

108TH CONGRESS  
1ST SESSION

S. \_\_\_\_\_

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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 \_\_\_\_\_

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**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. Restraint of property subject to criminal forfeiture.
- Sec. 205. Procedure for issuing subpoenas in money laundering cases.
- Sec. 206. Using blank checks in bearer form to smuggle money.
- Sec. 207. Treating electronic funds as fungible property.
- Sec. 208. Making domestic money laundering statute apply to “reverse” money laundering.
- 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. 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.
- Sec. 227. Civil order to repatriate assets.

- Sec. 228. Forfeiture for failure to report large cash transactions.
- Sec. 229. Assets of persons committing terrorist acts against foreign countries.
- Sec. 230. Technical amendment to restore wiretap authority for certain money laundering offenses.
- Sec. 231. Knowledge that the property is the proceeds of a specific felony.
- Sec. 232. Authorization to share recovered property with cooperating foreign governments.
- Sec. 233. Miscellaneous minor and technical amendments.
- Sec. 234. Restoring criminal proceeds to victims.
- Sec. 235. Jurisdiction of magistrate judges.
- Sec. 236. Technical amendment regarding the procedures for criminal forfeiture.
- Sec. 237. Collection of criminal forfeiture judgment.
- Sec. 238. Technical correction regarding forfeiture authority for Secretary, Homeland Security.
- Sec. 239. Rule 32.2.
- 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—PROVIDING THE TOOLS NEEDED TO WIN THE WAR AGAINST NARCO-TERRORISM, DRUG TRAFFICKERS WHO SELL TO CHILDREN, AND VIOLENT DRUG TRAFFICKERS**

- Sec. 301. Predicate crimes for authorization of interception of wire, oral, and electronic communications.
- Sec. 302. Limiting application of statutory exclusionary rule where law enforcement agents act in good faith.
- Sec. 303. Administrative subpoenas for terrorism investigations.
- Sec. 304. Administrative subpoenas to apprehend fugitives.
- Sec. 305. Expanded jurisdiction to issue orders to intercept communications.
- Sec. 306. 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.

1 **TITLE I—COMBATING NARCO-**  
2 **TERRORISTS WHO AID AND**  
3 **SUPPORT TERRORISTS OR**  
4 **TERRORIST ORGANIZATIONS**

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

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

9 “NARCO-TERRORISTS WHO AID AND SUPPORT  
10 TERRORISTS OR FOREIGN TERRORIST ORGANIZATIONS

11 “SEC. 1010A.

12 “(a) PROHIBITED ACTS.—Any person who, in a cir-  
13 cumstance described in subsection (c), manufactures, dis-  
14 tributes, imports, exports, or possesses with intent to dis-  
15 tribute or manufacture a controlled substance,  
16 flunitrazepam, or listed chemical, or attempts or conspires  
17 to do so, knowing or intending that such activity, directly  
18 or indirectly, aids or provides support, resources, or any-  
19 thing of pecuniary value to—

20 (1) a foreign terrorist organization; or

21 (2) any person or group involved in the plan-  
22 ning, preparation for, or carrying out of, a terrorist  
23 offense,

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

25 “(b) PENALTIES.—

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

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

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

9                   “(B) a fine not to exceed—

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

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

14                   “(C) a term of supervised release of not  
15 less than 5 years.

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

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

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

25                   “(B) a fine not to exceed—

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

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

5                   “(C) a term of supervised release of not  
6                   less than 10 years.

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

10                   “(1) the offense takes place in the United  
11                   States; or

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

14                   “(A) the perpetrator is—

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

16                   or

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

19                   “(B) the offense—

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

22                   “(I) against any property that is  
23                   owned or leased by any department or  
24                   agency of the United States, including  
25                   an embassy or other diplomatic or

1 consular premises of the United  
2 States;

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

5 “(III) against any national of the  
6 United States or the property of such  
7 national;

8 “(IV) against any property of  
9 any legal entity organized under the  
10 laws of the United States, or any of  
11 its States, districts, commonwealths,  
12 territories, or possessions; or

13 “(V) in an attempt to compel the  
14 United States to do or abstain from  
15 doing any act; or

16 “(ii) is committed—

17 “(I) on board an aircraft, which  
18 is registered under the laws of the  
19 United States at the time the offense  
20 is committed or is operated by the  
21 United States; or

22 “(II) on board a vessel of the  
23 United States (as defined in section  
24 3(b) of the Maritime Drug Enforce-  
25 ment Act (46 U.S.C. 1903(b)) or on

1 board a vessel subject to the jurisdic-  
2 tion of the United States (as defined  
3 in section 3(c) of that Act); or

4 “(C) the foreign terrorist organization has  
5 been designated pursuant to the authority  
6 granted under the Immigration and Nationality  
7 Act.

8 “(d) ACTS COMMITTED OUTSIDE TERRITORIAL JU-  
9 RISDICTION OF UNITED STATES.—This section is in-  
10 tended to reach prohibited acts, which are committed out-  
11 side the territorial jurisdiction of the United States.

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

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

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

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



1           “(3) **TERRORIST OFFENSE.**—The term ‘ter-  
2           rorist offense’ means—

3                   “(A) an act which constitutes an offense  
4                   within the scope of a treaty, as defined under  
5                   section 2339C(e)(7) of title 18, United States  
6                   Code, which has been implemented by the  
7                   United States;

8                   “(B) any other act intended to cause death  
9                   or serious bodily injury to a civilian, or to any  
10                  other person not taking an active part in the  
11                  hostilities in a situation of armed conflict, when  
12                  the purpose of such act, by its nature or con-  
13                  text, is to intimidate a population, or to compel  
14                  a government or an international organization  
15                  to do or to abstain from doing any act.

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

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

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

25                           “**NARCO-TERRORIST KINGPINS**

26                   “**SEC. 1010B.**

1       “(a) PROHIBITED ACTS; PENALTIES.—

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

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

6                       “(B) if the defendant is an individual, sub-  
7 ject to a fine in an amount not greater than  
8 \$4,000,000; and

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

12               “(2) ENHANCED PENALTY.—Any person who,  
13 after being convicted of a felony drug offense or  
14 crime of violence, who engages in, or works in fur-  
15 therance of, a narco-terrorist continuing enterprise,  
16 shall be—

17                       “(A) imprisoned for life;

18                       “(B) if the defendant is an individual, sub-  
19 ject to a fine in an amount not greater than  
20 \$8,000,000; and

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

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

1           “(1) PERSON ENGAGED IN A NARCO-TERRORIST  
2 CONTINUING ENTERPRISE.—The term ‘person en-  
3 gaged in a narco-terrorist continuing enterprise’  
4 means a person who violates section 1010A if such  
5 violation is a part of a continuing series of violations  
6 of section 1010A—

7           “(A) which are undertaken by such person  
8 in concert with not less than 5 persons, to  
9 whom such person occupies a position of orga-  
10 nizer, supervisor, or any other position of man-  
11 agement; and

12           “(B) from which such person obtains sub-  
13 stantial income or resources.

14           “(2) CONTINUING SERIES OF VIOLATIONS.—  
15 The term ‘a continuing series of violations’ means  
16 not less than 3 violations of section 1010A.

17           “(c) ACTS COMMITTED OUTSIDE UNITED STATES.—  
18 This section is intended to reach prohibited acts, which  
19 are committed outside of the territorial jurisdiction of the  
20 United States.”.

1 **SEC. 103. INCREASED CIVIL AND CRIMINAL PENALTIES FOR**  
2 **PERSONS AND ENTITIES WHO FACILITATE FI-**  
3 **NANCING OF NARCO-TERRORISTS AND TER-**  
4 **RORISTS.**

5 Section 206 of the International Emergency Eco-  
6 nomic Powers Act (50 U.S.C. 1705) is amended—

7 (1) in subsection (a), by striking “\$10,000”  
8 and inserting “\$50,000”; and

9 (2) in subsection (b), by striking “\$50,000, or,  
10 if a natural person, may be imprisoned for not more  
11 than ten years” and inserting “\$100,000, or, if a  
12 natural person, may be imprisoned for not more  
13 than 20 years”.

14 **TITLE II—PREVENTING AND**  
15 **PUNISHING INTERNATIONAL**  
16 **MONEY LAUNDERING**

17 **Subtitle A—Prohibiting Money**  
18 **Laundering Through Hawalas,**  
19 **“Reverse” Money Laundering,**  
20 **and Other Money Laundering**  
21 **Schemes**

22 **SEC. 201. PREVENTING NARCO-TERRORISTS FROM LAUN-**  
23 **DERING MONEY USING HAWALAS.**

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

26 “(j) **MONEY LAUNDERING.**—

1           “(1) IN GENERAL.—For purposes of para-  
2           graphs (1) and (2) of subsection (a), a transaction,  
3           transportation, transmission, or transfer of funds  
4           shall be considered to involve the proceeds of speci-  
5           fied unlawful activity if the transaction, transpor-  
6           tation, transmission, or transfer is part of a set of  
7           parallel or dependent transactions, any 1 of which  
8           involves the proceeds of specified unlawful activity.

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

12                 “(A) completes or complements another  
13                 transaction; or

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

16 **SEC. 202. INTERSTATE TRANSPORTATION OF CRIMINAL**  
17 **PROCEEDS AND “REVERSE” MONEY LAUN-**  
18 **DERING BY CURRENCY COURIERS.**

19          Section 5332 of title 31, United States Code, is  
20 amended—

21                 (1) in subsection (a)—

22                         (A) by redesignating paragraph (2) as  
23                         paragraph (3); and

24                         (B) by inserting after paragraph (1) the  
25                         following:

1           “(2) CONCEALMENT IN VEHICLE.—Any person  
2 who conceals more than \$10,000 in currency on his  
3 person or in any vehicle, in any compartment or con-  
4 tainer within any vehicle, or in any container placed  
5 in a common carrier, and transports, attempts to  
6 transport, or conspires to transport such currency in  
7 or affecting interstate commerce on any public road  
8 or highway, or on any bus, train, airplane, vessel, or  
9 other common carrier, knowing that the currency  
10 was derived from some form of unlawful activity, or  
11 knowing that the currency was intended to be used  
12 to promote some form of unlawful activity, shall be  
13 subject to punishment pursuant to subsection (b).”;

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

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

17           “(d) AUTHORITY TO INVESTIGATE.—Violations of  
18 this section may be investigated by—

19           “(1) the Attorney General;

20           “(2) the Secretary of the Treasury;

21           “(3) the Secretary of the Department of Home-  
22 land Security; and

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

1 **SEC. 203. FREEZING BANK ACCOUNTS OF PERSONS AR-**  
2 **RESTED FOR MONEY LAUNDERING AND BULK**  
3 **CASH SMUGGLING.**

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

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

7 “(1) **IN GENERAL.**—If any person is arrested or  
8 charged in connection with any offense under this  
9 chapter, or any offense under section 1956, 1957, or  
10 1960 of title 18, relating to the movement of funds  
11 into or out of the United States, the Attorney Gen-  
12 eral may apply to any Federal judge or magistrate  
13 judge in the district in which the arrest is made, or  
14 the charges are filed, for an ex parte order restrain-  
15 ing any account held by the person arrested or  
16 charged for not more than 30 days. This time period  
17 may be extended for good cause shown at a hearing  
18 conducted in the manner provided in rule 43(e) of  
19 the Federal Rules of Civil Procedure.

20 “(2) **CONTENTS OF APPLICATION.**—The appli-  
21 cation for the restraining order referred to in para-  
22 graph (1) shall—

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

25 “(B) identify the location and description  
26 of the accounts to be restrained; and

1           “(C) state that the restraining order is  
2 needed to prevent the removal of the funds in  
3 the account by the person arrested or charged,  
4 or by others associated with such person, dur-  
5 ing the time needed by the Government to con-  
6 duct such investigation as may be necessary to  
7 establish whether there is probable cause to be-  
8 lieve that the funds in the accounts are subject  
9 to forfeiture in connection with the commission  
10 of any criminal offense.

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

20           “(4) DEFINITIONS.—For purposes of this  
21 section—

22           “(A) the term ‘account’ includes any ac-  
23 count (as defined in paragraphs (1) and (2) of  
24 section 5318A(e)) at any financial institution;  
25 and



1           “(B) the term ‘account held by the person  
2           arrested or charged’ includes an account held in  
3           the name of such person, and any account over  
4           which such person has effective control as a sig-  
5           natory or otherwise.”.

6 **SEC. 204. RESTRAINT OF PROPERTY SUBJECT TO CRIMINAL**  
7           **FORFEITURE.**

8           Section 413(e) of the Controlled Substances Act (21  
9 U.S.C. 853(e)) is amended—

10           (1) by redesignating paragraphs (2), (3), and  
11           (4) as paragraphs (3), (4), and (5), respectively;

12           (2) in paragraph (1)—

13           (A) in the matter preceding subparagraph  
14           (A), by striking “section—” and inserting “sec-  
15           tion, including property that may be forfeited  
16           upon the defendant’s conviction to satisfy a  
17           money judgment—”; and

18           (B) by amending the matter following sub-  
19           paragraph (B)(ii) to read as follows:

20           “(2) An order entered pursuant to paragraph  
21           (1)(B) shall be effective for not more than 90 days,  
22           unless—

23           “(A) the order is extended by the court for  
24           good cause shown; or

1           “(B) an indictment or information de-  
2           scribed under paragraph (1)(A) has been  
3           filed.”;

4           (3) in paragraph (4), as redesignated under  
5           paragraph (1)—

6           (A) by striking “The court may” and in-  
7           serting “The court—

8           “(A) may”;

9           (B) by striking the period at the end and  
10          inserting a semicolon; and

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

12          “(B) shall issue any protective order nec-  
13          essary to prevent the premature disclosure of  
14          any ongoing law enforcement operation or in-  
15          vestigation or the identity of any witness at the  
16          hearing; and

17          “(C) in any case involving an ongoing in-  
18          vestigation, shall permit the presentation of evi-  
19          dence in camera or under seal.”; and

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

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

1           “(B) At the request of the defendant, the court  
2 may conduct a pretrial hearing to determine whether  
3 the restraining order should be vacated or modified  
4 with respect to some or all of the restrained prop-  
5 erty, if the defendant—

6           “(i) establishes, by a preponderance of the  
7 evidence, that there are no assets, other than  
8 the restrained property, available to the defend-  
9 ant to exercise his or her constitutional right to  
10 retain counsel; and

11           “(ii) makes a prima facie showing of a  
12 bona fide reason to believe that there is no  
13 probable cause for the forfeiture.

14           “(C) In the hearing under subparagraph (B),  
15 the Government shall have an opportunity to cross-  
16 examine the defendant and any witnesses the de-  
17 fendant may present on the issues described under  
18 subparagraph (B).

19           “(D) If the court determines that the defendant  
20 has satisfied the requirements under subparagraph  
21 (B), the court may hold a hearing to determine  
22 whether there is probable cause for the forfeiture of  
23 the defendant’s property. In making such determina-  
24 tion, the court shall give due deference to any find-  
25 ing made by a grand jury that there is probable

1 cause to believe that the property is subject to for-  
2 feiture.

3 “(E) If the court determines that no probable  
4 cause exists for the forfeiture of an asset, it shall  
5 modify the restraining order to the extent necessary  
6 to release the asset from restraint.

7 “(F) In any hearing under this paragraph  
8 where probable cause is at issue, the court shall  
9 limit its inquiry to the existence of probable cause  
10 for the forfeiture of the restrained assets. The court  
11 shall not entertain challenges to the grand jury’s  
12 finding of probable cause regarding the criminal of-  
13 fense giving rise to the forfeiture.

14 “(G) A person other than the defendant who  
15 has a legal interest in the restrained property may  
16 move to modify or vacate the restraining order on  
17 the ground that the order causes a substantial hard-  
18 ship to the moving party and less intrusive means  
19 exist to preserve the subject property for forfeiture.  
20 In accordance with subsection (k), such person may  
21 not object to a restraining order on grounds that  
22 may only be asserted in the ancillary proceeding pur-  
23 suant to subsection (n).”

1 **SEC. 205. PROCEDURE FOR ISSUING SUBPOENAS IN MONEY**

2 **LAUNDERING CASES.**

3 Section 5318(k)(3)(A) of title 31, United States  
4 Code, is amended—

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

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

8 “(iii) GRAND JURY OR TRIAL SUB-  
9 POENA.—A subpoena issued by the Attor-  
10 ney General under clause (i) may be a  
11 grand jury or a trial subpoena.”.

12 **SEC. 206. USING BLANK CHECKS IN BEARER FORM TO**

13 **SMUGGLE MONEY.**

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

16 “(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT  
17 BLANK.—For purposes of this section, a monetary instru-  
18 ment in bearer form that has the amount left blank so  
19 that the amount could be filled in by the bearer, shall be  
20 considered to have a value equal to the value of the funds  
21 in the account on which the monetary instrument is drawn  
22 at the time it was being transported.”.

23 **SEC. 207. TREATING ELECTRONIC FUNDS AS FUNGIBLE**

24 **PROPERTY.**

25 Section 5317(c) of title 31, United States Code, is  
26 amended—

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

3           “(A) IN GENERAL.—Any property”; and  
4           (2) by adding at the end the following:

5           “(B) FUNGIBLE PROPERTY.—In any civil  
6 forfeiture action brought pursuant to this sec-  
7 tion, section 5332, or section 981(a)(1)(A) of  
8 title 18, currency, precious metals, gem stones,  
9 and funds held in any account at any financial  
10 institution in electronic form shall be considered  
11 fungible property identical to other property lo-  
12 cated in the same place or account at an earlier  
13 time.

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

16           “(i) the Government shall not be re-  
17 quired to identify the specific property in-  
18 volved in the offense that is the basis for  
19 the forfeiture; and

20           “(ii) the removal and replacement of  
21 the property involved in such offense with  
22 identical property shall not be a defense.”.

1 **SEC. 208. MAKING DOMESTIC MONEY LAUNDERING STAT-**  
2 **UTE APPLY TO "REVERSE" MONEY LAUN-**  
3 **DERING.**

4 Section 1957 of title 18, United States Code, is  
5 amended—

6 (1) in the header, by inserting "**or in sup-**  
7 **port of criminal activity**" after "**specified**  
8 **unlawful activity**"; and

9 (2) in subsection (a)—

10 (A) by inserting "(1)" before "Whoever";  
11 and

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

13 "(2) Whoever, in any of the circumstances de-  
14 scribed under subsection (d), engages or attempts to  
15 engage in a monetary transaction involving property  
16 of a value greater than \$10,000, with the intent to  
17 promote the carrying on of specified unlawful activ-  
18 ity, shall be fined under this title, imprisoned for a  
19 term of years not to exceed the statutory maximum  
20 for the activity being promoted, or both."

21 **SEC. 209. SECTION 1957 VIOLATIONS INVOLVING COMMUN-**  
22 **ICATED FUNDS AND STRUCTURED TRANS-**  
23 **ACTIONS.**

24 Section 1957(f) of title 18, United States Code, is  
25 amended—

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

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

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

6 “(4) the term ‘monetary transaction in crimi-  
7 nally derived property of a value greater than  
8 \$10,000’ includes—

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

15 “(B) any financial transaction described in  
16 section 1956(j) that involves more than  
17 \$10,000 in proceeds of specified unlawful activ-  
18 ity.”.

19 **SEC. 210. CHARGING MONEY LAUNDERING AS A COURSE OF**  
20 **CONDUCT.**

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

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

24 (2) by striking “or section 1957” and inserting  
25 “, section 1957, or section 1960”; and



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

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

6 **SEC. 211. LAUNDERING THE PROCEEDS OF FOREIGN**  
7 **CRIMES.**

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

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

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

12 and

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

14 “(vii) any act or activity that would  
15 constitute a specified unlawful activity  
16 under this paragraph if committed within  
17 the jurisdiction of the United States or any  
18 State;”.

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

20 (a) **TECHNICAL AMENDMENTS.**—Section 1960 of  
21 title 18, United States Code, is amended—

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

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

1 (3) in subsection (b)(1)—

2 (A) by striking “unlicensed” and inserting  
3 “illegal”; and

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

6 (b) DEFINITION OF BUSINESS TO INCLUDE  
7 HAWALAS AND MONEY BROKERS FOR DRUG CARTELS.—  
8 Section 1960(b) of title 18, United States Code, is  
9 amended—

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

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

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

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

21 (c) GENERAL INTENT REQUIREMENT FOR SECTION  
22 1960(b)(1)(B).—Section 1960(b)(1)(B) of title 18,  
23 United States Code, is amended by inserting before the  
24 semicolon the following: “, whether or not the defendant

1 knew that the operation was required to comply with such  
2 registration requirements”.

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

6 “(c) Violations of this section may be investigated  
7 by—

8 “(1) the Attorney General;

9 “(2) the Secretary of the Treasury;

10 “(3) the Secretary of the Department of Home-  
11 land Security; and

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

13 **SEC. 218. OTHER SPECIFIED ACTIVITY FOR MONEY LAUN-**  
14 **DERING.**

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

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

19 (2) in subparagraph (B)—

20 (A) by inserting “and 1470” after “1461-  
21 1465”;

22 (B) by striking “1588” and inserting  
23 “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(c)(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 **Subtitle B—Recovering and**  
19 **Confiscating Criminal Proceeds**

20 **SEC. 221. CRIMINAL FORFEITURE FOR MONEY LAUN-**  
21 **DERING CONSPIRACIES.**

22 Section 982(a)(1) of title 18, United States Code, is  
23 amended by striking "of this title," and inserting ", or  
24 a conspiracy to commit any such offense,".

1 **SEC. 222. FUNGIBLE PROPERTY.**

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

4 “(b) The provisions of this section may be invoked  
5 only if the action for forfeiture was commenced by the sei-  
6 zure or restraint of the property, or by the filing of a com-  
7 plaint, within 2 years of the completion of the offense that  
8 is the basis for the forfeiture.”.

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

13 **SEC. 223. FORFEITING THE PROCEEDS OF FOREIGN**  
14 **CRIMES.**

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

17 “(i) involves any violation of foreign law  
18 that would constitute an offense for which prop-  
19 erty could be forfeited under Federal law if the  
20 offense were committed in the United States, or  
21 any other conduct described in section  
22 1956(e)(7)(B);”.

23 **SEC. 224. RECOVERY OF CRIMINAL PROCEEDS FROM THIRD**  
24 **PARTIES.**

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

1           “(5) RECOVERY OF TRANSFERRED PROP-  
2     ERTY.—

3           “(A) IN GENERAL.—If property involved in  
4     a violation of subsection (a) or section 1957,  
5     1960, or 1962, or a conspiracy to commit any  
6     such offense, is transferred to a third party who  
7     is not a bona fide purchaser for value, the  
8     United States may file a civil action against the  
9     transferee to recover the property, or a sum of  
10    money equal to the value of the property imme-  
11    diately before the transfer, plus interest from  
12    the time of the transfer.

13           “(B) VENUE.—Venue for an action under  
14    subparagraph (A) shall lie in any district in  
15    which the criminal violation or the transfer of  
16    the property occurred.”.

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

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

20           (1) in subparagraph (A), by striking “an of-  
21    fense that would give rise to the forfeiture of prop-  
22    erty in the United States under this section or under  
23    the Controlled Substances Act,” and inserting “con-  
24    duct that may be the basis for a forfeiture action  
25    that has been, or could be, filed in a Federal court

1 under this section or under the Controlled Sub-  
2 stances Act or that may be the basis for a foreign  
3 forfeiture judgment enforceable in the United States  
4 under section 2467 of title 28,"; and

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

6 "(C) If property subject to restraint under  
7 subparagraph (A) is located in more than 1 dis-  
8 trict, a court in any district in which the prop-  
9 erty is located may enter an order under sub-  
10 paragraph (A) regarding property located in  
11 that district and any other district."

12 **SEC. 226. EXTRATERRITORIAL JURISDICTION.**

13 Section 1956(f)(1) of title 18, United States Code,  
14 is amended by inserting before the semicolon the following:  
15 "or has an effect in the United States".

16 **SEC. 227. CIVIL ORDER TO REPATRIATE ASSETS.**

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

19 "(5) ORDER TO REPATRIATE AND DEPOSIT.—

20 "(A) IN GENERAL.—Pursuant to its au-  
21 thority to enter a pretrial restraining order  
22 under this section, the court may order a party  
23 or claimant to repatriate any property that may  
24 be seized and forfeited, and to deposit that  
25 property, pending trial, in the registry of the

1 court, or with the United States Marshals Serv-  
2 ice or the Secretary of the Treasury, in an in-  
3 terest-bearing account, as appropriate.

4 “(B) FAILURE TO COMPLY.—Failure to  
5 comply with an order under this paragraph  
6 shall be punishable as a civil or criminal con-  
7 tempt of court, and may also result in an en-  
8 hancement of the sentence of a criminal defend-  
9 ant subject to such an order under the obstruc-  
10 tion of justice provision of the Federal sen-  
11 tencing guidelines.”.

12 **SEC. 228. FORFEITURE FOR FAILURE TO REPORT LARGE**  
13 **CASH TRANSACTIONS.**

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

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

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

20 **SEC. 229. ASSETS OF PERSONS COMMITTING TERRORIST**  
21 **ACTS AGAINST FOREIGN COUNTRIES.**

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

24 (1) in subparagraph (G)—



1 (A) in clause (ii), by deleting "or" at the  
2 end;

3 (B) in clause (iii), by striking the period at  
4 the end and inserting "; or"; and

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

6 "(iv) of any individual, entity, or organiza-  
7 tion engaged in planning or perpetrating any  
8 act of international terrorism (as defined in sec-  
9 tion 2331) against any international organiza-  
10 tion (as defined in section 209(b) of the State  
11 Department Basic Authorities Act of 1956 (22  
12 U.S.C. 4309(b)) or against any foreign govern-  
13 ment, its citizens or residents, or their prop-  
14 erty."; and

15 (2) in subparagraph (H), by adding at the end  
16 the following: "Property that is located beyond the  
17 territorial boundaries of the United States shall not  
18 be subject to forfeiture under subparagraph (G)(iv)  
19 unless an act in furtherance of planning or perpetra-  
20 tion of an act of international terrorism occurred  
21 within the jurisdiction of the United States.".

1 **SEC. 230. TECHNICAL AMENDMENT TO RESTORE WIRETAP**  
2 **AUTHORITY FOR CERTAIN MONEY LAUN-**  
3 **DERING OFFENSES.**

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

8 (b) **CURRENCY REPORTING OFFENSES.**—Section  
9 2516(1)(g) of title 18, United States Code, is amended  
10 to read as follows:

11 “(g) any offense punishable under section 5322,  
12 5324 or 5332 of title 31, United States Code (deal-  
13 ing with the reporting and illegal structuring of cur-  
14 rency transactions);”.

15 **SEC. 231. KNOWLEDGE THAT THE PROPERTY IS THE PRO-**  
16 **CEEDS OF A SPECIFIC FELONY.**

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

19 (1) in paragraph (1)(B)(i), by striking “speci-  
20 fied unlawful activity” and inserting “some form of  
21 unlawful activity”; and

22 (2) in paragraph (2)(B)(i), by striking “speci-  
23 fied unlawful activity” and inserting “some form of  
24 unlawful activity”.

25 (b) **PROCEEDS OF A FELONY.**—Section 1956(e)(1) of  
26 title 18, United States Code, is amended by inserting “,

1 and regardless of whether or not the person knew that  
2 the activity constituted a felony” before the semicolon at  
3 the end.

4 **SEC. 232. AUTHORIZATION TO SHARE RECOVERED PROP-**  
5 **ERTY WITH COOPERATING FOREIGN GOV-**  
6 **ERNMENTS.**

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

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

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

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

17 (3) by striking subparagraph (E).

18 **SEC. 233. MISCELLANEOUS MINOR AND TECHNICAL**  
19 **AMENDMENTS.**

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

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

4 (1) by redesignating subparagraphs (Y) and (Z)  
5 as subparagraphs (Z) and (AA), respectively; and

6 (2) by inserting after subparagraph (X) the fol-  
7 lowing:

8 “(Y) a bail bondsman;”.

9 (c) TECHNICAL AMENDMENT TO SECTION 1957.—  
10 Section 1957 of title 18, United States Code, is  
11 amended—

12 (1) in subsection (a), by striking “engages or  
13 attempts to engage in” and inserting “conducts or  
14 attempts to conduct”; and

15 (2) in subsection (f)—

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

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

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

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

23 (d) OBSTRUCTION OF JUSTICE.—Section  
24 1510(b)(3)(B) of title 18, United States Code, is amended  
25 by inserting “, a subpoena issued pursuant to section 1782

1 of title 28,” before “or a Department of Justice sub-  
2 poena”.

3 (e) TECHNICAL CORRECTIONS TO USA PATRIOT  
4 ACT.—

5 (1) USA PATRIOT ACT.—Section 322 of Public  
6 Law 107-56 is amended by striking “title 18” and  
7 inserting “title 28”.

8 (2) TITLE 18.—Title 18, United States Code, is  
9 amended—

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

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

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

17 (A) in section 5312(a)(3)(C), by striking  
18 “5333” and inserting “5331”;

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

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

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

1 **SEC. 234. RESTORING CRIMINAL PROCEEDS TO VICTIMS.**

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

9 **SEC. 235. JURISDICTION OF MAGISTRATE JUDGES.**

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

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

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

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

17 “(6) all powers and duties conferred or imposed  
18 upon the courts by sections 981 through 986 of title  
19 18, United States Code, in connection with forfeiture  
20 proceedings, but not including the conduct of the  
21 trial.”.

22 **SEC. 236. TECHNICAL AMENDMENT REGARDING THE PRO-**  
23 **CEDURES FOR CRIMINAL FORFEITURE.**

24 Section 2461(c) of title 28, United States Code, is  
25 amended by striking “in accordance with the procedures  
26 set forth in section 413 of the Controlled Substances Act

1 (21 U.S.C. 853), other than subsection (d) of that sec-  
2 tion." and inserting "in accordance with those Rules. The  
3 procedures set forth in section 413 of the Controlled Sub-  
4 stances Act (21 U.S.C. 853), except for subsection (d) of  
5 that section, shall apply to all stages of the criminal for-  
6 feiture proceeding."

7 **SEC. 237. 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. 238. TECHNICAL CORRECTION REGARDING FOR-**  
22 **FEITURE AUTHORITY FOR SECRETARY,**  
23 **HOMELAND SECURITY.**

24 Section 981 of title 18, United States Code, as  
25 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. 239. 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. 251. FORFEITURE OF FACILITATING PROPERTY IN**  
21 **NARCO-TERRORISM CASES AND PROPERTY**  
22 **TRACEABLE TO SUCH PROPERTY.**

23 (a) CONVEYANCES.—Section 511(a)(4) of the Con-  
24 trolled Substances Act (21 U.S.C. 881(a)(4)) is amended  
25 by inserting before the period at the end the following:



1 “, and any property that is traceable to such convey-  
2 ances”.

3 (b) **NEGOTIABLE INSTRUMENTS, SECURITIES, AND**  
4 **OTHER THINGS OF VALUE.**—Section 511(a)(6) of the  
5 Controlled Substances Act (21 U.S.C. 881(a)(6)) is  
6 amended by striking “and all moneys, negotiable instru-  
7 ments, and securities used or intended to be used to facili-  
8 tate any violation of this subchapter” and inserting “all  
9 moneys, negotiable instruments, securities, and other  
10 things of value used, or intended to be used, to facilitate  
11 any violation of this subchapter, and any property trace-  
12 able to such valuables.”.

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

17 **SEC. 252. FORFEITURE OF INSTRUMENTALITIES OF TER-**  
18 **RORISM, FRAUD, AND OTHER OFFENSES.**

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

21 “(I) Any computer, photostatic reproduction  
22 machine, electronic communications device, or other  
23 material, article, apparatus, device, or thing made,  
24 possessed, fitted, used, or intended to be used on a  
25 continuing basis to commit a violation of section

1 513, 514, 1028, 1029, 1030, 1031, 1032, 1341,  
2 1342, 1343, or 1344, or a conspiracy to commit  
3 such offense, and any property traceable to such  
4 property.

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

9 “(i) an offense punishable under Chapter  
10 113B (relating to terrorism); or

11 “(ii) any other offense enumerated in sec-  
12 tion 2339A(a) or a conspiracy to commit any  
13 such offense, and any property traceable to  
14 such property.”.

1 **TITLE III—PROVIDING THE**  
2 **TOOLS NEEDED TO WIN THE**  
3 **WAR AGAINST NARCO-TER-**  
4 **RORISM, DRUG TRAFFICKERS**  
5 **WHO SELL TO CHILDREN,**  
6 **AND VIOLENT DRUG TRAF-**  
7 **FICKERS**

8 **SEC. 301. PREDICATE CRIMES FOR AUTHORIZATION OF**  
9 **INTERCEPTION OF WIRE, ORAL, AND ELEC-**  
10 **TRONIC COMMUNICATIONS.**

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

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

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

16 (3) by inserting after paragraph (q) the fol-  
17 lowing:

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

1 **SEC. 302. LIMITING APPLICATION OF STATUTORY EXCLU-**  
2 **SIONARY RULE WHERE LAW ENFORCEMENT**  
3 **AGENTS ACT IN GOOD FAITH.**

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

6 (1) in section 2515—

7 (A) by striking “Whenever” and inserting  
8 the following:

9 “(a) **IN GENERAL.**—Whenever”; and

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

11 “(b) **EXCLUSION.**—Subsection (a) shall not apply to  
12 the disclosure by the United States in a criminal trial or  
13 hearing or before a grand jury of the contents of a wire  
14 or oral communication, or evidence derived therefrom, un-  
15 less the violation of this chapter involved bad faith by law  
16 enforcement.”; and

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

23 **SEC. 303. ADMINISTRATIVE SUBPOENAS FOR TERRORISM**  
24 **INVESTIGATIONS.**

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

- 1 (1) by striking “of” and inserting “to”;
- 2 (2) in clause (i)—
- 3 (A) by striking “or (II)” and inserting the
- 4 following:
- 5 “(II)”; and
- 6 (B) by striking “, the Attorney General”
- 7 and inserting the following: “; or
- 8 “(III) any investigation under chapter
- 9 113B,
- 10 the Attorney General”.

11 **SEC. 304. ADMINISTRATIVE SUBPOENAS TO APPREHEND**

12 **FUGITIVES.**

13 (a) IN GENERAL.—Chapter 49 of title 18, United

14 States Code, is amended by adding at the end the fol-

15 lowing:

16 **“§ 1075. Administrative subpoenas to apprehend fugi-**

17 **tives**

18 “(a) DEFINITIONS.—In this section:

19 “(1) FUGITIVE.—The term ‘fugitive’ means a

20 person who—

21 “(A) having been accused by complaint, in-

22 formation, or indictment under Federal law or

23 having been convicted of committing a felony

24 under Federal law, flees or attempts to flee

25 from or evades or attempts to evade the juris-

1           diction of the court with jurisdiction over the  
2           felony;

3           “(B) having been accused by complaint, in-  
4           formation, or indictment under State law or  
5           having been convicted of committing a felony  
6           under State law, flees or attempts to flee from,  
7           or evades or attempts to evade, the jurisdiction  
8           of the court with jurisdiction over the felony;

9           “(C) escapes from lawful Federal or State  
10          custody after having been accused by complaint,  
11          information, or indictment or having been con-  
12          victed of committing a felony under Federal or  
13          State law; or

14          “(D) is in violation of subparagraph (2) or  
15          (3) of the first undesignated paragraph of sec-  
16          tion 1073.

17          “(2) INVESTIGATION.—The term ‘investigation’  
18          means, with respect to a State fugitive described in  
19          subparagraph (B) or (C) of paragraph (1), an inves-  
20          tigation in which there is reason to believe that the  
21          fugitive fled from or evaded, or attempted to flee  
22          from or evade, the jurisdiction of the court, or es-  
23          caped from custody, in or affecting, or using any fa-  
24          cility of, interstate or foreign commerce, or as to  
25          whom an appropriate law enforcement officer or offi-

1       cial of a State or political subdivision has requested  
2       the Attorney General to assist in the investigation,  
3       and the Attorney General finds that the particular  
4       circumstances of the request give rise to a Federal  
5       interest sufficient for the exercise of Federal juris-  
6       diction pursuant to section 1075.

7           “(3) STATE.—The term ‘State’ means a State  
8       of the United States, the District of Columbia, and  
9       any commonwealth, territory, or possession of the  
10      United States.

11      “(b) SUBPOENAS AND WITNESSES.—

12           “(1) SUBPOENAS.—In any investigation with  
13      respect to the apprehension of a fugitive, the Attor-  
14      ney General may subpoena witnesses for the purpose  
15      of the production of any records (including books,  
16      papers, documents, electronic data, and other tan-  
17      gible and intangible items that constitute or contain  
18      evidence) that the Attorney General finds, based on  
19      articulable facts, are relevant to discerning the  
20      whereabouts of the fugitive. A subpoena under this  
21      subsection shall describe the records or items re-  
22      quired to be produced and prescribe a return date  
23      within a reasonable period of time within which the  
24      records or items can be assembled and made avail-  
25      able.

1           “(2) WITNESSES.—The attendance of witnesses  
2           and the production of records may be required from  
3           any place in any State or other place subject to the  
4           jurisdiction of the United States at any designated  
5           place where the witness was served with a subpoena,  
6           except that a witness shall not be required to appear  
7           more than 500 miles distant from the place where  
8           the witness was served. Witnesses summoned under  
9           this section shall be paid the same fees and mileage  
10          that are paid witnesses in the courts of the United  
11          States.

12          “(c) SERVICE.—

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

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

20                 “(3) CORPORATION.—Service may be made  
21                 upon a domestic or foreign corporation or upon a  
22                 partnership or other unincorporated association that  
23                 is subject to suit under a common name, by deliv-  
24                 ering the subpoena to an officer, to a managing or



1 general agent, or to any other agent authorized by  
2 appointment or by law to receive service of process.

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

6 “(d) **CONTUMACY OR REFUSAL.**—

7 “(1) **IN GENERAL.**—In the case of the contu-  
8 macy by or refusal to obey a subpoena issued to any  
9 person, the Attorney General may invoke the aid of  
10 any court of the United States within the jurisdic-  
11 tion of which the investigation is carried on or of  
12 which the subpoenaed person is an inhabitant, or in  
13 which he carries on business or may be found, to  
14 compel compliance with the subpoena. The court  
15 may issue an order requiring the subpoenaed person  
16 to appear before the Attorney General to produce  
17 records if so ordered.

18 “(2) **CONTEMPT.**—Any failure to obey the order  
19 of the court may be punishable by the court as con-  
20 tempt thereof.

21 “(3) **PROCESS.**—All process in any case to en-  
22 force an order under this subsection may be served  
23 in any judicial district in which the person may be  
24 found.

1           “(4) RIGHTS OF SUBPOENA RECIPIENT.—Not  
2 later than 20 days after the date of service of an ad-  
3 ministrative subpoena under this section upon any  
4 person, or at any time before the return date speci-  
5 fied in the subpoena, whichever period is shorter,  
6 such person may file, in the district in which the  
7 subpoena was served, or such person resides, is  
8 found, or transacts business, a petition to modify or  
9 quash such subpoena on grounds that—

10           “(A) the terms of the subpoena are unrea-  
11 sonable or oppressive;

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

14           “(C) the subpoena violates the constitu-  
15 tional rights or any other legal rights or privi-  
16 lege of the subpoenaed party.

17           “(e) GUIDELINES.—

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

21           “(2) REVIEW.—The guidelines required by this  
22 subsection shall mandate that administrative sub-  
23 poenas may be issued only after review and approval  
24 of senior supervisory personnel of the relevant com-

1       ponent of the Department of Justice, as determined  
2       by the Attorney General.

3       “(f) DELAYED NOTICE.—

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

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

12            “(B) apply to a court, in accordance with  
13       section 2705(b), for an order commanding the  
14       provider of an electronic communication service  
15       or remote computing service, for such period as  
16       the court determines appropriate, not to notify  
17       any other person of the existence of the sub-  
18       poena or court order.

19            “(2) SUBPOENAS FOR FINANCIAL RECORDS.—If  
20       a subpoena is issued under this section to a financial  
21       institution for financial records of any customer of  
22       such institution, the Attorney General may apply to  
23       a court under section 1109 of the Right to Financial  
24       Privacy Act of 1978 (12 U.S.C. 3409) for an order  
25       to delay customer notice as otherwise required.

1           “(3) NONDISCLOSURE REQUIREMENTS.—

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

8           “(B) EXTENSION.—The Attorney General  
9 may apply to a court for an order extending the  
10 nondisclosure period under subparagraph (A) as  
11 the court determines appropriate.

12           “(C) CRITERIA FOR EXTENSION.—A court  
13 shall enter an order under paragraph (2) if the  
14 court determines that there is reason to believe  
15 that notification of the existence of the adminis-  
16 trative subpoena issued under this section  
17 will—

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

20           “(ii) facilitate the flight of an indi-  
21 vidual from prosecution, custody, or con-  
22 finement after conviction;

23           “(iii) result in the destruction of, or  
24 tampering with, evidence;

1                   “(iv) lead to the intimidation of poten-  
2                   tial witnesses; or

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

5           “(g) IMMUNITY FROM CIVIL LIABILITY.—Any per-  
6     son, including officers, agents, and employees, who in good  
7     faith produce the records or items requested in a subpoena  
8     shall not be liable in any court of any State or the United  
9     States to any customer or other person for such produc-  
10    tion or for nondisclosure of that production to the cus-  
11    tomer, in compliance with the terms of a court order for  
12    nondisclosure.”.

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

          “1075. Administrative subpoenas to apprehend fugitives.”.

16     **SEC. 305. EXPANDED JURISDICTION TO ISSUE ORDERS TO**  
17                   **INTERCEPT COMMUNICATIONS.**

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

20                   (1) in section 2510—

21                           (A) in paragraph (9)—

22                                   (i) by amending subparagraph (a) to  
23                                   read as follows:

1           “(A) a judge of any district court of the  
2           United States (including a magistrate judge of  
3           such court) or any United States court of ap-  
4           peals with jurisdiction over the offense being in-  
5           vestigated; and”;

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

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

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

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

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

16                      (2) in section 2518(3), by striking “authorized  
17                      by a Federal court within such jurisdiction” and in-  
18                      serting “or a device that employs wireless technology  
19                      in part to transmit wire, oral, or electronic commu-  
20                      nications, the interception of which is authorized by  
21                      a Federal court”.

22   **SEC. 306. DIRECTIVE TO UNITED STATES SENTENCING**  
23   **COMMISSION.**

24                      (a) **IN GENERAL.**—Pursuant to its authority under  
25                      section 994(p) of title 28, United States Code, and in ac-

1 cordance with this section, the United States Sentencing  
2 Commission shall review and amend the Federal sen-  
3 tencing guidelines, commentary, and policy statements to  
4 implement the provisions of this Act and the amendments  
5 made by this Act.

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

8 (1) ensure that the sentencing guidelines and  
9 policy statements reflect the creation of new criminal  
10 offenses to combat narco-terrorism, narco-terrorism  
11 financing schemes, and money laundering schemes;

12 (2) ensure that the sentencing guidelines and  
13 policy statements reflect—

14 (A) the serious nature of the offenses and  
15 penalties set forth in this Act, and the amend-  
16 ments made by this Act; and

17 (B) the intent of Congress to combat the  
18 problems of narco-terrorism, narco-terrorism fi-  
19 nancing schemes, and money laundering  
20 schemes;

21 (3) ensure that modifications to the sentencing  
22 guidelines and policy statements are consistent with  
23 the intent of Congress to deter, prevent, and enact  
24 severe punishments for, the criminal offenses de-  
25 scribed under paragraph (2);

- 1           (4) ensure that the guidelines and policy state-
- 2           ments include offense levels and enhancements that
- 3           are sufficient to deter, prevent, and punish criminals
- 4           who commit the offenses described under paragraph
- 5           (2);
- 6           (5) ensure reasonable consistency with other
- 7           relevant directives and other sentencing guidelines;
- 8           (6) make any necessary conforming changes to
- 9           the sentencing guidelines; and
- 10          (7) assure that the guidelines adequately meet
- 11          the purposes of sentencing set forth under section
- 12          3553(a)(2) of title 18, United States Code.