent to dis-
4 tribute or manufacture a controlled substance,
5 flunitrazepam, or listed chemical, or attempts or conspires
6 to do so, knowing or intending that such activity, directly
7 or indirectly, aids or provides support, resources, or any-
8 thing of pecuniary value to—

9 (1) a foreign terrorist organization; or

10 (2) any person or group involved in the plan-
11 ning, preparation for, or carrying out of, a terrorist
12 offense,

13 shall be punished as provided under subsection (b).

14 “(b) PENALTIES.—

15 “(1) IN GENERAL.—Any person who violates
16 subsection (a) shall be sentenced to—

17 “(A)(i) a term of imprisonment of not less
18 than 20 years and not more than life; or

19 “(ii) if death or serious bodily injury re-
20 sults from the use of a controlled substance, a
21 term of imprisonment of not less than 30 years
22 and not more than life;

23 “(B) a fine not to exceed—

24 “(i) \$4,000,000, if the defendant is an
25 individual; or

1 “(ii) \$10,000,000, if the defendant is
2 not an individual; and

3 “(C) a term of supervised release of not
4 less than 5 years.

5 “(2) PRIOR CONVICTION FOR FELONY DRUG OF-
6 FENSE.—Any person who violates subsection (a)
7 after a prior conviction of such person for a felony
8 drug offense becomes final, shall be sentenced to—

9 “(A)(i) a term of imprisonment of not less
10 than 30 years and not more than life; or

11 “(ii) if death or serious bodily injury re-
12 sults from the use of a controlled substance, a
13 term of life imprisonment;

14 “(B) a fine not to exceed—

15 “(i) \$8,000,000, if the defendant is an
16 individual; or

17 “(ii) \$20,000,000, if the defendant is
18 not an individual; and

19 “(C) a term of supervised release of not
20 less than 10 years.

21 “(c) JURISDICTION.—A United States district court
22 shall have jurisdiction over an offense described in sub-
23 section (a) if—

24 “(1) the offense takes place in the United
25 States; or

1 “(2) the offense takes place outside of the
2 United States and—

3 “(A) the perpetrator is—

4 “(i) a national of the United States;

5 or

6 “(ii) a stateless person whose habitual
7 residence is in the United States;

8 “(B) the offense—

9 “(i) was directed toward, or resulted
10 in, the carrying out of a terrorist offense—

11 “(I) against any property that is
12 owned or leased by any department or
13 agency of the United States, including
14 an embassy or other diplomatic or
15 consular premises of the United
16 States;

17 “(II) against any person or prop-
18 erty within the United States;

19 “(III) against any national of the
20 United States or the property of such
21 national;

22 “(IV) against any property of
23 any legal entity organized under the
24 laws of the United States, or any of

1 its States, districts, commonwealths,
2 territories, or possessions; or

3 “(V) in an attempt to compel the
4 United States to do or abstain from
5 doing any act; or

6 “(ii) is committed—

7 “(I) on board an aircraft, which
8 is registered under the laws of the
9 United States at the time the offense
10 is committed or is operated by the
11 United States; or

12 “(II) on board a vessel of the
13 United States (as defined in section
14 3(b) of the Maritime Drug Enforce-
15 ment Act (46 U.S.C. 1903(b)) or on
16 board a vessel subject to the jurisdic-
17 tion of the United States (as defined
18 in section 3(c) of that Act); or

19 “(C) the foreign terrorist organization has
20 been designated pursuant to the authority
21 granted under the Immigration and Nationality
22 Act.

23 “(d) ACTS COMMITTED OUTSIDE TERRITORIAL JU-
24 RISDICTION OF UNITED STATES.—This section is in-

1 tended to reach prohibited acts, which are committed out-
2 side the territorial jurisdiction of the United States.

3 “(e) PROOF REQUIREMENTS.—The prosecution shall
4 not be required to prove that any defendant knew that
5 an organization was designated as a ‘foreign terrorist or-
6 ganization’ under the Immigration and Nationality Act.

7 “(f) DEFINITIONS.—In this section, the following
8 definitions shall apply:

9 “(1) ANYTHING OF PECUNIARY VALUE.—The
10 term ‘anything of pecuniary value’ has the meaning
11 given the term in section 1958(b)(1) of title 18,
12 United States Code.

13 “(2) NATIONAL OF THE UNITED STATES.—The
14 term ‘national of the United States’ has the meaning
15 given the term in section 101(a)(22) of the Immi-
16 gration and Nationality Act (8 U.S.C. 1101(a)(22)).

17 “(3) TERRORIST OFFENSE.—The term ‘ter-
18 rorist offense’ means—

19 “(A) an act which constitutes an offense
20 within the scope of a treaty, as defined under
21 section 2339C(e)(7) of title 18, United States
22 Code, which has been implemented by the
23 United States;

24 “(B) any other act intended to cause death
25 or serious bodily injury to a civilian, or to any

1 other person not taking an active part in the
2 hostilities in a situation of armed conflict, when
3 the purpose of such act, by its nature or con-
4 text, is to intimidate a population, or to compel
5 a government or an international organization
6 to do or to abstain from doing any act.

7 “(4) **TERRORIST ORGANIZATION.**—The term
8 ‘terrorist organization’ has the meaning given the
9 term in section 212(a)(3)(B)(vi) of the Immigration
10 and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).”.

11 **SEC. 102. NARCO-TERRORIST CRIMINAL ENTERPRISES.**

12 Part A of the Controlled Substance Import and Ex-
13 port Act (21 U.S.C. 951 et seq.) is amended by inserting
14 after section 1010A (as added by section 101) the fol-
15 lowing:

16 “**NARCO-TERRORIST KINGPINS**

17 “**SEC. 1010B.**

18 “(a) **PROHIBITED ACTS; PENALTIES.**—

19 “(1) **IN GENERAL.**—Any person who engages in
20 a narco-terrorist continuing enterprise shall be—

21 “(A) imprisoned for a period of not less
22 than 40 years and not more than life;

23 “(B) if the defendant is an individual, sub-
24 ject to a fine in an amount not greater than
25 \$4,000,000; and

1 “(C) if the defendant is other than an indi-
2 vidual, subject to a fine in an amount not
3 greater than \$10,000,000.

4 “(2) ENHANCED PENALTY.—Any person who,
5 after being convicted of a felony drug offense or
6 crime of violence, who engages in, or works in fur-
7 therance of, a narco-terrorist continuing enterprise,
8 shall be—

9 “(A) imprisoned for a period of not less
10 than 50 years and not more than life;

11 “(B) if the defendant is an individual, sub-
12 ject to a fine in an amount not greater than
13 \$8,000,000; and

14 “(C) if the defendant is other than an indi-
15 vidual, subject to a fine in an amount not
16 greater than \$20,000,000.

17 “(b) DEFINITIONS.—In this section, the following
18 definitions shall apply:

19 “(1) PERSON ENGAGED IN A NARCO-TERRORIST
20 CONTINUING ENTERPRISE.—The term ‘person en-
21 gaged in a narco-terrorist continuing enterprise’
22 means a person who violates section 1010A if such
23 violation is a part of a continuing series of violations
24 of section 1010A—

1 natural person, may be imprisoned for not more
2 than 20 years”.

3 **TITLE II—PREVENTING AND**
4 **PUNISHING INTERNATIONAL**
5 **MONEY LAUNDERING**

6 **Subtitle A—Prohibiting Money**
7 **Laundering Through Hawalas,**
8 **“Reverse” Money Laundering,**
9 **and Other Money Laundering**
10 **Schemes**

11 **SEC. 201. PREVENTING NARCO-TERRORISTS FROM LAUN-**
12 **DERING MONEY USING HAWALAS.**

13 Section 1956 of title 18, United States Code, is
14 amended by adding at the end the following:

15 “(j) MONEY LAUNDERING.—

16 “(1) IN GENERAL.—For purposes of para-
17 graphs (1) and (2) of subsection (a), a transaction,
18 transportation, transmission, or transfer of funds
19 shall be considered to involve the proceeds of speci-
20 fied unlawful activity if the transaction, transpor-
21 tation, transmission, or transfer is part of a set of
22 parallel or dependent transactions, any 1 of which
23 involves the proceeds of specified unlawful activity.

1 “(2) DEFINED TERM.—As used in this section,
2 the term ‘dependent transaction’ means a trans-
3 action that—

4 “(A) completes or complements another
5 transaction; or

6 “(B) would not have occurred but for an-
7 other transaction.”.

8 **SEC. 202. INTERSTATE TRANSPORTATION OF CRIMINAL**
9 **PROCEEDS AND “REVERSE” MONEY LAUN-**
10 **DERING BY CURRENCY COURIERS.**

11 Section 5332 of title 31, United States Code, is
12 amended—

13 (1) in subsection (a)—

14 (A) by redesignating paragraph (2) as
15 paragraph (3); and

16 (B) by inserting after paragraph (1) the
17 following:

18 “(2) CONCEALMENT IN VEHICLE.—Any person
19 who conceals more than \$10,000 in currency on his
20 person or in any vehicle, in any compartment or con-
21 tainer within any vehicle, or in any container placed
22 in a common carrier, and transports, attempts to
23 transport, or conspires to transport such currency in
24 or affecting interstate commerce on any public road
25 or highway, or on any bus, train, airplane, vessel, or

1 other common carrier, knowing that the currency
2 was derived from some form of unlawful activity, or
3 knowing that the currency was intended to be used
4 to promote some form of unlawful activity, shall be
5 subject to punishment pursuant to subsection (b).”;

6 (2) in subsection (b)(1), by striking “5” and in-
7 serting “10”; and

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

9 “(d) **AUTHORITY TO INVESTIGATE.**—Violations of
10 this section may be investigated by—

11 “(1) the Attorney General;

12 “(2) the Secretary of the Treasury;

13 “(3) the Secretary of the Department of Home-
14 land Security; and

15 “(4) the United States Postal Service.”.

16 **SEC. 203. FREEZING BANK ACCOUNTS OF PERSONS AR-**
17 **RESTED FOR MONEY LAUNDERING AND BULK**
18 **CASH SMUGGLING.**

19 Section 5317 of title 31, United States Code, is
20 amended by adding at the end the following:

21 “(d) **TEMPORARY FREEZE OF BANK ACCOUNT.**—

22 “(1) **IN GENERAL.**—If any person is arrested or
23 charged in connection with any offense under this
24 chapter, or any offense under section 1956, 1957, or
25 1960 of title 18 (relating to the movement of funds

1 into or out of the United States), the Attorney Gen-
2 eral may apply to any Federal judge or magistrate
3 judge in the district in which the arrest is made, or
4 the charges are filed, for an ex parte order restrain-
5 ing any account held by the person arrested or
6 charged for not more than 30 days. This time period
7 may be extended for good cause shown at a hearing
8 conducted in the manner provided in rule 43(e) of
9 the Federal Rules of Civil Procedure.

10 “(2) CONTENTS OF APPLICATION.—The appli-
11 cation for the restraining order referred to in para-
12 graph (1) shall—

13 “(A) identify the offense for which the per-
14 son has been arrested or charged;

15 “(B) identify the location and description
16 of the accounts to be restrained; and

17 “(C) state that the restraining order is
18 needed to prevent the removal of the funds in
19 the account by the person arrested or charged,
20 or by others associated with such person, dur-
21 ing the time needed by the Government to con-
22 duct such investigation as may be necessary to
23 establish whether there is probable cause to be-
24 lieve that the funds in the accounts are subject

1 to forfeiture in connection with the commission
2 of any criminal offense.

3 “(3) RELEASE OF FUNDS.—At the expiration of
4 the period of restraint described in paragraph (1),
5 the financial institution holding the funds that have
6 been subject to restraint shall be free to release
7 those funds at the direction of the account holder
8 unless the Government has obtained a seizure war-
9 rant, a restraining order, or an arrest warrant in
10 rem pursuant to the Supplemental Rules for Certain
11 Admiralty and Maritime Claims.

12 “(4) DEFINITIONS.—For purposes of this
13 section—

14 “(A) the term ‘account’ includes any ac-
15 count (as defined in paragraphs (1) and (2) of
16 section 5318A(e)) at any financial institution;
17 and

18 “(B) the term ‘account held by the person
19 arrested or charged’ includes an account held in
20 the name of such person, and any account over
21 which such person has effective control as a sig-
22 natory or otherwise.”.

1 **SEC. 204. PROCEDURE FOR ISSUING SUBPOENAS IN MONEY**
2 **LAUNDERING CASES.**

3 (a) IN GENERAL.—Section 5318 of title 31, United
4 States Code, is amended—

5 (1) by redesignating subsection (l), as added by
6 section 359 of the International Money Laundering
7 Abatement and Financial Anti-Terrorism Act of
8 2001 (115 Stat. 328), as subsection (m); and

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

10 “(n) PROCEDURE FOR ISSUING SUBPOENAS.—The
11 Attorney General may issue a subpoena in the manner set
12 forth in section 3486 of title 18—

13 “(1) in any situation in which subsection (k)
14 applies; or

15 “(2) in any investigation of a violation of sec-
16 tion 5316, 5324, 5331, or 5332 of this title or sec-
17 tion 1956, 1957, or 1960 of title 18.”.

18 (b) GRAND JURY SUBPOENAS.—Section
19 5318(k)(3)(A) of title 31, United States Code, is
20 amended—

21 (1) in clause (i), by striking “related to such
22 correspondent account”; and

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

24 “(iii) GRAND JURY OR TRIAL SUB-
25 POENA.—A subpoena issued by the Attor-

1 ney General under clause (i) may be a
2 grand jury or a trial subpoena.”.

3 (c) FAIR CREDIT REPORTING ACT AMENDMENT.—

4 Section 604(a)(1) of the Fair Credit Reporting Act (15
5 U.S.C. 1681b(a)(1)) is amended by inserting before the
6 period at the end “, or an investigative subpoena issued
7 pursuant to section 5318 of title 31, United States Code”.

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

10 (1) in paragraph (2)(A), by inserting “or an in-
11 vestigative subpoena issued pursuant to section 5318
12 of title 31” after “grand jury subpoena”; and

13 (2) in paragraph (3)(B), by inserting “, an in-
14 vestigative subpoena issued pursuant to section 5318
15 of title 31,” after “grand jury subpoena”.

16 (e) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—

17 Section 1120(b)(1) of the Right to Financial Privacy Act
18 of 1978 (12 U.S.C. 3420(b)(1) is amended—

19 (1) by inserting “, or an investigative subpoena
20 issued pursuant to section 5318 of title 31, United
21 States Code,” after “grand jury subpoena”; and

22 (2) by inserting “or to the Government” after
23 “to the grand jury”.

1 **SEC. 205. USING BLANK CHECKS IN BEARER FORM TO**
2 **SMUGGLE MONEY.**

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

5 “(e) **MONETARY INSTRUMENTS WITH AMOUNT LEFT**
6 **BLANK.**—For purposes of this section, a monetary instru-
7 ment in bearer form that has the amount left blank so
8 that the amount could be filled in by the bearer, shall be
9 considered to have a value equal to the value of the funds
10 in the account on which the monetary instrument is drawn
11 at the time it was being transported.”.

12 **SEC. 206. TREATING ELECTRONIC FUNDS AS FUNGIBLE**
13 **PROPERTY.**

14 Section 5317(e) of title 31, United States Code, is
15 amended—

16 (1) in paragraph (2), by striking “Any prop-
17 erty” and inserting the following:

18 “(A) **IN GENERAL.**—Any property”; and

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

20 “(B) **FUNGIBLE PROPERTY.**—In any civil
21 forfeiture action brought pursuant to this sec-
22 tion, section 5332, or section 981(a)(1)(A) of
23 title 18, currency, precious metals, gem stones,
24 and funds held in any account at any financial
25 institution in electronic form shall be considered
26 fungible property identical to other property lo-

1 cated in the same place or account at an earlier
2 time.

3 “(C) BURDEN OF PROOF.—In any case de-
4 scribed under subparagraph (B)—

5 “(i) the Government shall not be re-
6 quired to identify the specific property in-
7 volved in the offense that is the basis for
8 the forfeiture; and

9 “(ii) the removal and replacement of
10 the property involved in such offense with
11 identical property shall not be a defense.”.

12 **SEC. 207. MAKING DOMESTIC MONEY LAUNDERING STAT-**
13 **UTE APPLY TO “REVERSE” MONEY LAUN-**
14 **DERING.**

15 Section 1957 of title 18, United States Code, is
16 amended—

17 (1) in the header, by inserting “**or in sup-**
18 **port of criminal activity**” after “**specified**
19 **unlawful activity**”; and

20 (2) in subsection (a)—

21 (A) by inserting “(1)” before “Whoever”;

22 and

23 (B) by adding at the end the following:

24 “(2) Whoever, in any of the circumstances de-
25 scribed under subsection (d), engages or attempts to

1 engage in a monetary transaction involving property
2 of a value greater than \$10,000, with the intent to
3 promote the carrying on of specified unlawful activ-
4 ity, shall be fined under this title, imprisoned for a
5 term of years not to exceed the statutory maximum
6 for the activity being promoted, or both.”.

7 **SEC. 208. MAKING INTERNATIONAL MONEY LAUNDERING**
8 **STATUTE APPLY TO TAX EVASION.**

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

11 (1) by striking “to promote” and inserting
12 “to—

13 “(i) promote”; and

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

15 “(ii) engage in conduct constituting a vio-
16 lation of section 7201 or 7206 of the Internal
17 Revenue Code of 1986; or”.

18 **SEC. 209. SECTION 1957 VIOLATIONS INVOLVING COMMUN-**
19 **ICATED FUNDS AND STRUCTURED TRANS-**
20 **ACTIONS.**

21 Section 1957(f) of title 18, United States Code, is
22 amended—

23 (1) in paragraph (2), by striking “and” at the
24 end;

1 (2) in paragraph (3), by striking the period at
2 the end and inserting a semicolon; and

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

4 “(4) the term ‘monetary transaction in crimi-
5 nally derived property of a value greater than
6 \$10,000’ includes—

7 “(A) a monetary transaction involving the
8 transfer, withdrawal, encumbrance, or other
9 disposition of more than \$10,000 from a bank
10 account in which more than \$10,000 in pro-
11 ceeds of specified unlawful activity have been
12 commingled with other funds;

13 “(B) a series of monetary transactions in
14 amounts under \$10,000 that exceed \$10,000 in
15 the aggregate and that are closely related to
16 each other in terms of such factors as time, the
17 identity of the parties involved, the nature and
18 purpose of the transactions and the manner in
19 which they are conducted; and

20 “(C) any financial transaction described in
21 section 1956(j) that involves more than
22 \$10,000 in proceeds of specified unlawful activ-
23 ity; and

24 “(5) the term ‘monetary transaction involving
25 property of a value greater than \$10,000’ includes

1 a series of monetary transactions in amounts under
2 \$10,000 that exceed \$10,000 in the aggregate and
3 are closely related to each other in terms of time,
4 the identity of the parties involved, the nature and
5 purpose of the transactions, and the manner in
6 which such transactions are conducted.”.

7 **SEC. 210. CHARGING MONEY LAUNDERING AS A COURSE OF**
8 **CONDUCT.**

9 Section 1956(h) of title 18, United States Code, is
10 amended—

11 (1) by inserting “(1)” before “Any person”;

12 (2) by striking “or section 1957” and inserting
13 “, section 1957, or section 1960”; and

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

15 “(2) Multiple violations of this section that are part
16 of the same scheme or continuing course of conduct may
17 be charged in a single count in an indictment or informa-
18 tion.”.

19 **SEC. 211. LAUNDERING THE PROCEEDS OF FOREIGN**
20 **CRIMES.**

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

23 (1) in clause (v), by striking “or” at the end;

24 (2) in clause (vi), by adding “or” at the end;

25 and

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

2 “(vii) any act or activity that would
3 constitute a specified unlawful activity
4 under this paragraph if committed within
5 the jurisdiction of the United States or any
6 State;”.

7 **SEC. 212. ILLEGAL MONEY TRANSMITTING BUSINESSES.**

8 (a) TECHNICAL AMENDMENTS.—Section 1960 of
9 title 18, United States Code, is amended—

10 (1) in the heading, by striking “**unlicensed**”
11 and inserting “**illegal**”;

12 (2) in subsection (a), by striking “unlicensed”
13 and inserting “illegal”; and

14 (3) in subsection (b)(1)—

15 (A) by striking “unlicensed” and inserting
16 “illegal”; and

17 (B) in subparagraph (C), by striking “to
18 be used to be used” and inserting “to be used”.

19 (b) DEFINITION OF BUSINESS TO INCLUDE
20 HAWALAS AND MONEY BROKERS FOR DRUG CARTELS.—

21 Section 1960(b) of title 18, United States Code, is
22 amended—

23 (1) in paragraph (2), by striking “and” at the
24 end;

1 (2) in paragraph (3), by striking the period at
2 the end and inserting “; and”; and

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

4 “(4) the term ‘business’ includes any person or
5 association of persons, formal or informal, licensed
6 or unlicensed, that provides money transmitting
7 services outside of the conventional financial institu-
8 tions system on behalf of any third party in return
9 for remuneration or other consideration.”.

10 (c) GENERAL INTENT REQUIREMENT FOR SECTION
11 1960(b)(1)(B).—Section 1960(b)(1)(B) of title 18,
12 United States Code, is amended by inserting before the
13 semicolon the following: “, whether or not the defendant
14 knew that the operation was required to comply with such
15 registration requirements”.

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

19 “(c) Violations of this section may be investigated
20 by—

21 “(1) the Attorney General;

22 “(2) the Secretary of the Treasury;

23 “(3) the Secretary of the Department of Home-
24 land Security; and

25 “(4) the United States Postal Service.”.

1 **SEC. 213. DEFINITION OF PUBLIC OFFICIAL.**

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

4 (1) in paragraph (8), by striking the period at
5 the end and inserting “; and”; and

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

7 “(9) the term ‘public official’ means any officer
8 or employee of a government or any department,
9 agency, or instrumentality thereof, or of a public
10 international organization, or any person acting in
11 an official capacity for or on behalf of any such gov-
12 ernment or department, agency, or instrumentality,
13 or for or on behalf of any such public international
14 organization.”.

15 **SEC. 214. OTHER SPECIFIED ACTIVITY FOR MONEY LAUN-**
16 **DERING.**

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

19 (1) in subparagraph (A), by inserting “bur-
20 glary, embezzlement”, after “robbery,”;

21 (2) in subparagraph (B)—

22 (A) by inserting “and 1470” after “1461–
23 1465”;

24 (B) by striking “1588” and inserting
25 “1592”;

1 (C) by inserting “section 1960 (relating to
2 unlicensed money transmitting businesses)”, be-
3 fore “sections 2251,”; and

4 (D) by inserting “2252A,” after “2252,”;
5 (3) in subparagraph (D), by striking “fraud in
6 the sale of securities” and inserting “fraud in the
7 purchase or sale of securities”; and

8 (4) in subparagraph (F), by inserting “or
9 274A” after “274”.

10 (b) MONEY LAUNDERING.—Section 1956(e)(7)(D) of
11 title 18, United States Code, is amended—

12 (1) by striking “2339A or 2339B” and insert-
13 ing “2339A, 2339B, or 2339C”; and

14 (2) by inserting before the semicolon at the end
15 the following: “, or section 208 of the Social Secu-
16 rity Act (42 U.S.C. 408) (relating to obtaining funds
17 through misuse of a social security number)”.

18 (c) PROTECTION OF NATURAL RESOURCES AND CUL-
19 TURAL ASSETS.—Section 1956(e)(7) of title 18, United
20 States Code, as amended by subsection (b), is further
21 amended—

22 (1) in subparagraph (E)—

23 (A) by striking “; or” and inserting “, or
24 the Clean Air Act (42 U.S.C. 7401 et seq.), or
25 any wildlife protection offense, as defined in

1 section 44”, after “the Resources Conservation
2 and Recovery Act (42 U.S.C. 6901 et seq.)”;

3 (2) in subparagraph (F), by adding “or” after
4 the semicolon; and

5 (3) by inserting after subparagraph (F) the fol-
6 lowing:

7 “(G) any violation of the Archaeological
8 Resources Protection Act of 1979 (16 U.S.C.
9 470aa et seq.) or the Native American Graves
10 Protection and Repatriation Act (25 U.S.C.
11 3001 et seq.).”.

12 (d) WILDLIFE PROTECTION OFFENSE.—

13 (1) Chapter 3 of title 18, United States Code,
14 is amended by inserting after section 43 the fol-
15 lowing:

16 **“§ 44. Definition of Wildlife Protection Offense**

17 “(a) IN GENERAL.—As used in this title, the term
18 ‘wildlife protection offense’ means any act that may be
19 prosecuted as a criminal offense, which constitutes any
20 violation of—

21 “(1) a provision of this chapter;

22 “(2) any Act listed in subsection (b); or

23 “(3) any regulation promulgated under the au-
24 thority of such Act.

1 “(b) WILDLIFE PROTECTION ACTS.—The statutes
2 referred to in subsection (a) are—

3 “(1) the Lacey Act (16 U.S.C. 701 and 18
4 U.S.C. 42);

5 “(2) the Lacey Act Amendments of 1981 (16
6 U.S.C. 3371 et seq.)

7 “(3) the Endangered Species Act of 1973 (16
8 U.S.C. 1531 et seq.);

9 “(4) the Marine Mammal Protection Act of
10 1972 (16 U.S.C. 1361 et seq.);

11 “(5) the African Elephant Conservation Act (16
12 U.S.C. 4201 et seq.);

13 “(6) the Wild Bird Conservation Act of 1992
14 (16 U.S.C. 4901 et seq.);

15 “(7) the Bald and Golden Eagle Protection Act
16 (16 U.S.C. 668 et seq.);

17 “(8) the Migratory Bird Treaty Act (16 U.S.C.
18 703 et seq.);

19 “(9) the Migratory Bird Hunting Stamp Act
20 (16 U.S.C. 718 et seq.);

21 “(10) the Fish and Wildlife Act of 1956 (16
22 U.S.C. 742a et seq.);

23 “(11) the Antarctic Conservation Act of 1978
24 (16 U.S.C. 2401 et seq.);

1 “(12) the National Wildlife Refuge System Ad-
2 ministration Act (16 U.S.C. 668dd et seq.);

3 “(13) the Rhinoceros and Tiger Conservation
4 Act of 1994 (16 U.S.C. 5301 et seq.);

5 “(14) the Federal Cave Resources Protection
6 Act of 1988 (16 U.S.C. 4301 et seq.); or

7 “(15) the Antarctic Marine Living Resources
8 Convention (16 U.S.C. 2431 et seq.).

9 (b) TECHNICAL AND CONFORMING AMENDMENT.—

10 The table of sections for chapter 3 of title 18, United
11 States Code, is amended by inserting after the item relat-
12 ing to section 43 the following new item:

 “44. Definition of wildlife protection offense.”.

13 **Subtitle B—Recovering and**
14 **Confiscating Criminal Proceeds**

15 **SEC. 221. CRIMINAL FORFEITURE FOR MONEY LAUN-**
16 **DERING CONSPIRACIES.**

17 Section 982(a)(1) of title 18, United States Code, is
18 amended by striking “of this title,” and inserting “, or
19 a conspiracy to commit any such offense,”.

20 **SEC. 222. FUNGIBLE PROPERTY.**

21 (a) IN GENERAL.—Section 984(b) of title 18, United
22 States Code, is amended to read as follows:

23 “(b) The provisions of this section may be invoked
24 only if the action for forfeiture was commenced by the sei-
25 zure or restraint of the property, or by the filing of a com-

1 plaint, within 2 years of the completion of the offense that
2 is the basis for the forfeiture.”.

3 (b) MONEY LAUNDERING WITH GEM STONES.—Sec-
4 tion 984(a)(1) of title 18, United States Code, is amended
5 by striking “precious metals” and inserting “precious met-
6 als or stones”.

7 **SEC. 223. FORFEITING THE PROCEEDS OF FOREIGN**
8 **CRIMES.**

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

11 “(i) involves any violation of foreign law
12 that would constitute an offense for which prop-
13 erty could be forfeited under Federal law if the
14 offense were committed in the United States, or
15 any other conduct described in section
16 1956(c)(7)(B);”.

17 **SEC. 224. RECOVERY OF CRIMINAL PROCEEDS FROM THIRD**
18 **PARTIES.**

19 Section 1956(b) of title 18, United States Code, is
20 amended by adding at the end the following:

21 “(5) RECOVERY OF TRANSFERRED PROP-
22 ERTY.—

23 “(A) IN GENERAL.—If property involved in
24 a violation of subsection (a) or section 1957,
25 1960, or 1962, or a conspiracy to commit any

1 such offense, is transferred to a third party who
2 is not a bona fide purchaser for value, the
3 United States may file a civil action against the
4 transferee to recover the property, or a sum of
5 money equal to the value of the property imme-
6 diately before the transfer, plus interest from
7 the time of the transfer.

8 “(B) VENUE.—Venue for an action under
9 subparagraph (A) shall lie in any district in
10 which the criminal violation or the transfer of
11 the property occurred.”.

12 **SEC. 225. RESTRAINT OF PROCEEDS OF FOREIGN CRIME.**

13 Section 981(b)(4) of title 18, United States Code, is
14 amended—

15 (1) in subparagraph (A), by striking “an of-
16 fense that would give rise to the forfeiture of prop-
17 erty in the United States under this section or under
18 the Controlled Substances Act,” and inserting “con-
19 duct that may be the basis for a forfeiture action
20 that has been, or could be, filed in a Federal court
21 under this section or under the Controlled Sub-
22 stances Act or that may be the basis for a foreign
23 forfeiture judgment enforceable in the United States
24 under section 2467 of title 28,”; and

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

1 “(C) If property subject to restraint under
2 subparagraph (A) is located in more than 1 dis-
3 trict, a court in any district in which the prop-
4 erty is located may enter an order under sub-
5 paragraph (A) regarding property located in
6 that district and any other district.”.

7 **SEC. 226. EXTRATERRITORIAL JURISDICTION.**

8 Section 1956(f)(1) of title 18, United States Code,
9 is amended by inserting before the semicolon the following:
10 “or has an effect in the United States”.

11 **SEC. 227. AVAILABILITY OF TAX RECORDS.**

12 Section 6103 of the Internal Revenue Code of 1986
13 (relating to confidentiality of returns) is amended—

14 (1) in subsection (a)(3), by inserting “sub-
15 section (i)(9),” after “subsection (e)(1)(D)(iii),”;
16 and

17 (2) in subparagraph (i)—

18 (A) in paragraph (1)(A)(i), by inserting
19 “or related civil forfeiture” after “Federal
20 criminal statute”;

21 (B) in paragraph (1)(B)(iii), by inserting
22 “or civil forfeiture investigation or proceeding”
23 after “Federal criminal investigation or pro-
24 ceeding”; and

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

1 “(9) EMPLOYEE OF THE DEPARTMENT OF JUSTICE.—For the purposes of this subsection, an employee of the Department of Justice includes a government contractor who is personally and directly engaged in the activities described in this subsection under the supervision of the Department of Justice.”.

8 **SEC. 228. CIVIL ORDER TO REPATRIATE ASSETS.**

9 Section 983(j) of title 18, United States Code, is
10 amended by adding at the end the following:

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

12 “(A) IN GENERAL.—Pursuant to its authority to enter a pretrial restraining order under this section, the court may order a party or claimant to repatriate any property that may be seized and forfeited, and to deposit that property, pending trial, in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, as appropriate.

21 “(B) FAILURE TO COMPLY.—Failure to
22 comply with an order under this paragraph
23 shall be punishable as a civil or criminal contempt of court, and may also result in an
24 enhancement of the sentence of a criminal defend-
25

1 ant subject to such an order under the obstruc-
2 tion of justice provision of the Federal sen-
3 tencing guidelines.”.

4 **SEC. 229. FORFEITURE FOR FAILURE TO REPORT LARGE**
5 **CASH TRANSACTIONS.**

6 Section 5317(c) of title 31, United States Code, is
7 amended—

8 (1) in paragraph (1)(A), by striking “or 5324
9 of this title” and inserting “5324, or 5331”; and

10 (2) in paragraph (2), by striking “or 5324 of
11 this title” and inserting “5324, or 5331”.

12 **SEC. 230. ASSETS OF PERSONS COMMITTING TERRORIST**
13 **ACTS AGAINST FOREIGN COUNTRIES.**

14 Section 981(a)(1) of title 18, United States Code, is
15 amended—

16 (1) in subparagraph (G)—

17 (A) in clause (ii), by deleting “or” at the
18 end;

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

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

22 “(iv) of any individual, entity, or organiza-
23 tion engaged in planning or perpetrating any
24 act of international terrorism (as defined in sec-
25 tion 2331) against any international organiza-

1 tion (as defined in section 209(b) of the State
2 Department Basic Authorities Act of 1956 (22
3 U.S.C. 4309(b)) or against any foreign govern-
4 ment, its citizens or residents, or their prop-
5 erty.”; and

6 (2) in subparagraph (H), by adding at the end
7 the following: “Property that is located beyond the
8 territorial boundaries of the United States shall not
9 be subject to forfeiture under subparagraph (G)(iv)
10 unless an act in furtherance of planning or perpetra-
11 tion of an act of international terrorism occurred
12 within the jurisdiction of the United States.”.

13 **SEC. 231. TECHNICAL AMENDMENT TO RESTORE WIRETAP**
14 **AUTHORITY FOR CERTAIN MONEY LAUN-**
15 **DERING OFFENSES.**

16 (a) **MONEY LAUNDERING.**—Section 2516(1)(c) of
17 title 18, United States Code, is amended by inserting “sec-
18 tion 1960 (relating to illegal money transmitting busi-
19 nesses),” before “section 659”.

20 (b) **CURRENCY REPORTING OFFENSES.**—Section
21 2516(1)(g) of title 18, United States Code, is amended
22 to read as follows:

23 “(g) any offense punishable under section 5322,
24 5324 or 5332 of title 31, United States Code (deal-

1 ing with the reporting and illegal structuring of cur-
2 rency transactions);”.

3 **SEC. 232. KNOWLEDGE THAT THE PROPERTY IS THE PRO-**
4 **CEEDS OF A SPECIFIC FELONY.**

5 (a) INTENT TO CONCEAL OR DISGUISE.—Sections
6 1956(a) of title 18, United States Code, is amended—

7 (1) in paragraph (1)(B)(i), by striking “speci-
8 fied unlawful activity” and inserting “some form of
9 unlawful activity”; and

10 (2) in paragraph (2)(B)(i), by striking “speci-
11 fied unlawful activity” and inserting “some form of
12 unlawful activity”.

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

18 **SEC. 233. DISCOVERY PROCEDURE FOR LOCATING**
19 **LAUNDERED MONEY.**

20 Section 413(m) of the Controlled Substances Act (21
21 U.S.C. 853(m)) is amended by inserting before the period
22 at the end the following: “to the extent that the provisions
23 of the Rule are consistent with the purposes for which dis-
24 covery is conducted under this subsection. Because this
25 subsection applies only to matters occurring after the de-

1 defendant has been convicted and the property of the defend-
2 ant has been declared forfeited, the provisions of Rule 15
3 requiring the presence of the defendant at the deposition
4 of any other witness, or a waiver by the defendant of a
5 right to be present, shall not apply”.

6 **SEC. 234. AUTHORIZATION TO SHARE RECOVERED PROP-**
7 **ERTY WITH COOPERATING FOREIGN GOV-**
8 **ERNMENTS.**

9 (a) IN GENERAL.—Section 981(i)(1) of title 18,
10 United States Code, is amended by striking “this chapter”
11 and inserting “any provision of Federal law”.

12 (b) CONFORMING AMENDMENTS.—Section 511(e)(1)
13 of the Controlled Substances Act (21 U.S.C. 881(e)(1))
14 is amended—

15 (1) in subparagraph (C), by adding “or” after
16 the semicolon;

17 (2) in subparagraph (D), by striking “; or” and
18 inserting a period; and

19 (3) by striking subparagraph (E).

20 **SEC. 235. CRIMINAL FORFEITURE OF PROPERTY IN GOV-**
21 **ERNMENT CUSTODY.**

22 Section 413(f) of the Controlled Substances Act (21
23 U.S.C. 853(f)) is amended—

24 (1) by striking “The Government” and insert-
25 ing the following:

1 “(1) The Government”; and

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

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

8 “(3) If the seizure warrant is obtained after the
9 property to be seized has been listed in an indict-
10 ment or criminal information or related bill of par-
11 ticulars, the requirement that the warrant be exe-
12 cuted within 10 days under Rule 41, Federal Rules
13 of Criminal Procedure, shall not apply.”.

14 **SEC. 236. NON-ABATEMENT OF CRIMINAL FORFEITURE**
15 **WHEN DEFENDANT DIES PENDING APPEAL.**

16 Section 413 of the Controlled Substances Act (21
17 U.S.C. 853), as amended by sections 234 and 236, is fur-
18 ther amended by adding at the end the following:

19 “(r) NON-ABATEMENT OF FORFEITURE ORDER.—
20 An order of forfeiture that has been made part of a crimi-
21 nal sentence under this section shall not abate by reason
22 of the death thereafter of any or all of the defendants or
23 petitioners or potential petitioners, regardless of any ap-
24 peal that may be pending at the time of death.”.

1 **SEC. 237. MISCELLANEOUS MINOR AND TECHNICAL**
2 **AMENDMENTS.**

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

7 (b) **DEFINITION OF FINANCIAL INSTITUTION.**—Sec-
8 tion 5312(a)(2) of title 31, United States Code, is
9 amended—

10 (1) by redesignating subparagraphs (Y) and (Z)
11 as subparagraphs (Z) and (AA), respectively; and

12 (2) by inserting after subparagraph (X) the fol-
13 lowing:

14 “(Y) a bail bondsman;”.

15 (c) **TECHNICAL AMENDMENT TO SECTION 1957.**—
16 Section 1957 of title 18, United States Code, is
17 amended—

18 (1) in subsection (a), by striking “engages or
19 attempts to engage in” and inserting “conducts or
20 attempts to conduct”; and

21 (2) in subsection (f)—

22 (A) in paragraph (2), by striking “and” at
23 the end;

24 (B) in paragraph (3), by striking the pe-
25 riod at the end and inserting “; and”; and

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

1 “(4) the term ‘conducts’ has the meaning given
2 the term in section 1956.”.

3 (d) OBSTRUCTION OF JUSTICE.—Section
4 1510(b)(3)(B) of title 18, United States Code, is amended
5 by inserting “, a subpoena issued pursuant to section 1782
6 of title 28,” before “or a Department of Justice sub-
7 poena”.

8 (e) TECHNICAL CORRECTIONS TO USA PATRIOT
9 ACT.—

10 (1) USA PATRIOT ACT.—Section 322 of Public
11 Law 107–56 is amended by striking “title 18” and
12 inserting “title 28”.

13 (2) TITLE 18.—Title 18, United States Code, is
14 amended—

15 (A) in section 981(k), by striking “foreign
16 bank” each place it appears and inserting “for-
17 eign bank or financial institution”; and

18 (B) in section 1956(b), by striking “de-
19 scribed in paragraph (2)” each place it appears.

20 (3) TITLE 31.—Chapter 53 of title 31, United
21 States Code, is amended—

22 (A) in section 5312(a)(3)(C), by striking
23 “5333” and inserting “5331”;

24 (B) in section 5318(k)(1)(B) by striking
25 “(f)” and inserting “(e)”;

1 (C) in section 5324(b), by striking “5333”
2 each place it appears and inserting “5331”; and

3 (D) in section 5332(a)(1), by striking “ar-
4 ticle of luggage” and inserting “article of lug-
5 gage or mail”.

6 **SEC. 238. VENUE FOR PRISONER CHALLENGES TO SEIZURE**
7 **OF CRIME PROCEEDS.**

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

10 (1) in paragraph (3), by adding at the end the
11 following: “If the person filing the motion was a de-
12 fendant in a criminal prosecution related to the sei-
13 zure of the property, the motion shall be filed in the
14 district where such prosecution took place, or in the
15 district where the property was seized.”; and

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

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

1 (b) EFFECTIVE DATE.—The provisions of section
2 983(e) of title 18, United States Code, shall apply to any
3 motion to set aside a declaration or judgment of forfeiture
4 if such motion is filed on or after August 23, 2000.

5 **SEC. 239. RESTORING CRIMINAL PROCEEDS TO VICTIMS.**

6 The amendments to section 981(e)(6) of title 18,
7 United States Code, made by Public Law 106–185 (114
8 Stat. 202), relating to the restoration of criminally derived
9 property to crime victims, shall apply to all cases pending
10 on August 23, 2000, or commenced thereafter, regardless
11 of the date of the offense or the date when the criminally
12 derived property was recovered.

13 **SEC. 240. AFFORDING PROPERTY OWNERS A HEARING ON**
14 **THE SEIZURE OF REAL PROPERTY.**

15 Section 985(e) of title 18, United States Code, is
16 amended to read as follows:

17 “(e) If the court authorizes a seizure of real property
18 under subsections (d)(1)(B)(ii), it shall afford the prop-
19 erty owner an opportunity for a prompt post-seizure hear-
20 ing to determine whether there was probable cause for the
21 seizure.”.

22 **SEC. 241. JURISDICTION OF MAGISTRATES.**

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

1 (1) in paragraph (4), by striking “and” after
2 the semicolon;

3 (2) in paragraph (5), by striking the period and
4 inserting “; and”; and

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

6 “(6) all powers and duties conferred or imposed
7 upon the courts by sections 981 through 986 of title
8 18, United States Code, in connection with forfeiture
9 proceedings, but not including the conduct of the
10 trial.”.

11 **SEC. 242. TECHNICAL AMENDMENT REGARDING THE PRO-**
12 **CEDURES FOR CRIMINAL FORFEITURE.**

13 Section 2461(c) of title 28, United States Code, is
14 amended by striking “in accordance with the procedures
15 set forth in section 413 of the Controlled Substances Act
16 (21 U.S.C. 853), other than subsection (d) of that sec-
17 tion.” and inserting “in accordance with those Rules. The
18 procedures set forth in section 413 of the Controlled Sub-
19 stances Act (21 U.S.C. 853), except for subsection (d) of
20 that section, shall apply to all stages of the criminal for-
21 feiture proceeding.”.

22 **SEC. 243. CLARIFICATION OF 18 U.S.C. 3322.**

23 Section 3322(a) of title 18, United States Code, is
24 amended by inserting before the period the following: “,
25 including disclosing such information in a complaint, or

1 in an application for a seizure warrant or restraining
2 order, or for use at any trial or hearing. Disclosure to an
3 attorney for the Government under this section shall in-
4 clude disclosure to any Government employee or con-
5 tractor regularly engaged in assisting the attorney to
6 whom the information is disclosed in the conduct of civil
7 litigation.”.

8 **SEC. 244. MINOR AMENDMENTS TO THE CIVIL ASSET FOR-**
9 **FEITURE REFORM ACT OF 2000.**

10 (a) SECTION 981.—Section 981 of title 18, United
11 States Code, as amended by this title, is further amended
12 by adding at the end the following:

13 “(l) The procedural provisions of this section shall
14 apply to any civil forfeiture statute, as that term is defined
15 in Section 983(i).”.

16 (b) TURNOVER ORDERS; INCARCERATED PER-
17 SONS.—Section 983(a)(1) of title 18, United States Code,
18 is amended—

19 (1) in subparagraph (A)(iv), by adding at the
20 end the following: “In a State where the State or
21 local law enforcement agency must obtain an order
22 from a State court authorizing the turnover, the pe-
23 riod from the date the law enforcement agency ap-
24 plies for the turnover order to the date when such

1 order is issued by the court shall not be included in
2 the 90-day period.”; and

3 (2) in subparagraph (F), by inserting at the
4 end the following: “The Government shall not be re-
5 quired to return property to a person who is incar-
6 cerated.”.

7 (c) CRIMINAL INFORMATION.—Section 983(a)(3) of
8 title 18, United States Code, is amended by striking
9 “criminal indictment” each place it appears and inserting
10 “criminal indictment or information”.

11 (d) ENDANGERED SPECIES AND OTHER CONTRA-
12 BAND.—Section 983(d)(4) of title 18, United States Code,
13 is amended—

14 (1) by inserting “(A)” before “Notwith-
15 standing”; and

16 (2) by inserting the following at the end:

17 “(B) As used in this paragraph, the term ‘prop-
18 erty that it is illegal to possess’ includes—

19 “(i) animal or animal products protected
20 by any law enacted to conserve or protect en-
21 dangered species or other wildlife or natural re-
22 sources;

23 “(ii) historic or cultural artifacts, works of
24 art, archaeological or paleontological resources,
25 human remains, fossils and other things pro-

1 tected by any law enacted to preserve, protect,
2 recover or restore historic or cultural resources;
3 and

4 “(iii) any firearm, explosive, chemical
5 agent or other instrumentality used to commit
6 a crime of violence.”.

7 **SEC. 245. COLLECTION OF CRIMINAL FORFEITURE JUDG-**
8 **MENT.**

9 Section 413 of the Controlled Substances Act (21
10 U.S.C. 853), as amended by this title, is further amended
11 by adding at the end the following:

12 “(s) COLLECTION OF CRIMINAL FORFEITURE JUDG-
13 MENT.—In addition to the authority otherwise provided
14 under this section, an order of forfeiture may be
15 enforced—

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

19 “(2) in the same manner as a judgment in a
20 civil action.”.

21 **SEC. 246. PROPERTY DETAINED AT THE BORDER.**

22 Section 983(a)(1) of title 18, United States Code, as
23 amended by section 244(b), is further amended—

24 (1) in subparagraph (A), by adding at the end
25 the following:

1 “(vi) In cases where property is detained at an
2 international border or port of entry for the purpose
3 of examination, testing, inspection, obtaining docu-
4 mentation or other investigation relating to the im-
5 portation of the property into, or the exportation of
6 the property out of, the United States, such period
7 of detention shall not be included in the 60-day pe-
8 riod described in clause (i). In such cases, the 60-
9 day period shall begin to run when the period of de-
10 tention is concluded, and a law enforcement agency
11 of the United States determines that the property
12 will be seized for the purpose of forfeiture to the
13 United States.”; and

14 (2) in subparagraph (D)—

15 (A) in clause (iv), by striking “or” at the
16 end;

17 (B) by redesignating clause (v) as clause
18 (vi); and

19 (C) by inserting after clause (iv) the fol-
20 lowing:

21 “(v) initiation of a forfeiture proceeding
22 before the seizing agency has received the re-
23 sults of a scientific test or laboratory analysis
24 of the seized property that is material to the de-

1 termination whether the property is subject to
2 forfeiture; or”.

3 **SEC. 247. EXEMPTION FROM LIABILITY FOR ATTORNEY**
4 **FEES IN INTERNATIONAL MONEY LAUN-**
5 **DERING CASES.**

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

8 “(c) The United States shall not be liable for attorney
9 fees or other litigation costs under subsection (b)(1) if—

10 “(1) the Government established the forfeit-
11 ability of the property pursuant to section
12 981(a)(1)(A) of title 18, or any forfeiture provision
13 of chapter 53 of title 31, by a preponderance of the
14 evidence; and

15 “(2) the forfeiture action involved the move-
16 ment of funds across an international border or into
17 or out of an account at a foreign financial institu-
18 tion.”.

19 **SEC. 248. TECHNICAL CORRECTION REGARDING FOR-**
20 **FEITURE AUTHORITY FOR SECRETARY,**
21 **HOMELAND SECURITY.**

22 Section 981 of title 18, United States Code, as
23 amended by this title, is further amended—

1 (1) by inserting “, Secretary of Homeland Se-
2 curity” after “the Secretary of the Treasury” each
3 place it appears; and

4 (2) in subsection (j)—

5 (A) in paragraph (1), by striking “and” at
6 the end;

7 (B) in paragraph (2), by striking the pe-
8 riod at the end and inserting “; and”; and

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

10 “(3) the term “Secretary of Homeland Secu-
11 rity” means the Secretary of the Department of
12 Homeland Security or his delegate.”.

13 **SEC. 249. RULE 32.2.**

14 Rule 32.2(b)(3) of the Federal Rules of Criminal Pro-
15 cedure is amended by adding at the end the following: “If
16 the court fails to include the order of forfeiture in the sen-
17 tence of judgment, the Government, or the court on its
18 own motion, may move at any time to correct the error
19 pursuant to Rule 36.”.

20 **SEC. 250. FORFEITURE OF THE VALUE OF DRUGS SEIZED.**

21 Section 413(a) of the Controlled Substances Act (21
22 U.S.C. 853(a)), is amended by adding at the end the fol-
23 lowing: “In addition to any other money judgment that
24 may be imposed under this section, a person who does not
25 receive any proceeds from the sale, importation, or dis-

1 tribution of a controlled substance because the person is
2 arrested, or the controlled substance is seized, before the
3 sale, importation, or distribution is complete, shall pay a
4 money judgment equal to the amount of money that would
5 have been paid if such sale, importation, or distribution
6 had been completed.”.

7 **SEC. 251. FORFEITURE OF FACILITATING PROPERTY IN**
8 **NARCO-TERRORISM CASES AND PROPERTY**
9 **TRACEABLE TO SUCH PROPERTY.**

10 (a) CONVEYANCES.—Section 511(a)(4) of the Con-
11 trolled Substances Act (21 U.S.C. 881(a)(4)) is amended
12 by inserting before the period at the end the following:
13 “, and any property that is traceable to such convey-
14 ances”.

15 (b) NEGOTIABLE INSTRUMENTS, SECURITIES, AND
16 OTHER THINGS OF VALUE.—Section 511(a)(6) of the
17 Controlled Substances Act (21 U.S.C. 881(a)(6)) is
18 amended by striking “and all moneys, negotiable instru-
19 ments, and securities used or intended to be used to facili-
20 tate any violation of this subchapter” and inserting “all
21 moneys, negotiable instruments, securities, and other
22 things of value used, or intended to be used, to facilitate
23 any violation of this subchapter, and any property trace-
24 able to such valuables.”.

1 (c) REAL PROPERTY.—Section 511(a)(7) of the Con-
2 trolled Substances Act (21 U.S.C. 881(a)(7)) is amended
3 by inserting before the period at the end the following:
4 “, and any property that is traceable to such property”.

5 (d) AMMUNITION.—Section 511(a)(11) of the Con-
6 trolled Substances Act (21 U.S.C. 881(a)(11)) is amended
7 by inserting “, ammunition, holster, or other carrying
8 case” before “used or intended to be used.”.

9 **SEC. 252. FORFEITURE OF INSTRUMENTALITIES OF TER-**
10 **RORISM, FRAUD, AND OTHER OFFENSES.**

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

13 “(I)(i) Any computer, photostatic reproduction
14 machine, electronic communications device, or other
15 material, article, apparatus, device, or thing made,
16 possessed, fitted, used, or intended to be used on a
17 continuing basis to commit a violation of section
18 513, 514, 1028, 1029, 1030, 1031, 1032, 1341,
19 1342, 1343, or 1344, or a conspiracy to commit
20 such offense, and any property traceable to such
21 property.

22 “(ii) Any conveyance used on 2 or more occa-
23 sions to transport the instrumentalities used in the
24 commission of a violation of section 1028 or 1029,

1 or a conspiracy to commit such offense, and any
2 property traceable to such conveyance.

3 “(J) Any conveyance, chemicals, laboratory
4 equipment, or other material, article, apparatus, de-
5 vice or thing made, possessed, fitted, used, or in-
6 tended to be used to commit—

7 “(i) an offense punishable under Chapter
8 113B (relating to terrorism);

9 “(ii) a violation of Chapter 53 of the Inter-
10 nal Revenue Code of 1986 (relating to fire-
11 arms);

12 “(iii) a violation of subsection (a)(1),
13 (a)(3), (b), (c), (d), or (h)(1) of section 842, or
14 any of the subsections (d) through (m) of sec-
15 tion 844 (relating to explosives); or

16 “(iv) any other offense enumerated in sec-
17 tion 2339A(a) or a conspiracy to commit any
18 such offense, and any property traceable to
19 such property.”.

1 **TITLE III—NATIONAL DRUG**
2 **SENTENCING REFORM**

3 **SEC. 301. SENTENCING GUIDELINE CONFORMING CHANGES**
4 **AND ENHANCEMENTS FOR ACTS OF VIO-**
5 **LENCE DURING THE COURSE OF A DRUG**
6 **TRAFFICKING OFFENSE.**

7 Pursuant to its authority under section 994 of title
8 28, United States Code, and in accordance with this sec-
9 tion, the United States Sentencing Commission shall re-
10 view and amend the Federal sentencing guidelines, com-
11 mentary, and policy statements to ensure that the guide-
12 lines provide an appropriate enhancement of between 2 to
13 8 base offense levels, for each of the following factors, if
14 the defendant, during the course of a drug trafficking
15 offense—

- 16 (1) used violence;
17 (2) made a credible threat to use violence;
18 (3) directed or threatened the use of violence;
19 or
20 (4) possessed a firearm, or other dangerous
21 weapon.

22 **SEC. 302. INCREASE IN SENTENCE FOR AGGRAVATING FAC-**
23 **TORS.**

24 Pursuant to its authority under section 994 of title
25 28, United States Code, and in accordance with this sec-

1 tion, the United States Sentencing Commission shall re-
2 view and amend the Federal sentencing guidelines, com-
3 mentary, and policy statements for offenses involving con-
4 trolled substances to take into account the following im-
5 portant aggravating factors relating to the seriousness of
6 the offense and the culpability of the defendant:

7 (1) The defendant induced another person to
8 purchase, sell, transport, or store controlled sub-
9 stances, used impulse, fear, friendship, affection, or
10 some combination thereof to involve such person in
11 the offense, and such person was to receive little or
12 no compensation from the offense.

13 (2) The defendant maintained an establishment
14 for the manufacture or distribution of a controlled
15 substance, as generally described in section 406 of
16 the Controlled Substances Act (21 U.S.C. 856).

17 (3) The defendant distributed a controlled sub-
18 stance to a person under age 18, a person over age
19 64, or a pregnant individual, or involved a person
20 under age 18, a person over age 64, or a pregnant
21 individual in drug trafficking.

22 (4) The defendant bribed, or attempted to
23 bribe, a Federal, State, or local law enforcement of-
24 ficial in connection with a drug trafficking offense.

1 (5) The defendant committed the drug traf-
2 ficking offense as part of a pattern of criminal con-
3 duct engaged in as a livelihood.

4 (6) The defendant had a prior conviction for a
5 felony drug offense.

6 (7) The defendant was involved in the importa-
7 tion of a controlled substance into the United States.

8 **SEC. 303. REMOVING SENTENCING CAP ON DRUG TRAF-**
9 **FICKERS WHO FACILITATE THE AVAIL-**
10 **ABILITY AND DISTRIBUTION OF LARGE**
11 **QUANTITIES OF ILLEGAL DRUGS.**

12 (a) IN GENERAL.—The Guidelines Manual promul-
13 gated by the Sentencing Commission pursuant to section
14 994(a) of title 28, United States Code, is amended—

15 (1) in section 2D1.1

16 (A) in subsection (a)(3), by striking “, ex-
17 cept that if the defendant receives an adjust-
18 ment under § 3B1.2 (Mitigating Role), the base
19 offense level under this subsection shall not be
20 more than level **30**”;

21 (B) in subsection (b), by striking para-
22 graph (6); and

23 (C) in the Commentary, by striking Appli-
24 cation Note 21; and

1 “(1) the defendant does not have any criminal
2 history points, as determined under the Federal sen-
3 tencing guidelines;”;

4 (B) in paragraph (4), by striking “and” at
5 the end; and

6 (C) by striking paragraph (5) and insert-
7 ing the following:

8 “(5) the defendant entered a timely plea of
9 guilty to the offense of conviction;

10 “(6) not later than the time of the sentencing,
11 the Government files a certification with the court
12 stating that the defendant, in a timely manner—

13 “(A) plead guilty to the offense of convic-
14 tion;

15 “(B) truthfully provided all information
16 and evidence that the defendant has concerning
17 the offense or offenses that were part of the
18 same course of conduct or common scheme or
19 plan, whether or not such information was pre-
20 viously known or used by the Government; and

21 “(C) testified fully and truthfully in all
22 proceedings at the request of the Government,
23 was prepared to do so, or has agreed to do so
24 in the future; and”.

1 (2) RESTORATION OF CONGRESSIONAL INTENT
2 CONCERNING APPLICATION OF 18 U.S.C. 3553(f).—

3 (A) IN GENERAL.—The Guideline Manual
4 promulgated by the United States Sentencing
5 Commission pursuant to section 994(a) of title
6 28, United States Code, is amended by repeal-
7 ing section 2D1.1(b)(6).

8 (B) RESTRICTION.—The Sentencing Com-
9 mission shall not promulgate any amendment
10 that would alter or repeal the amendment under
11 subparagraph (A).

12 (b) REDUCTION OF SENTENCES FOR DEFENDANTS
13 WHO QUALIFY FOR MINIMAL ROLE ADJUSTMENT AND
14 ARE FIRST-TIME, NON-VIOLENT OFFENDERS.—Pursu-
15 ant to its authority under section 994 of title 28, United
16 States Code, and in accordance with this section, the
17 United States Sentencing Commission shall review and
18 amend, as appropriate, the Federal sentencing guidelines,
19 commentary, and policy statements to ensure that if the
20 defendant qualifies for a minimal role adjustment under
21 section 3B1.2(a) of the guidelines and an adjustment
22 under section 5C1.2 of the guidelines, the defendant shall
23 be entitled to an additional reduction of 2 base offense
24 levels if the defendant, at the sentencing hearing, estab-

1 lishes by a preponderance of the evidence that the
2 defendant—

3 (1) did not directly participate in the distribu-
4 tion of controlled substances;

5 (2) did not receive any significant compensation
6 or benefit as a result of the offense; and

7 (3) was not predisposed to commit the offense.

8 **SEC. 306. RESTORATION OF ORDERLY GRADATION OF SEN-**
9 **TENCES TO PUNISH LARGE-SCALE DRUG**
10 **TRAFFICKERS.**

11 (a) IN GENERAL.—Pursuant to its authority under
12 section 994 of title 28, United States Code, and in accord-
13 ance with this section, the United States Sentencing Com-
14 mission shall, not later than 30 days after the date of en-
15 actment of this Act, amend section 2D1.1(c) of the Fed-
16 eral sentencing guidelines, and related policy statements—

17 (1) with respect to heroin, other Schedule I or
18 II opiates, cocaine, other Schedule I or II stimu-
19 lants, cocaine base, PCP, PCP (actual), LSD, other
20 schedule I or II hallucinogens, fentanyl, fentanyl
21 analogue, marijuana, hashish, and hashish oil, to re-
22 store base offense levels 40 and 42 as they existed
23 prior to amendment 505, which was promulgated by
24 the Sentencing Commission with an effective date of
25 November 1, 1994; and

1 (2) with respect to methamphetamine, meth-
2 amphetamine (actual), “Ice”, amphetamine, amphet-
3 amine (actual), Schedule I or II depressants, and
4 flunitrazepam, to provide for appropriate drug quan-
5 tities to be assigned base offense levels 40 and 42,
6 respectively, for amounts above the minimum
7 amounts for these drugs under section 2D1.1(c)(1).

8 (b) RESTRICTION.—The Sentencing Commission
9 shall not promulgate any amendment that—

10 (1) alters or repeals the amendment described
11 under subsection (a)(1); or

12 (2) is inconsistent with subsection (a)(2).

13 **SEC. 307. CONFORMING SENTENCING GUIDELINES TO CON-**
14 **SPIRACY LAW.**

15 (a) DIRECTIVE TO UNITED STATES SENTENCING
16 COMMISSION.—Pursuant to its authority under section
17 994(p) of title 28, United States Code, and in accordance
18 with this section, the United States Sentencing Commis-
19 sion shall, not later than 180 days after the date of enact-
20 ment of this Act, review and amend the Federal sen-
21 tencing guidelines, policy statements, official commentary,
22 and illustrations of conduct for which the defendant is ac-
23 countable under section 1B1.3 to ensure that a defendant
24 is accountable for “relevant conduct”, including—

1 (1) in the case of a criminal conspiracy (a
2 criminal plan, scheme, endeavor, or enterprise un-
3 dertaken by the defendant in concert with others,
4 whether or not charged as a conspiracy) for the con-
5 duct (acts and omissions) of others that was—

6 (A) in furtherance of the conspiracy; and

7 (B) known to the defendant or reasonably
8 foreseeable in connection with that conspiracy;
9 and

10 (2) all conduct of members of a conspiracy
11 prior to the defendant joining that conspiracy that
12 was known to the defendant when he or she joined
13 the conspiracy.

14 (b) CONFORMING AMENDMENTS.—The Sentencing
15 Commission shall make appropriate conforming amend-
16 ments to the Federal sentencing guidelines, policy state-
17 ments, and commentary, consistent with the amendment
18 made under subsection (a).

19 **SEC. 308. ELDERLY, NONVIOLENT PRISONER PILOT PRO-**
20 **GRAM.**

21 (a) DEFINITIONS.—In this section, the following defi-
22 nitions shall apply:

23 (1) CRIME OF VIOLENCE.—The term “crime of
24 violence” has the same meaning given the term in
25 section 16 of title 18, United States Code.

1 (2) DESIGNATED FACILITY.—The term “des-
2 ignated facility” means a Federal penitentiary des-
3 ignated by the Attorney General as appropriate for
4 the pilot program.

5 (3) DIRECTOR.—The term “Director” means
6 the Director of the Bureau of Prisons.

7 (4) ELIGIBLE PRISONER.—The term “eligible
8 prisoner” means a prisoner in the custody of the
9 Bureau of Prisons who—

10 (A) is not less than 65 years of age;

11 (B) is serving a term of imprisonment
12 after conviction for an offense other than a
13 crime of violence and has served the greater of
14 10 years or 1/2 of the term of imprisonment;

15 (C) has not been convicted in the past of
16 any Federal or State crime of violence, or any
17 other Federal offense for which a sentencing
18 enhancement was applied under section 301 or
19 302;

20 (D) has not been determined by the Bu-
21 reau of Prisons, on the basis of information the
22 Bureau uses to make custody classifications,
23 and in the sole discretion of the Bureau, to
24 have a history of violence;

1 (E) has not escaped, or attempted to es-
2 cape, from the Bureau of Prisons facility; and

3 (F) has not been determined by the Direc-
4 tor, pursuant to the disciplinary system of the
5 Bureau of Prisons, to have committed an in-
6 fraction involving an act of violence.

7 (5) HOME DETENTION.—The term “home de-
8 tention” has the same meaning given the term in the
9 Federal sentencing guidelines, and includes deten-
10 tion in a nursing home or other residential long-term
11 care facility.

12 (6) PILOT PROGRAM.—The term “pilot pro-
13 gram” means the pilot program carried out in ac-
14 cordance with this section.

15 (7) TERM OF IMPRISONMENT.—The term “term
16 of imprisonment” includes multiple terms of impris-
17 onment ordered to run consecutively or concurrently,
18 which shall be treated as a single, aggregate term of
19 imprisonment for purposes of this section.

20 (b) PROGRAM ESTABLISHED.—

21 (1) IN GENERAL.—Notwithstanding section
22 3624 of title 18, United States Code, or any other
23 provision of law, the Director shall carry out a pilot
24 program at 1 or more designated facilities, under
25 which the Director shall, in accordance with para-

1 graph (2), place each prisoner who is determined to
2 be an eligible prisoner on home detention until the
3 date on which the term of imprisonment to which
4 the prisoner was sentenced expires.

5 (2) TIMING OF RELEASE.—In carrying out the
6 pilot program, the Director shall place an eligible
7 prisoner on home detention under paragraph (1)—

8 (A) with respect to a prisoner who is deter-
9 mined to be an eligible prisoner on or before the
10 date that is 90 days after the date of enactment
11 of this Act, not later than 180 days after the
12 date of enactment of this Act; and

13 (B) with respect to a prisoner who is de-
14 termined to be an eligible prisoner after the
15 date that is 90 days after the date of enactment
16 of this Act and before the date that is 3 years
17 and 91 days after such date of enactment, not
18 later than 90 days after the date of such deter-
19 mination.

20 (3) VIOLATION OF TERMS OF HOME DETEN-
21 TION.—A violation of the terms of the home deten-
22 tion, including the commission of another Federal,
23 State, or local crime, shall result in the return of the
24 prisoner to the prior custody of that prisoner.

25 (c) PROGRAM EVALUATION.—

1 (1) IN GENERAL.—The Director shall contract
2 with an independent organization to monitor and
3 evaluate the progress of each prisoner released
4 under the pilot program during the 3-year period be-
5 ginning on the date of such release.

6 (2) ANNUAL REPORT.—The organization de-
7 scribed in paragraph (1) shall annually submit to
8 the Director and to Congress a report on the pilot
9 program, which shall include—

10 (A) an evaluation of the effectiveness of
11 the pilot program in providing successful transi-
12 tion to eligible prisoners from incarceration to
13 the community, including data relating to the
14 recidivism rates for those prisoners; and

15 (B) the cost savings to the Federal Gov-
16 ernment resulting from the early removal of eli-
17 gible prisoners from incarceration.

18 **SEC. 309. EMERGENCY AMENDMENT AUTHORITY.**

19 (a) IN GENERAL.—The United States Sentencing
20 Commission shall—

21 (1) promulgate amendments in accordance with
22 the directives in this Act and the procedure set forth
23 in section 21(a) of the Sentencing Act of 1987 (28
24 U.S.C. 994 note), as though the authority under
25 that Act had not expired; and

1 (2) pursuant to the emergency authority pro-
2 vided under paragraph (1), make such conforming
3 amendments to the Federal sentencing guidelines,
4 commentary, and policy statements as the Commis-
5 sion determines necessary to achieve consistency
6 with other guideline provisions and applicable law.

7 (b) EFFECTIVE DATE.—The amendments made pur-
8 suant to this section shall apply to any offense committed
9 on or after 180 days after the date of enactment of this
10 Act.

11 **TITLE IV—PROTECTING CHILD-**
12 **DREN FROM DRUG TRAF-**
13 **FICKERS AND PREVENTING**
14 **DRUG-RELATED VIOLENT**
15 **CRIME**

16 **SEC. 401. MURDER AND OTHER VIOLENT CRIMES COM-**
17 **MITTED DURING AND IN RELATION TO A**
18 **DRUG TRAFFICKING CRIME.**

19 (a) IN GENERAL.—Part D of the Controlled Sub-
20 stances Act (21 U.S.C. 841 et seq.) is amended by adding
21 at the end the following:

22 “MURDER AND OTHER VIOLENT CRIMES COMMITTED
23 DURING AND IN RELATION TO A DRUG TRAFFICKING
24 CRIME

25 “SEC. 424.

1 “(a) IN GENERAL.—Any person who, during and in
2 relation to any drug trafficking crime, murders, kidnaps,
3 maims, assaults with a dangerous weapon, commits as-
4 sault resulting in serious bodily injury upon, or threatens
5 to commit a crime of violence against, any individual, or
6 attempts or conspires to do so, shall be punished, in addi-
7 tion and consecutive to the punishment provided for the
8 drug trafficking crime—

9 “(1) in the case of murder, by death or impris-
10 onment for not less than 30 years or for life, a fine
11 under title 18, United States Code, or both;

12 “(2) in the case of kidnapping—

13 “(A) by imprisonment for not less than 30
14 years or for life, a fine under such title 18, or
15 both; and

16 “(B) if death of any person results, by
17 death or imprisonment for not less than 30
18 years or for life, a fine under such title 18, or
19 both;

20 “(3) in the case of maiming, by imprisonment
21 for not less than 15 years and not more than 50
22 years, a fine under such title 18, or both;

23 “(4) in the case of assault with a dangerous
24 weapon or assault resulting in serious bodily injury,
25 by imprisonment for not less than 10 years and not

1 more than 30 years, a fine under such title 18, or
2 both;

3 “(5) in the case of threatening to commit a
4 crime of violence specified in paragraphs (1) through
5 (4), by imprisonment for not less than 3 years and
6 not more than 20 years, a fine under such title 18,
7 or both;

8 “(6) in the case of attempting or conspiring to
9 commit murder or kidnaping, by imprisonment for
10 not more than 30 years, a fine under such title 18,
11 or both; and

12 “(7) in the case of attempting or conspiring to
13 commit a crime involving maiming, assault with a
14 dangerous weapon, or assault resulting in serious
15 bodily injury, by imprisonment for not more than 20
16 years, a fine under such title 18, or both.

17 “(b) VENUE.—A prosecution for a violation of this
18 section may be brought in—

19 “(1) the judicial district in which the murder or
20 other crime of violence occurred; or

21 “(2) any judicial district in which the drug traf-
22 ficking crime may be prosecuted.

23 “(c) APPLICABLE DEATH PENALTY PROCEDURES.—

24 “(1) IN GENERAL.—A defendant who has been
25 found guilty of an offense under this section for

1 (A) by striking “involving the same con-
2 trolled substance and schedule” and inserting
3 “without regard to the type of controlled sub-
4 stance and schedule”; and

5 (B) by striking “not less than one year”
6 and inserting “not less than 5 years”; and
7 (2) in subsection (b)—

8 (A) by striking “involving the same con-
9 trolled substance and schedule” and inserting
10 “without regard to the type of controlled sub-
11 stance and schedule”;

12 (B) by striking “after a prior conviction
13 under subsection (a) of this section (or under
14 section 303(b)(2) of the Federal Food, Drug,
15 and Cosmetic Act as in effect prior to the effec-
16 tive date of section 701(b) of this Act)” and in-
17 serting “after a prior conviction for a felony
18 drug offense”; and

19 (C) by striking “not less than one year”
20 and inserting “not less than 10 years”.

21 (b) DISTRIBUTION OR MANUFACTURING IN OR NEAR
22 SCHOOLS AND COLLEGES.—Section 419 of the Controlled
23 Substances Act (21 U.S.C. 860) is amended—

24 (1) in subsection (a)—

25 (A) by striking “within 100 feet of”; and

1 (B) by striking “not less than one year”
2 and inserting “not less than 5 years”;

3 (2) in subsection (b)—

4 (A) by striking “within 100 feet of”;

5 (B) by striking “after a prior conviction
6 under subsection (a)” and inserting “after a
7 prior conviction for a felony drug offense”;

8 (3) by striking “not less than three years” each
9 place it appears and inserting “not less than 10
10 years”; and

11 (4) by amending subsection (c) to read as fol-
12 lows:

13 “(c)(1) Notwithstanding any other law, any person
14 at least 18 years of age who knowingly and intentionally—

15 “(A) employs, hires, uses, persuades, induces,
16 entices, or coerces a person under 18 years of age
17 to violate this section; or

18 “(B) employs, hires, uses, persuades, induces,
19 entices, or coerces a person under 18 years of age
20 to assist in avoiding detection or apprehension for
21 any offense under this section by any Federal, State,
22 or local law enforcement official, is punishable by a
23 term of imprisonment, a fine, or both, up to triple
24 those authorized under section 401, except if a
25 greater minimum sentence is otherwise provided

1 under section 401(b), a person shall be sentenced
2 under this subsection to a term of imprisonment of
3 not less than 10 years.

4 “(2) Any person who has previously been convicted
5 for a felony drug offense shall be sentenced to a term of
6 imprisonment of not less than 15 years for a subsequent
7 violation of paragraph (1).”.

8 (c) EMPLOYMENT OR USE OF PERSONS UNDER 18
9 YEARS OLD.—Section 420 of the Controlled Substances
10 Act (21 U.S.C. 861) is amended—

11 (1) in subsection (b), by striking “not be less
12 than one year” and inserting “be not less than 10
13 years”;

14 (2) in subsection (c)—

15 (A) by striking “after a prior conviction
16 under subsection (a) of this section” and insert-
17 ing “after a prior conviction for a felony drug
18 offense”; and

19 (B) by striking “not be less than one year”
20 and inserting “be not less than 15 years”; and

21 (3) in subsection (d)—

22 (A) by striking “or (2)” and inserting “or
23 (2)—”;

24 (B) by striking “younger.” and inserting
25 “younger,”

1 (C) by striking “not more than five years”
2 and inserting “not less than 5 years”.

3 (d) AMENDMENTS TO SENTENCING GUIDELINES.—

4 (1) IN GENERAL.—Not more than 30 days after
5 the date of enactment of this Act, the Sentencing
6 Commission shall amend the sentencing guidelines,
7 policy statements, and official commentary issued
8 under section 994 of title 28, United States Code,
9 to ensure that the base offense level for any felony
10 violation of the Controlled Substances Act (21
11 U.S.C. 841 et seq.), or a felony violation of the Con-
12 trolled Substances Import and Export Act (21
13 U.S.C. 851 et seq.)—

14 (A) is increased by 2 levels if any part of
15 the offense or relevant conduct involved pos-
16 sessing, storing, using, or trafficking drugs—

17 (i) in or near the presence of a minor;

18 or

19 (ii) in a location in which a minor re-
20 sides for any period of time; and

21 (B) is increased by an additional 2 levels
22 if the defendant was the parent or guardian of
23 the minor.

24 (2) LIMITATION ON APPLICABILITY OF STATU-
25 TORY MINIMUMS.—Section 3553(f) of title 18,

1 United States Code, as amended by section 305, is
2 further amended by adding at the end the following:

3 “(7) no part of the offense or relevant
4 conduct—

5 “(A) involved possessing, storing, using, or
6 trafficking drugs in or near the presence of a
7 minor;

8 “(B) occurred in a location in which a
9 minor resides for any period of time; or

10 “(C) involved conduct constituting an of-
11 fense under section 418, 419, or 420 of the
12 Controlled Substances Act (21 U.S.C. 859, 860,
13 and 861).”.

14 **TITLE V—PROVIDING THE**
15 **TOOLS NEEDED TO WIN THE**
16 **WAR AGAINST NARCO-TER-**
17 **RORISM, DRUG TRAFFICKERS**
18 **WHO SELL TO CHILDREN,**
19 **AND VIOLENT DRUG TRAF-**
20 **FICKERS**

21 **SEC. 501. PREDICATE CRIMES FOR AUTHORIZATION OF**
22 **INTERCEPTION OF WIRE, ORAL, AND ELEC-**
23 **TRONIC COMMUNICATIONS.**

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

1 (1) in paragraph (q), by striking “or”;

2 (2) by redesignating paragraph (r) as para-
3 graph (s); and

4 (3) by inserting after paragraph (q) the fol-
5 lowing:

6 “(r) any violation of section 424 of the Con-
7 trolled Substances Act (relating to narco-terrorism,
8 murder and violent crimes in furtherance of a drug
9 trafficking crime); or”.

10 **SEC. 502. LIMITING APPLICATION OF STATUTORY EXCLU-**
11 **SIONARY RULE WHERE LAW ENFORCEMENT**
12 **AGENTS ACT IN GOOD FAITH.**

13 Chapter 119 of title 18, United States Code, is
14 amended

15 (1) in section 2515—

16 (A) by striking “Whenever” and inserting
17 the following:

18 “(a) IN GENERAL.—Whenever”; and

19 (B) by adding at the end the following:

20 “(b) EXCLUSION.—Subsection (a) shall not apply to
21 the disclosure by the United States in a criminal trial or
22 hearing or before a grand jury of the contents of a wire
23 or oral communication, or evidence derived therefrom, un-
24 less the violation of this chapter involved bad faith by law
25 enforcement.”; and

1 (2) in section 2518(10)(a), by inserting “A
2 court may not grant a motion to suppress the con-
3 tents of a wire or oral communication, or evidence
4 derived therefrom, unless the court finds that the
5 violation of this chapter involved bad faith by law
6 enforcement.” after “grounds of the motion.”.

7 **SEC. 503. ADMINISTRATIVE SUBPOENAS FOR TERRORISM**
8 **INVESTIGATIONS.**

9 Section 3486(a)(1)(A) of title 18, United States
10 Code, is amended—

11 (1) by striking “of” and inserting “to”;

12 (2) in clause (i)—

13 (A) by striking “or (II)” and inserting the
14 following:

15 “(II”); and

16 (B) by striking “, the Attorney General”
17 and inserting the following: “; or

18 “(III) any investigation under chapter
19 113B,
20 the Attorney General”.

21 **SEC. 504. ADMINISTRATIVE SUBPOENAS TO APPREHEND**
22 **FUGITIVES.**

23 (a) IN GENERAL.—Chapter 49 of title 18, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 **“§ 1075. Administrative subpoenas to apprehend fugi-**
2 **tives**

3 “(a) DEFINITIONS.—In this section:

4 “(1) FUGITIVE.—The term ‘fugitive’ means a
5 person who—

6 “(A) having been accused by complaint, in-
7 formation, or indictment under Federal law or
8 having been convicted of committing a felony
9 under Federal law, flees or attempts to flee
10 from or evades or attempts to evade the juris-
11 diction of the court with jurisdiction over the
12 felony;

13 “(B) having been accused by complaint, in-
14 formation, or indictment under State law or
15 having been convicted of committing a felony
16 under State law, flees or attempts to flee from,
17 or evades or attempts to evade, the jurisdiction
18 of the court with jurisdiction over the felony;

19 “(C) escapes from lawful Federal or State
20 custody after having been accused by complaint,
21 information, or indictment or having been con-
22 victed of committing a felony under Federal or
23 State law; or

24 “(D) is in violation of subparagraph (2) or
25 (3) of the first undesignated paragraph of sec-
26 tion 1073.

1 “(2) INVESTIGATION.—The term ‘investigation’
2 means, with respect to a State fugitive described in
3 subparagraph (B) or (C) of paragraph (1), an inves-
4 tigation in which there is reason to believe that the
5 fugitive fled from or evaded, or attempted to flee
6 from or evade, the jurisdiction of the court, or es-
7 caped from custody, in or affecting, or using any fa-
8 cility of, interstate or foreign commerce, or as to
9 whom an appropriate law enforcement officer or offi-
10 cial of a State or political subdivision has requested
11 the Attorney General to assist in the investigation,
12 and the Attorney General finds that the particular
13 circumstances of the request give rise to a Federal
14 interest sufficient for the exercise of Federal juris-
15 diction pursuant to section 1075.

16 “(3) STATE.—The term ‘State’ means a State
17 of the United States, the District of Columbia, and
18 any commonwealth, territory, or possession of the
19 United States.

20 “(b) SUBPOENAS AND WITNESSES.—

21 “(1) SUBPOENAS.—In any investigation with
22 respect to the apprehension of a fugitive, the Attor-
23 ney General may subpoena witnesses for the purpose
24 of the production of any records (including books,
25 papers, documents, electronic data, and other tan-

1 gible and intangible items that constitute or contain
2 evidence) that the Attorney General finds, based on
3 articulable facts, are relevant to discerning the
4 whereabouts of the fugitive. A subpoena under this
5 subsection shall describe the records or items re-
6 quired to be produced and prescribe a return date
7 within a reasonable period of time within which the
8 records or items can be assembled and made avail-
9 able.

10 “(2) WITNESSES.—The attendance of witnesses
11 and the production of records may be required from
12 any place in any State or other place subject to the
13 jurisdiction of the United States at any designated
14 place where the witness was served with a subpoena,
15 except that a witness shall not be required to appear
16 more than 500 miles distant from the place where
17 the witness was served. Witnesses summoned under
18 this section shall be paid the same fees and mileage
19 that are paid witnesses in the courts of the United
20 States.

21 “(c) SERVICE.—

22 “(1) AGENT.—A subpoena issued under this
23 section may be served by any person designated in
24 the subpoena as the agent of service.

1 “(2) NATURAL PERSON.—Service upon a nat-
2 ural person may be made by personal delivery of the
3 subpoena to that person or by certified mail with re-
4 turn receipt requested.

5 “(3) CORPORATION.—Service may be made
6 upon a domestic or foreign corporation or upon a
7 partnership or other unincorporated association that
8 is subject to suit under a common name, by deliv-
9 ering the subpoena to an officer, to a managing or
10 general agent, or to any other agent authorized by
11 appointment or by law to receive service of process.

12 “(4) AFFIDAVIT.—The affidavit of the person
13 serving the subpoena entered on a true copy thereof
14 by the person serving it shall be proof of service.

15 “(d) CONTUMACY OR REFUSAL.—

16 “(1) IN GENERAL.—In the case of the contu-
17 macy by or refusal to obey a subpoena issued to any
18 person, the Attorney General may invoke the aid of
19 any court of the United States within the jurisdic-
20 tion of which the investigation is carried on or of
21 which the subpoenaed person is an inhabitant, or in
22 which he carries on business or may be found, to
23 compel compliance with the subpoena. The court
24 may issue an order requiring the subpoenaed person

1 to appear before the Attorney General to produce
2 records if so ordered.

3 “(2) CONTEMPT.—Any failure to obey the order
4 of the court may be punishable by the court as con-
5 tempt thereof.

6 “(3) PROCESS.—All process in any case to en-
7 force an order under this subsection may be served
8 in any judicial district in which the person may be
9 found.

10 “(4) RIGHTS OF SUBPOENA RECIPIENT.—Not
11 later than 20 days after the date of service of an ad-
12 ministrative subpoena under this section upon any
13 person, or at any time before the return date speci-
14 fied in the subpoena, whichever period is shorter,
15 such person may file, in the district in which the
16 subpoena was served, or such person resides, is
17 found, or transacts business, a petition to modify or
18 quash such subpoena on grounds that—

19 “(A) the terms of the subpoena are unrea-
20 sonable or oppressive;

21 “(B) the subpoena fails to meet the re-
22 quirements of this section; or

23 “(C) the subpoena violates the constitu-
24 tional rights or any other legal rights or privi-
25 lege of the subpoenaed party.

1 “(e) GUIDELINES.—

2 “(1) IN GENERAL.—The Attorney General shall
3 issue guidelines governing the issuance of adminis-
4 trative subpoenas pursuant to this section.

5 “(2) REVIEW.—The guidelines required by this
6 subsection shall mandate that administrative sub-
7 poenas may be issued only after review and approval
8 of senior supervisory personnel of the relevant com-
9 ponent of the Department of Justice, as determined
10 by the Attorney General.

11 “(f) DELAYED NOTICE.—

12 “(1) IN GENERAL.—If an administrative sub-
13 poena is issued under this section to a provider of
14 an electronic communication service (as defined in
15 section 2510) or remote computing service (as de-
16 fined in section 2711), the Attorney General may—

17 “(A) delay notification to the subscriber or
18 customer to whom the record pertains, in ac-
19 cordance with section 2705(a); and

20 “(B) apply to a court, in accordance with
21 section 2705(b), for an order commanding the
22 provider of an electronic communication service
23 or remote computing service, for such period as
24 the court determines appropriate, not to notify

1 any other person of the existence of the sub-
2 poena or court order.

3 “(2) SUBPOENAS FOR FINANCIAL RECORDS.—If
4 a subpoena is issued under this section to a financial
5 institution for financial records of any customer of
6 such institution, the Attorney General may apply to
7 a court under section 1109 of the Right to Financial
8 Privacy Act of 1978 (12 U.S.C. 3409) for an order
9 to delay customer notice as otherwise required.

10 “(3) NONDISCLOSURE REQUIREMENTS.—

11 “(A) IN GENERAL.—Except as otherwise
12 provided under paragraphs (1) and (2), a court
13 may require the party to whom an administra-
14 tive subpoena is directed to refrain from noti-
15 fying any other party or person of the existence
16 of the subpoena for 30 days.

17 “(B) EXTENSION.—The Attorney General
18 may apply to a court for an order extending the
19 nondisclosure period under subparagraph (A) as
20 the court determines appropriate.

21 “(C) CRITERIA FOR EXTENSION.—A court
22 shall enter an order under paragraph (2) if the
23 court determines that there is reason to believe
24 that notification of the existence of the adminis-

1 trative subpoena issued under this section
2 will—

3 “(i) endanger the life or physical safe-
4 ty of an individual;

5 “(ii) facilitate the flight of an indi-
6 vidual from prosecution, custody, or con-
7 finement after conviction;

8 “(iii) result in the destruction of, or
9 tampering with, evidence;

10 “(iv) lead to the intimidation of poten-
11 tial witnesses; or

12 “(v) seriously jeopardize an investiga-
13 tion or unduly delay a trial.”.

14 “(g) IMMUNITY FROM CIVIL LIABILITY.—Any per-
15 son, including officers, agents, and employees, who in good
16 faith produce the records or items requested in a subpoena
17 shall not be liable in any court of any State or the United
18 States to any customer or other person for such produc-
19 tion or for nondisclosure of that production to the cus-
20 tomer, in compliance with the terms of a court order for
21 nondisclosure.”.

22 (b) TECHNICAL AND CONFORMING AMENDMENT.—
23 The analysis for chapter 49 of title 18, United States
24 Code, is amended by adding at the end the following:

“1075. Administrative subpoenas to apprehend fugitives.”.

1 **SEC. 505. EXPANDED JURISDICTION TO ISSUE ORDERS TO**
2 **INTERCEPT COMMUNICATIONS.**

3 Chapter 119 of title 18, United States Code, is
4 amended—

5 (1) in section 2510—

6 (A) in paragraph (9)—

7 (i) by amending subparagraph (a) to
8 read as follows:

9 “(A) a judge of any district court of the
10 United States (including a magistrate judge of
11 such court) or any United States court of ap-
12 peals with jurisdiction over the offense being in-
13 vestigated; and”;

14 (ii) in subparagraph (b), by striking
15 “(b)” and inserting “(B)”;

16 (B) in paragraph (20), by striking “and”
17 at the end;

18 (C) in paragraph (21), by striking the pe-
19 riod at the end and inserting “; and”;

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

21 “(22) the term ‘wireless’ means the use of elec-
22 tromagnetic waves (rather than some form of wire)
23 to carry a signal over a communication path.”;

24 (2) in section 2518(3), by striking “authorized
25 by a Federal court within such jurisdiction” and in-
26 serting “or a device that employs wireless technology

1 in part to transmit wire, oral, or electronic commu-
2 nications, the interception of which is authorized by
3 a Federal court”.

4 **SEC. 506. DIRECTIVE TO UNITED STATES SENTENCING**
5 **COMMISSION.**

6 (a) IN GENERAL.—Pursuant to its authority under
7 section 994(p) of title 28, United States Code, and in ac-
8 cordance with this section, the United States Sentencing
9 Commission shall review and amend the Federal sen-
10 tencing guidelines, commentary, and policy statements to
11 implement the provisions of this Act and the amendments
12 made by this Act.

13 (b) REQUIREMENTS.—In carrying out this section,
14 the Sentencing Commission shall—

15 (1) ensure that the sentencing guidelines and
16 policy statements reflect the creation of new criminal
17 offenses to combat narco-terrorism, narco-terrorism
18 financing schemes, money laundering schemes, drug
19 trafficking to children, and violent crimes in further-
20 ance of drug trafficking;

21 (2) ensure that the sentencing guidelines and
22 policy statements reflect—

23 (A) the serious nature of the offenses and
24 penalties set forth in this Act, and the amend-
25 ments made by this Act;

1 (B) the intent of Congress to combat the
2 problems of narco-terrorism, narco-terrorism fi-
3 nancing schemes, and money laundering
4 schemes; and

5 (C) the need to deter, prevent, and punish
6 drug trafficking to children and violent crimes
7 in furtherance of drug trafficking;

8 (3) ensure that modifications to the sentencing
9 guidelines and policy statements are consistent with
10 the intent of Congress to deter, prevent, and enact
11 severe punishments for, the criminal offenses de-
12 scribed under paragraph (2);

13 (4) ensure that the guidelines and policy state-
14 ments include offense levels and enhancements that
15 are sufficient to deter, prevent, and punish criminals
16 who commit the offenses described under paragraph
17 (2);

18 (5) ensure reasonable consistency with other
19 relevant directives and other sentencing guidelines;

20 (6) make any necessary conforming changes to
21 the sentencing guidelines; and

22 (7) assure that the guidelines adequately meet
23 the purposes of sentencing set forth under section
24 3553(a)(2) of title 18, United States Code.