

DRUGS



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1. Drug treatment in Federal prison
2. Drug treatment in State Prison
3. Drug testing at arraignment for state defendants
4. drug testing for Federal offenders on post-conviction release
5. Rural drug strategy
6. Drug free truck stops
7. DOJ Community Substance abuse prevention
8. enhanced penalty for using juveniles
9. Drug emergency areas
10. Various penalty enhancements
(also could add enhancements for selling to kids and pregnant women)
11. Precursor chemicals (version in confernece report is WRONG - go with new Schumer bill that DEA wants)

1 at least 2 periodic drug tests (as determined by the Com-
2 mission) for use of a controlled substance. The condition
3 stated in the preceding sentence may be ameliorated or
4 suspended by the Commission for any individual parolee
5 if it determines that there is good cause for doing so. The
6 results of a drug test administered in accordance with the
7 provisions of the preceding sentence shall be subject to
8 confirmation only if the results are positive, the defendant
9 is subject to possible imprisonment for such failure, and
10 either the defendant denies the accuracy of such test or
11 there is some other reason to question the results of the
12 test. A drug test confirmation shall be a urine drug test
13 confirmed using gas chromatography/mass spectrometry
14 techniques or such test as the Director of the Administra-
15 tive Office of the United States Courts after consultation
16 with the Secretary of Health and Human Services may
17 determine to be of equivalent accuracy. The Commission
18 shall consider the availability of appropriate substance
19 abuse treatment programs when considering any action
20 against a defendant who fails a drug test."

21 **SEC. 1404. DRUG TREATMENT IN FEDERAL PRISONS.**

22 (a) **SHORT TITLE.**—This section may be cited as the
23 "Drug Treatment in Federal Prisons Act of 1991".

24 (b) **DEFINITIONS.**—

25 As used in this section—

1 (1) the term "residential substance abuse treat-
2 ment" means a course of individual and group ac-
3 tivities, lasting between 9 and 12 months, in residen-
4 tial treatment facilities set apart from the general
5 prison population—

6 (A) directed at the substance abuse prob-
7 lems of the prisoner; and

8 (B) intended to develop the prisoner's cog-
9 nitive, behavioral, social, vocational, and other
10 skills so as to solve the prisoner's substance
11 abuse and related problems; and

12 (2) the term "eligible prisoner" means a prison-
13 er who is—

14 (A) determined by the Bureau of Prisons
15 to have a substance abuse problem; and

16 (B) willing to participate in a residential
17 substance abuse treatment program.

18 (c) IMPLEMENTATION OF SUBSTANCE ABUSE TREAT-
19 MENT REQUIREMENT.—

20 (1) In order to carry out the requirement of the
21 last sentence of section 3621(b) of title 18, United
22 States Code, that every prisoner with a substance
23 abuse problem have the opportunity to participate in
24 appropriate substance abuse treatment, the Bureau

1 of Prisons shall provide residential substance abuse
2 treatment—

3 (A) for not less than 50 percent of eligible
4 prisoners by the end of fiscal year 1993;

5 (B) for not less than 75 percent of eligible
6 prisoners by the end of fiscal year 1994; and

7 (C) for all eligible prisoners by the end of
8 fiscal year 1995 and thereafter.

9 (2) Section 3621 of title 18, United States
10 Code, is amended by adding at the end the follow-
11 ing:

12 “(d) INCENTIVE FOR PRISONERS’ SUCCESSFUL COM-
13 PLETION OF TREATMENT PROGRAM.—

14 “(1) GENERALLY.—Any prisoner who, in the
15 judgment of the Director of the Bureau of Prisons,
16 has successfully completed a program of residential
17 substance abuse treatment provided under subsec-
18 tion (b) of this section, shall remain in the custody
19 of the Bureau for such time (as limited by para-
20 graph (2) of this subsection) and under such condi-
21 tions, as the Bureau deems appropriate. If the con-
22 ditions of confinement are different from those the
23 prisoner would have experienced absent the success-
24 ful completion of the treatment, the Bureau shall pe-
25 riodically test the prisoner for drug abuse and dis-

1 continue such conditions on determining that drug
2 abuse has recurred.

3 "(2) PERIOD OF CUSTODY.—The period the
4 prisoner remains in custody after successfully com-
5 pleting a treatment program shall not exceed the
6 prison term the law would otherwise require such
7 prisoner to serve, but may not be less than such
8 term minus one year."

9 (d) REPORT.—The Bureau of Prisons shall transmit
10 to the Congress on January 1, 1993, and on January 1
11 of each year thereafter, a report. Such report shall
12 contain—

13 (1) a detailed quantitative and qualitative de-
14 scription of each substance abuse treatment pro-
15 gram, residential or not, operated by the Bureau;

16 (2) a full explanation of how eligibility for such
17 programs is determined, with complete information
18 on what proportion of prisoners with substance
19 abuse problems are eligible; and

20 (3) a complete statement of to what extent the
21 Bureau has achieved compliance with the require-
22 ments of this title.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated for fiscal year 1991 and

1 each fiscal year thereafter such sums as may be necessary
2 to carry out this title.

3 **SEC. 1405. PRISON FOR VIOLENT DRUG OFFENDERS.**

4 (a) FINDINGS.—The Congress makes the following
5 findings:

6 (1) The total population of Federal, State, and
7 local prisons and jails increased by 84 percent be-
8 tween 1980 and 1988 and currently numbers more
9 than 900,000 people.

10 (2) More than 60 percent of all prisoners have
11 a history of drug abuse or are regularly using drugs
12 while in prison, but only 11 percent of State prison
13 inmates and 7 percent of Federal prisoners are en-
14 rolled in drug treatment programs. Hundreds of
15 thousands of prisoners are not receiving needed drug
16 treatment while incarcerated, and the number of
17 such persons is increasing rapidly.

18 (3) Drug-abusing prisoners are highly likely to
19 return to crime upon release, but the recidivism rate
20 is much lower for those who successfully complete
21 treatment programs. Providing drug treatment to
22 prisoners during incarceration therefore provides an
23 opportunity to break the cycle of recidivism, reduc-
24 ing the crime rate and future prison overcrowding.

1 year 1992, available until expended, of which not more
2 than \$12,500,000 shall be used to convert each closed
3 military base to a boot camp prison and not more than
4 \$2,500,000 shall be used to operate each boot camp for
5 one fiscal year. Such amounts shall be in addition to any
6 other amounts authorized to be appropriated to the Bu-
7 reau of Prisons.

8 **Subtitle B—State Prisons**

9 **SEC. 1421. RESIDENTIAL SUBSTANCE ABUSE TREATMENT** 10 **FOR PRISONERS.**

11 This section may be cited as the "Substance Abuse
12 Treatment in State Prisons Act of 1991".

13 (a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT
14 FOR PRISONERS.—Title I of the Omnibus Crime Control
15 and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.),
16 as amended by section 1201 of this Act, is amended—

17 (1) by redesignating part T as part U;

18 (2) by redesignating section 2001 as section
19 2101; and

20 (3) by inserting after part S the following:

21 **"PART U—RESIDENTIAL SUBSTANCE ABUSE** 22 **TREATMENT FOR PRISONERS**

23 **"SEC. 2001. GRANT AUTHORIZATION.**

24 "The Director of the Bureau of Justice Assistance
25 (referred to in this part as the 'Director') may make

1 grants under this part to States, for the use by States
2 for the purpose of developing and implementing residential
3 substance abuse treatment programs within State correc-
4 tional facilities.

5 **"SEC. 2002. STATE APPLICATIONS.**

6 “(a) IN GENERAL.—(1) To request a grant under
7 this part the chief executive of a State shall submit an
8 application to the Director in such form and containing
9 such information as the Director may reasonably require.

10 “(2) Such application shall include assurances that
11 Federal funds received under this part shall be used to
12 supplement, not supplant, non-Federal funds that would
13 otherwise be available for activities funded under this part.

14 “(3) Such application shall coordinate the design and
15 implementation of treatment programs between State cor-
16 rectional representatives and the State Alcohol and Drug
17 Abuse agency.

18 “(b) DRUG TESTING REQUIREMENT.—To be eligible
19 to receive funds under this part, a State must agree to
20 implement or continue to require urinalysis or similar test-
21 ing of individuals in correctional residential substance
22 abuse treatment programs. Such testing shall include indi-
23 viduals released from residential substance abuse treat-
24 ment programs who remain in the custody of the State.

1 “(c) ELIGIBILITY FOR PREFERENCE WITH AFTER
2 CARE COMPONENT.—

3 “(1) To be eligible for a preference under this
4 part, a State must ensure that individuals who partici-
5 pate in the drug treatment program established
6 or implemented with assistance provided under this
7 part will be provided with aftercare services.

8 “(2) State aftercare services must involve the
9 coordination of the prison treatment program with
10 other human service and rehabilitation programs,
11 such as educational and job training programs, pa-
12 role supervision programs, half-way house programs,
13 and participation in self-help and peer group pro-
14 grams, that may aid in the rehabilitation of individ-
15 uals in the drug treatment program.

16 “(3) To qualify as an aftercare program, the
17 head of the drug treatment program, in conjunction
18 with State and local authorities and organizations
19 involved in drug treatment, shall assist in placement
20 of drug treatment program participants with appro-
21 priate community drug treatment facilities when
22 such individuals leave prison at the end of a sen-
23 tence or on parole.

1 “(d) STATE OFFICE.—The office designated under
2 section 507 of title I of the Omnibus Crime Control and
3 Safe Streets Act of 1968 (42 U.S.C. 3757)—

4 “(1) shall prepare the application as required
5 under section 1902; and

6 “(2) shall administer grant funds received
7 under this part, including, review of spending, proc-
8 essing, progress, financial reporting, technical assist-
9 ance, grant adjustments, accounting, auditing, and
10 fund disbursement.

11 **“SEC. 2003. REVIEW OF STATE APPLICATIONS.**

12 “(a) IN GENERAL.—The Bureau shall make a grant
13 under section 1901 to carry out the projects described in
14 the application submitted under section 1902 upon deter-
15 mining that—

16 “(1) the application is consistent with the re-
17 quirements of this part; and

18 “(2) before the approval of the application the
19 Bureau has made an affirmative finding in writing
20 that the proposed project has been reviewed in ac-
21 cordance with this part.

22 “(b) APPROVAL.—Each application submitted under
23 section 1902 shall be considered approved, in whole or in
24 part, by the Bureau not later than 45 days after first re-

1 ceived unless the Bureau informs the applicant of specific
2 reasons for disapproval.

3 “(c) RESTRICTION.—Grant funds received under this
4 part shall not be used for land acquisition or construction
5 projects.

6 “(d) DISAPPROVAL NOTICE AND RECONSIDER-
7 ATION.—The Bureau shall not disapprove any application
8 without first affording the applicant reasonable notice and
9 an opportunity for reconsideration.

10 **“SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.**

11 “(a) ALLOCATION.—Of the total amount appropri-
12 ated under this part in any fiscal year—

13 “(1) 0.4 percent shall be allocated to each of
14 the participating States; and

15 “(2) of the total funds remaining after the allo-
16 cation under paragraph (1), there shall be allocated
17 to each of the participating States an amount which
18 bears the same ratio to the amount of remaining
19 funds described in this paragraph as the State pris-
20 on population of such State bears to the total prison
21 population of all the participating States.

22 “(b) FEDERAL SHARE.—The Federal share of a
23 grant made under this part may not exceed 75 percent
24 of the total costs of the projects described in the applica-

1 tion submitted under section 1902 for the fiscal year for
2 which the projects receive assistance under this part.

3 **"SEC. 2005. EVALUATION.**

4 "Each State that receives a grant under this part
5 shall submit to the Director an evaluation not later than
6 March 1 of each year in such form and containing such
7 information as the Director may reasonably require."

8 (b) CONFORMING AMENDMENT.—The table of con-
9 tents of title I of the Omnibus Crime Control and Safe
10 Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended
11 by section 1201 of this Act, is amended by striking the
12 matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.

"Sec. 2002. State applications.

"Sec. 2003. Review of State applications.

"Sec. 2004. Allocation and distribution of funds.

"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings."

13 (c) DEFINITIONS.—Section 901(a) of the Omnibus
14 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
15 3791(a)) is amended by adding after paragraph (25) the
16 following:

17 "(26) The term 'residential substance abuse
18 treatment program' means a course of individual
19 and group activities, lasting between 9 and 12

1 months, in residential treatment facilities set apart
2 from the general prison population—

3 “(A) directed at the substance abuse prob-
4 lems of the prisoner; and

5 “(B) intended to develop the prisoner’s
6 cognitive, behavioral, social, vocational, and
7 other skills so as to solve the prisoner’s sub-
8 stance abuse and related problems.”.

9 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
10 1001(a) of title I of the Omnibus Crime Control and Safe
11 Streets Act of 1968 (42 U.S.C. 3793), as amended by sec-
12 tion 1202 of this Act, is amended by adding after para-
13 graph (10) the following:

14 “(14) There are authorized to be appropriated
15 \$100,000,000 for each of the fiscal years 1992, 1993, and
16 1994 to carry out the projects under part T.”.

17 **SEC. 1422. MANDATORY LITERACY PROGRAM.**

18 (a) ESTABLISHMENT.—The chief correctional officer
19 of each State correctional system may establish a demon-
20 stration, or statewide functional literacy program.

21 (b) PROGRAM REQUIREMENTS.—(1) To qualify for
22 funding under subsection (d), each functional literacy pro-
23 gram shall—

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Section 1603 requires that no less than 75 percent of the funds available for grants under this part be allocated to local governments, and that no more than 20 percent of the available funds be allocated to community groups. This section also mandates that no more than 5 percent of the funds available under this part shall be used for the purposes of administration, technical assistance, and evaluation, and that the Federal share of projects funded by grants under this part shall not exceed 75 percent will at least 25% coming from non-Federal sources. This section also provides that a grant under this part may be renewed for up to 2 additional years.

Section 1604 establishes criteria of need, ability, and geographic distribution for the Director to consider in awarding grants. Section 1605 will require grant recipients to submit annual reports to the Director describing the progress achieved with the assistance of the grants. This section also requires the Director to submit to Congress an annual report containing a detailed statement of grant awards and an evaluation of funded projects. Section 1606 defines certain terms and effects certain conforming amendments.

Section 103

This section authorizes to be appropriated \$150 million for each of the fiscal years 1992, 1993, and 1994 for the cop on the beat/community policing grant program.

TITLE II—DRUG TREATMENT IN FEDERAL PRISONS

Title II is another provision aimed at taking steps to prevent future crimes. It will ensure that by 1995 every Federal prisoner who has a substance abuse problem and who is willing to undergo a treatment program will have the opportunity to receive treatment. It will make available to every eligible Federal prisoner a program intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills in order to solve the prisoner's substance abuse and related problems. Offenders with substance abuse problems have an extraordinarily high rate of recidivism. Treating these problems will reduce the tendency of the current prison population to commit crimes after their release, will help ease future prison overcrowding, and will permit prisoners to make a successful return to the community as productive citizens.

BACKGROUND

Drug treatment for prisoners is a powerful tool for reducing recidivism and for easing prison overcrowding. But despite Bureau of Prisons studies showing that 47 percent of Federal inmates have moderate to serious substance abuse problems, residential treatment programs are available to only 6 percent of these inmates. There is an immense gap between what could be done to prevent crime with drug treatment and what is now being done by the Bureau of Prisons.

H.R. 548, the Federal Prison Substance Abuse Availability Act of 1991, was introduced by Congressman Charles Schumer, Chairman of the Subcommittee on Crime and Criminal Justice, on January

16, 1991, to address this critically important problem. The provisions of Title II are largely derived from H.R. 548.

The Subcommittee on Crime and Criminal Justice held a hearing on June 6, 1991, to consider H.R. 548. The testimony at that hearing demonstrated that substance abuse is a major cause of the tremendous growth in the Federal prison population over the past decade. Michael J. Quinlan, Director of the Federal Bureau of Prisons, testified at the hearing an estimated 30,000 of the 62,000 Federal inmates have substance abuse problems. Without treatment, studies indicate as many as 75 percent of these individuals will return to drug use within three months of release from prison, and about half will return to jail within three years. In contrast, the comprehensive Stay'N Out program at New York's Arthur Kill Correctional Facility has found that 78 percent of those inmates who undergo the full residential substance abuse treatment are still out of prison three years after release.

Based upon the evidence presented at the hearing, it became clear that an incentive to participate in these rigorous treatment programs was essential. For that reason, a provision was included in this title authorizing the Bureau of Prisons to reduce by up to one year the sentences of inmates completing a residential substance abuse program. Three graduates of the Stay'N Out program testified at the hearing. They testified that prisoners induced by the prospect of an incentive to enter a substance abuse program often find in the program the support and resolve they need to overcome their drug problems. Residential substance abuse programs are rigorous, 24-hour-a-day experiences requiring a great deal of work, effort, and commitment from the inmate. The Committee determined that a modest, appropriate incentive is necessary to ensure a high level of productive participation in the program. Other witnesses at the hearing included Dr. Doug Lipton, Narcotic and Drug Research, Inc.; Jerry Vigdal, Director, Office of Drug Programs, Wisconsin Department of Corrections; and Robert Anderson, Director, Criminal Justice Programs, National Association of State Alcohol and Drug Abuse Directors, Inc.

This title was also Title II of the subcommittee print reported by the Subcommittee on Crime and Criminal Justice on July 31, 1991, by a vote of 13-0.

SECTION-BY-SECTION ANALYSIS

Section 201

Short title: Drug Treatment in Federal Prisons Act of 1991.

Section 202

Section 202 defines residential substance abuse treatment as a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population.

Section 203

This section requires the Bureau of Prisons (the "BOP") to provide appropriate substance abuse treatment to at least 50 percent of willing prisoners with substance abuse problems by the end of

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fiscal year 1993, to provide treatment to at least 75 percent of eligible prisoners by the end of fiscal year 1994, and to provide treatment for all eligible prisoners by the end of fiscal year 1995 and thereafter. It provides an incentive to prisoners for successful completion of a treatment program by authorizing the BOP to modify the conditions of confinement of successful participants or to shorten, by up to one year, the term of a prisoner who has successfully completed a treatment program. This section also provides for the periodic drug testing of prisoners, while they remain in the custody of BOP, who have completed a treatment program and have had their confinement conditions modified.

Section 204

This section requires the BOP to report to the Congress annually concerning its substance abuse treatment programs.

Section 205

This section authorizes the appropriation of funds necessary to carry out this title for fiscal year 1991 and each fiscal year thereafter.

TITLE III—SUBSTANCE ABUSE TREATMENT IN STATE PRISONS

PURPOSE

Title III is a program of grants to States to assist in the development of residential correctional substance abuse treatment programs. These programs, by helping prisoners to defeat their substance abuse problems, will reduce recidivism, ease prison overcrowding, and assist in the rehabilitation of offenders.

BACKGROUND

The hearing held on June 6, 1991, by the Subcommittee on Crime and Criminal Justice revealed that State prisons, like their Federal counterparts, have experienced a rapid rise in inmate population caused, in large part, by substance abuse. The Bureau of Justice Statistics estimates that 50 to 66 percent of inmates nationwide regularly use controlled substances. Yet State correctional authorities, lacking the resources to deal with their overcrowded prison systems, offer drug treatment to only about 11 percent of prisoner. The States are in dire need of Federal funding for cost-effective, crime-reducing treatment programs. Title III would provide \$100 million for State correctional systems to use in implementing long-term (9 to 12 months), residential substance abuse treatment programs.

The intent of the Committee is that "substance abuse" should be understood to include alcohol and multiple substance abuse as well as drug abuse, although the emphasis is expected to be upon drug abuse. The Committee also intends that the treatment offered by States to their substance-abusing prisoner population be by qualified treatment providers and standards be utilized to ensure the quality of treatment provided. A drug treatment program estab-

lished or implemented with assistance provided under this title should be designed to provide individualized treatment based on an initial evaluation and assessment and should include, but not be limited to, the following services: education services, individual and group counseling, self-help and peer group activities, long-term residential treatment services including therapeutic communities and follow-up and aftercare. The Committee recognizes the value of community-based aftercare and encourages the establishment of this vital treatment component. The committee also intends that funds under this program be made available, to the extent consistent with other requirements of the program, for drug treatment of incarcerated women (including incarcerated pregnant women) as well as incarcerated juveniles. Finally, the Committee urges State corrections officials to coordinate their efforts with the designated single State agency responsible for drug and alcohol prevention and treatment.

This title was also Title III of the subcommittee print reported by the Subcommittee on Crime and Criminal Justice on July 31, 1991.

At Committee markup an amendment, offered by Rep. Mike Synar (D-Oklahoma), was adopted by voice vote that changed the funding formula from general population-based to one based upon numbers of prisoners in each state. Another amendment was adopted that was offered by Rep. William Hughes (D-New Jersey) that would create an eligibility for a preference for State applicants whose programs contain aftercare components. Inclusion of an aftercare component is to be understood as a potential, not an automatic preference.

SECTION-BY-SECTION ANALYSIS

Section 301

Short title: Substance Abuse Treatment in State Prisons Act of 1991.

Section 302

This section amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968 by redesignating Part Q as Part R and section 1701 as 1801; and by inserting a new Part Q that will contain the following provisions:

Section 1701 will authorize the Director of the Bureau of Justice Assistance (the "Director") to make grants to States for the purpose of developing residential substance abuse treatment programs within State correctional facilities.

Section 1702 will provide for States to make applications for grants to the Director. Such application must include assurances that Federal funds received under this part will be used to supplement, not supplant, non-Federal funds, and must demonstrate that the State will require urinalysis or similar testing of individuals who are participating in or have been graduated from correctional residential substance abuse treatment programs. This section also includes an eligibility for a preference for applications that include aftercare components.

Section 1703 will provide that a grant shall be made upon a finding by the Director that a State's application is consistent with the

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1 **Subtitle F—Drug Testing of**
2 **Arrested Individuals**

3 **SEC. 1161. DRUG TESTING UPON ARREST.**

4 (a) **IN GENERAL.**—Title I of the Omnibus Crime
5 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
6 et seq.), as amended by section 1151 of this Act, is
7 amended—

8 (1) by redesignating part Q as part R;

9 (2) by redesignating section 1701 as section
10 1801; and

11 (3) by inserting after part P the following:

12 **“PART Q—GRANTS FOR DRUG TESTING UPON**
13 **ARREST**

14 **“SEC. 1701. GRANT AUTHORIZATION.**

15 The Director of the Bureau of Justice Assistance is
16 authorized to make grants under this part to States, for
17 the use by States and units of local government in the
18 States, for the purpose of developing, implementing, or
19 continuing a drug testing project when individuals are ar-
20 rested and during the pretrial period.

21 **“SEC. 1702. STATE APPLICATIONS.**

22 “(a) **GENERAL REQUIREMENTS.**—To request a grant
23 under this part the chief executive of a State shall submit
24 an application to the Director in such form and containing
25 such information as the Director may reasonably require.

1 “(b) MANDATORY ASSURANCES.—To be eligible to
2 receive funds under this part, a State must agree to devel-
3 op or maintain programs of urinalysis or similar drug test-
4 ing of individuals upon arrest and on a regular basis pend-
5 ing trial for the purpose of making pretrial detention deci-
6 sions.

7 “(c) CENTRAL OFFICE.—The office designated under
8 section 507 of title I of the Omnibus Crime Control and
9 Safe Streets Act of 1968 (42 U.S.C. 3757)—

10 “(1) shall prepare the application as required
11 under subsection (a); and

12 “(2) shall administer grant funds received
13 under this part, including, review of spending, proc-
14 essing, progress, financial reporting, technical assist-
15 ance, grant adjustments, accounting, auditing, and
16 fund disbursement.

17 **“SEC. 1703. LOCAL APPLICATIONS.**

18 “(a) IN GENERAL.—(1) To request funds under this
19 part from a State, the chief executive of a unit of local
20 government shall submit an application to the office desig-
21 nated under section 1702(c).

22 “(2) Such application shall be considered approved,
23 in whole or in part, by the State not later than 90 days
24 after such application is first received unless the State in-

1 forms the applicant in writing of specific reasons for dis-
2 approval.

3 “(3) The State shall not disapprove any application
4 submitted to the State without first affording the appli-
5 cant reasonable notice and an opportunity for reconsider-
6 ation.

7 “(4) If such application is approved, the unit of local
8 government is eligible to receive such funds.

9 “(b) DISTRIBUTION TO UNITS OF LOCAL GOVERN-
10 MENT.—A State that receives funds under section 1701
11 in a fiscal year shall make such funds available to units
12 of local government with an application that has been sub-
13 mitted and approved by the State within 90 days after
14 the Bureau has approved the application submitted by the
15 State and has made funds available to the State. The Di-
16 rector shall have the authority to waive the 90-day re-
17 quirement in this section upon a finding that the State
18 is unable to satisfy such requirement under State statutes.

19 **“SEC. 1704. ALLOCATION AND DISTRIBUTION OF FUNDS.**

20 “(a) STATE DISTRIBUTION.—Of the total amount ap-
21 propriated under this part in any fiscal year—

22 “(1) 0.4 percent shall be allocated to each of
23 the participating States; and

24 “(2) of the total funds remaining after the allo-
25 cation under paragraph (1), there shall be allocated

1 to each of the participating States an amount which
2 bears the same ratio to the amount of remaining
3 funds described in this paragraph as the number of
4 individuals arrested in such State bears to the num-
5 ber of individuals arrested in all the participating
6 States.

7 “(b) LOCAL DISTRIBUTION.—(1) A State that re-
8 ceives funds under this part in a fiscal year shall distribute
9 to units of local government in such State that portion
10 of such funds which bears the same ratio to the aggregate
11 amount of such funds as the amount of funds expended
12 by all units of local government for criminal justice in the
13 preceding fiscal year bears to the aggregate amount of
14 funds expended by the State and all units of local govern-
15 ment in such State for criminal justice in such preceding
16 fiscal year.

17 “(2) Any funds not distributed to units of local gov-
18 ernment under paragraph (1) shall be available for ex-
19 penditure by such State for purposes specified in such
20 State’s application.

21 “(3) If the Director determines, on the basis of infor-
22 mation available during any fiscal year, that a portion of
23 the funds allocated to a State for such fiscal year will not
24 be used by such State or that a State is not eligible to
25 receive funds under section 1701, the Director shall award

1 such funds to units of local government in such State giving
2 ing priority to the units of local government that the Director
3 rector considers to have the greatest need.

4 “(c) FEDERAL SHARE.—The Federal share of a
5 grant made under this part may not exceed 75 percent
6 of the total costs of the projects described in the application
7 tion submitted under section 1702 for the fiscal year for
8 which the projects receive assistance under this part.

9 “(d) GEOGRAPHIC DISTRIBUTION.—The Director
10 shall attempt, to the extent practicable, to achieve an equitable
11 table geographic distribution of grant awards.

12 **“SEC. 1705. REPORT.**

13 “A State or unit of local government that receives
14 funds under this part shall submit to the Director a report
15 in March of each fiscal year that funds are received under
16 this part regarding the effectiveness of the drug testing
17 project.”.

18 “(b) CONFORMING AMENDMENT.—The table of contents
19 tents of title I of the Omnibus Crime Control and Safe
20 Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended
21 by section 1152 of this Act, is amended by striking the
22 matter relating to part Q and inserting the following:

“PART Q—DRUG TESTING FOR INDIVIDUALS ARRESTED

“Sec. 1701. Grant authorization.

“Sec. 1702. State applications.

“Sec. 1703. Local applications.

“Sec. 1704. Allocation and distribution of funds.

“Sec. 1705. Report.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings."

1 **SEC. 1162. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 1001(a) of the Omnibus Crime Control and
3 Safe Streets Act of 1968 (42 U.S.C. 3793), as amended
4 by section 1153 of this Act, is amended by adding after
5 paragraph (10) the following:

6 "(11) There are authorized to be appropriated
7 \$100,000,000 for the fiscal years 1992, 1993, and 1994
8 to carry out the projects under part Q."

9 **Subtitle G—Racial and Ethnic Bias**
10 **Study Grants**

11 **SEC. 1171. STUDY GRANTS**

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

13 (1) equality under law is tested most profoundly
14 by whether a legal system tolerates race playing a
15 role in the criminal justice system; and

16 (2) States should examine their criminal justice
17 systems in order to ensure that racial and ethnic
18 bias has no part in such criminal justice systems.

19 (b) AUTHORIZATION OF GRANT PROGRAM.—

20 (1) IN GENERAL.—The Attorney General,
21 through the Bureau of Justice Assistance, is author-
22 ized to make grants to States that have established
23 by State law or by the court of last resort a plan
24 for analyzing the role of race in that State's criminal

tionate to the ratio of funds spent on criminal justice by local governments in the State in the fiscal year preceding the distribution to the total amount of funds spent in that year on criminal justice by the State and its local governments combined.

This section further provides that the Federal share of a project financed by a grant made pursuant to this Part may not exceed 75 percent of the total cost of the project.

Section 1906 requires each recipient State and local government to submit to the Director an annual evaluation of the projects funded by grants made pursuant to this Part. This section also limits the amount of a grant that can be spent on producing such evaluations to 5 percent.

Section 603

This section amends § 303 of the Omnibus Crime Control and Safe Streets Act of 1968 by defining "young offender" as an individual 28 year of age or younger.

Section 604

This section authorizes to be appropriated for the grant program \$200 million for each of the fiscal years 1992, 1993, and 1994.

TITLE VII—DRUG TESTING OF ARRESTED INDIVIDUALS

PURPOSE

This title creates a grant program that will assist States in developing, implementing and maintaining programs for voluntary drug-testing of arrested individuals prior to arraignment and while on pre-trial release. This program provides Federal leadership and resources to help States design such drug testing programs.

BACKGROUND

The link between drug abuse and crime is clear. A substantial number of arrested individuals have substance abuse problems. Whether or not a criminal defendant is a substance abuser is an important factor for the court to consider when making decisions about pre-trial release conditions. Drug testing is also an important monitoring tool for defendants in the community on pre-trial release to ensure that they are complying with the conditions of that release. It will help ensure that defendants do not commit additional crimes while on release and that they appear for scheduled court dates. It also helps identify individuals with substance abuse problems so that they can be directed toward appropriate treatment programs.

The impetus for this title is the successful drug-testing program in place in Washington, DC. That program, run by the Pre-trial Services Agency, tests arrested individuals and makes the information available to the court before arraignment or presentment to assist the court and counsel in making judgments regarding appropriate conditions of pre-trial release. Under this program criminal defendants are asked if they would be willing to submit to drug testing. They are advised that they have the right to refuse but

PTSA reports a results of the te This report als such as name, record. Based c that court mak and may order of that release.

This title at States in estal have the freed of their particu grams may, for to certain indi stance abuse i intent that the rested individu

This program Criminal Justic an amendment mittee adoptec ratios of arres States. Anothe gram's expense

Section 701

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Section 2001 sistance (the " of developing, persons arrest

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Section 200: of grants amc percent of the with the rem according to section furthe ute a portion funds that a s proportion of the total exp

PTSA reports an amazingly low declination rate of 2 percent. The results of the test are included in the report prepared for the court. This report also includes other information about the defendant such as name, address, family, employment and prior criminal record. Based on this information, as well as input from counsel, that court makes its decision regarding pretrial release conditions and may order periodic drug testing and treatment as a condition of that release.

This title authorizes a \$100 million grant program to assist States in establishing similar drug-testing programs. Recipients have the freedom to adopt voluntary programs that suit the needs of their particular areas and criminal justice systems. These programs may, for example, limit the application of the drug testing to certain individuals charged with certain crimes or where substance abuse is otherwise indicated. It is not the Committee's intent that these programs be of a mandatory nature, or for all arrested individuals.

This program was adopted by the Subcommittee on Crime and Criminal Justice at its markup on July 31, 1981. It was offered as an amendment by Rep. Peter Hoagland (D-Nebraska). The Committee adopted an amendment to base the funding formula on ratios of arrested individuals rather than on populations of the States. Another amendment limits the Federal share of the program's expenses to 75 percent.

SECTION-BY-SECTION ANALYSIS

Section 701

This section amends the Omnibus Crime Control and Safe Streets Act of 1968 by redesignating Part T as Part U, and section 2001 as 2101; and, inserting a new Part T which will contain the following provisions:

Section 2001 authorizes the Director of the Bureau of Justice Assistance (the "Director") to make grants to States for the purpose of developing, implementing, or continuing programs to drug test persons arrested or awaiting trial.

Section 2002 provides for State chief executives to make applications to the Director in order to receive Federal funds under this section. Each such application should demonstrate that the State administers or plans to administer drug testing on persons awaiting trial and to provide the results to magistrates or judges for their consideration when making pretrial detention decisions.

Section 2003 provides for the distribution of grant monies to localities within a State.

Section 2004 establishes the following formula for the allocation of grants among States: Each participating State shall receive 0.4 percent of the total amount available during a given fiscal year with the remaining funds divided among the participating States according to their relative numbers of arrested individuals. This section further provides that each participating State must distribute a portion of the funds it receives to local governments. Of the funds that a State receives, it must allocate to local governments a proportion of funds commensurate with local governments' share of the total expenditures on criminal justice spent by the State and

all the jurisdictions within it. Funds not so reserved for the use of local governments may be used by the State.

If a State does not use or is not eligible for some or all of the funds available to it, then the Director shall distribute those funds to localities within the respective State, giving priority to local governments with the greatest need.

Section 2005 directs State and local governments which receive Federal funds for drug testing to submit an annual report to the Director.

Section 702

This section authorizes the appropriation of \$100 million annually through 1994 for the purpose of State and local drug testing of persons who have been arrested but not yet tried.

TITLE VIII—DRUG EMERGENCY AREAS ACT OF 1991

PURPOSE

Title VIII will allow the President to declare States and localities which have been temporarily overwhelmed by drug trafficking to be "Drug-Related Emergency Areas" (DREA's) and make them eligible for Federal assistance.

BACKGROUND

States and localities that have been particularly hard hit by drugs and drug-related crime cannot effectively deal with the effects on their own. They rightfully look to the Federal government for leadership and financial assistance in their enforcement efforts. This title helps to provide that assistance by giving the President increased authority to declare an area a drug emergency area and provide the Federal resources needed to respond to that emergency.

SECTION-BY-SECTION ANALYSIS

Section 801

This section gives this title the short title of the "Drug Emergency Areas Act of 1991."

Section 802

This section amends subsection (c) of the National Narcotics Leadership Act of 1988 to include provisions for the declaration of Drug Emergency Areas ("DREAs").

Subsection (1) of subsection (c) authorizes the President to declare that a State or part of a State is experiencing a major drug-related emergency and thereby to invoke the provisions of the Act. It also defines a major drug-related emergency as one which exceeds the law-enforcement capacity of State and local resources and threatens lives, property or public health and safety.

Subsection (2) of subsection (c) provides for State and local governments to request that the areas under their jurisdiction be declared DREA's. Such a request must be based on a written finding that the emergency is so severe that Federal assistance is neces-

sary to protect drug emergency and yet still o section directs plications from

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1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 303 is amended by adding at
3 the end the following new item:

“4047. Prison impact assessments.”.

4 **SEC. 1403. FEDERAL PRISONER DRUG TESTING.**

5 (a) SHORT TITLE.—This title may be cited as the
6 “Federal Prisoner Drug Testing Act of 1991”.

7 (b) DRUG TESTING PROGRAM.—(1) Chapter 229 of
8 title 18, United States Code, is amended by adding at the
9 end the following new section:

10 **“§ 3608. Drug testing of Federal offenders on post-**
11 **conviction release**

12 “The Director of the Administrative Office of the
13 United States Courts, in consultation with the Attorney
14 General and the Secretary of Health and Human Services,
15 shall establish a program of drug testing of Federal of-
16 fenders on post-conviction release. The program shall in-
17 clude such standards and guidelines as the Director may
18 determine necessary to ensure the reliability and accuracy
19 of the drug testing programs. In each judicial district the
20 chief probation officer shall arrange for the drug testing
21 of defendants on post-conviction release pursuant to a con-
22 viction for a felony or other offense described in section
23 3563(a)(4) of this title.”.

1 (2) The table of sections at the beginning of chapter
2 229 of title 18, United States Code, is amended by adding
3 at the end the following:

“3608. Drug testing of Federal offenders on post-conviction release.”.

4 (c) CONDITIONS OF PROBATION.—Section 3563(a) of
5 title 18, United States Code, is amended—

6 (1) in paragraph (2) by striking “and” after
7 the semicolon;

8 (2) in paragraph (3) by striking the period and
9 inserting “; and”;

10 (3) by adding at the end the following new
11 paragraph:

12 “(4) for a felony, a misdemeanor, or an infrac-
13 tion, that the defendant refrain from any unlawful
14 use of a controlled substance and submit to one drug
15 test within 15 days of release on probation and at
16 least 2 periodic drug tests thereafter (as determined
17 by the court) for use of a controlled substance, but
18 the condition stated in this paragraph may be ame-
19 liorated or suspended by the court for any individual
20 defendant if the defendant’s presentence report or
21 other reliable sentencing information indicates a low
22 risk of future substance abuse by the defendant.”;
23 and

24 (4) by adding at the end the following: “The re-
25 sults of a drug test administered in accordance with

1 paragraph (4) shall be subject to confirmation only
2 if the results are positive, the defendant is subject
3 to possible imprisonment for such failure, and either
4 the defendant denies the accuracy of such test or
5 there is some other reason to question the results of
6 the test. A defendant who tests positive may be de-
7 tained pending verification of a positive drug test re-
8 sult. A drug test confirmation shall be a urine drug
9 test confirmed using gas chromatography/mass spec-
10 trometry techniques or such test as the Director of
11 the Administrative Office of the United States
12 Courts after consultation with the Secretary of
13 Health and Human Services may determine to be of
14 equivalent accuracy. The court shall consider the
15 availability of appropriate substance abuse treatment
16 programs when considering any action against a de-
17 fendant who fails a drug test administered in ac-
18 cordance with paragraph (4). ”.

19 (d) CONDITIONS ON SUPERVISED RELEASE.—Sec-
20 tion 3583(d) of title 18, United States Code, is amended
21 by inserting after the first sentence the following: “The
22 court shall also order, as an explicit condition of super-
23 vised release, that the defendant refrain from any unlawful
24 use of a controlled substance and submit to a drug test
25 within 15 days of release on supervised release and at least

1 2 periodic drug tests thereafter (as determined by the
2 court) for use of a controlled substance. The condition
3 stated in the preceding sentence may be ameliorated or
4 suspended by the court as provided in section 3563(a)(4).
5 The results of a drug test administered in accordance with
6 the preceding subsection shall be subject to confirmation
7 only if the results are positive, the defendant is subject
8 to possible imprisonment for such failure, and either the
9 defendant denies the accuracy of such test or there is some
10 other reason to question the results of the test. A drug
11 test confirmation shall be a urine drug test confirmed
12 using gas chromatography/mass spectrometry techniques
13 or such test as the Director of the Administrative Office
14 of the United States Courts after consultation with the
15 Secretary of Health and Human Services may determine
16 to be of equivalent accuracy. The court shall consider the
17 availability of appropriate substance abuse treatment pro-
18 grams when considering any action against a defendant
19 who fails a drug test.”.

20 (e) CONDITIONS OF PAROLE.—Section 4209(a) of
21 title 18, United States Code, is amended by inserting after
22 the first sentence the following: “In every case, the Com-
23 mission shall also impose as a condition of parole that the
24 parolee pass a drug test prior to release and refrain from
25 any unlawful use of a controlled substance and submit to

1 at least 2 periodic drug tests (as determined by the Com-
2 mission) for use of a controlled substance. The condition
3 stated in the preceding sentence may be ameliorated or
4 suspended by the Commission for any individual parolee
5 if it determines that there is good cause for doing so. The
6 results of a drug test administered in accordance with the
7 provisions of the preceding sentence shall be subject to
8 confirmation only if the results are positive, the defendant
9 is subject to possible imprisonment for such failure, and
10 either the defendant denies the accuracy of such test or
11 there is some other reason to question the results of the
12 test. A drug test confirmation shall be a urine drug test
13 confirmed using gas chromatography/mass spectrometry
14 techniques or such test as the Director of the Administra-
15 tive Office of the United States Courts after consultation
16 with the Secretary of Health and Human Services may
17 determine to be of equivalent accuracy. The Commission
18 shall consider the availability of appropriate substance
19 abuse treatment programs when considering any action
20 against a defendant who fails a drug test.”.

21 **SEC. 1404. DRUG TREATMENT IN FEDERAL PRISONS.**

22 (a) **SHORT TITLE.**—This section may be cited as the
23 “Drug Treatment in Federal Prisons Act of 1991”.

24 (b) **DEFINITIONS.**—

25 As used in this section—

1 each fiscal year thereafter such sums as may be necessary
2 to carry out this title.

3 **SEC. 1405. PRISON FOR VIOLENT DRUG OFFENDERS.**

4 (a) FINDINGS.—The Congress makes the following
5 findings:

6 (1) The total population of Federal, State, and
7 local prisons and jails increased by 84 percent be-
8 tween 1980 and 1988 and currently numbers more
9 than 900,000 people.

10 (2) More than 60 percent of all prisoners have
11 a history of drug abuse or are regularly using drugs
12 while in prison, but only 11 percent of State prison
13 inmates and 7 percent of Federal prisoners are en-
14 rolled in drug treatment programs. Hundreds of
15 thousands of prisoners are not receiving needed drug
16 treatment while incarcerated, and the number of
17 such persons is increasing rapidly.

18 (3) Drug-abusing prisoners are highly likely to
19 return to crime upon release, but the recidivism rate
20 is much lower for those who successfully complete
21 treatment programs. Providing drug treatment to
22 prisoners during incarceration therefore provides an
23 opportunity to break the cycle of recidivism, reduc-
24 ing the crime rate and future prison overcrowding.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated for the fiscal year end-
3 ing September 30, 1992, the following amounts:

4 (1) \$600,000,000 for the construction of 10 re-
5 gional prisons; and

6 (2) \$100,000,000 for the operation of such re-
7 gional prisons for one year.

8 Such amounts shall be in addition to any other amounts
9 authorized to be appropriated to the Bureau of Prisons.

10 (c) LOCATION AND POPULATION.—The regional pris-
11 ons authorized by this section shall be located in places
12 chosen by the Director of the Bureau of Prisons, after
13 consulting with the Director of National Drug Control
14 Policy, not less than 6 months after the effective date of
15 this section. Each such facility shall be used to accommo-
16 date a population consisting of State and Federal prison-
17 ers in proportions of 20 percent Federal and 80 percent
18 State.

19 (d) ELIGIBILITY OF PRISONERS.—The regional pris-
20 ons authorized by this section shall be used to incarcerate
21 State and Federal prisoners who have release dates of not
22 more than 2 years from the date of assignment to the pris-
23 on and who have been found to have substance abuse prob-
24 lems requiring long-term treatment.

1 (e) STATE RESPONSIBILITIES.—(1) The States shall
2 select prisoners for assignment to the regional prisons
3 who, in addition to satisfying eligibility criteria otherwise
4 specified in this section, have long-term drug abuse prob-
5 lems and serious criminal histories. Selection of such per-
6 sons is necessary for the regional prison program to have
7 the maximum impact on the crime rate and future prison
8 overcrowding, since such persons are the ones most likely
9 to commit new crimes following release. Prisoners selected
10 for assignment to a regional prison must agree to the as-
11 signment.

12 (2) Any State seeking to refer a State prisoner to
13 a regional prison shall submit to the Director of the Bu-
14 reau of Prisons (referred to as the "Director") an
15 aftercare plan setting forth the provisions that the State
16 will make for the continued treatment of the prisoner in
17 a therapeutic community following release. The aftercare
18 plan shall also contain provisions for vocational job train-
19 ing where appropriate.

20 (3) The State referring the prisoner to the regional
21 prison (referred to as the "sending State") shall reimburse
22 the Bureau of Prisons for the full cost of the incarceration
23 and treatment of the prisoner, except that if the prisoner
24 successfully completes the treatment program, the Direc-
25 tor shall return to the sending State 25 percent of the

1 amount paid for that prisoner. The total amount returned
2 to each State under this paragraph in each fiscal year
3 shall be used by that State to provide the aftercare treat-
4 ment required by paragraph (2).

5 (f) POWERS OF THE DIRECTOR.—(1) The Director
6 shall have the exclusive right to determine whether or not
7 a State or Federal prisoner satisfies the eligibility require-
8 ments of this section, and whether the prisoner is to be
9 accepted into the regional prison program. The Director
10 shall have the right to make this determination after the
11 staff of the regional prison has had an opportunity to
12 interview the prisoner in person.

13 (2) The Director shall have the exclusive right to de-
14 termine if a prisoner in the regional treatment program
15 is complying with all of the conditions and requirements
16 of the program. The Director shall have the authority to
17 return any prisoner not complying with the conditions and
18 requirements of the program to the sending State at any
19 time. The Director shall notify the sending State whenever
20 such prisoner is returned that the prisoner has not suc-
21 cessfully completed the treatment program.

22 **SEC. 1406. BOOT CAMPS.**

23 (a) IN GENERAL.—Not later than 1 year after the
24 date of the enactment of this Act, the Attorney General
25 shall establish within the Bureau of Prisons 10 military-

1 “(A) a drug trafficking crime, as that term is
2 defined in section 924(c)(2); or

3 “(B) a crime of violence, as that term is defined
4 in section 924(c)(3).

5 “(4) The notice provided under this section
6 shall be used solely for law enforcement purposes.”.

7 **SEC. 1426. APPLICATION TO PRISONERS TO WHICH PRIOR**
8 **LAW APPLIES.**

9 In the case of a prisoner convicted of an offense com-
10 mitted prior to November 1, 1987, the reference to super-
11 vised release in section 4042(b) of title 18, United States
12 Code, shall be deemed to be a reference to probation or
13 parole.

14 **TITLE XV—RURAL CRIME**
15 **Subtitle A—Fighting Drug**
16 **Trafficking in Rural Areas**

17 **SEC. 1501. AUTHORIZATIONS FOR RURAL LAW ENFORCE-**
18 **MENT AGENCIES.**

19 (a) **AUTHORIZATION OF APPROPRIATIONS.**—The sec-
20 ond paragraph (7) of section 1001(a) of title I of the Om-
21 nibus Crime Control and Safe Streets Act of 1968 is
22 amended—

23 (1) by striking “(7)” and inserting “(8)”; and

24 (2) by striking “and such” and all that follows
25 through “part O” and inserting “\$50,000,000 for

1 fiscal year 1992, and such sums as may be neces-
2 sary for fiscal years 1993 and 1994 to carry out
3 part O of this title".

4 (b) AMENDMENT TO BASE ALLOCATION.—Section
5 1501(a)(2)(A) of title I of the Omnibus Crime Control and
6 Safe Streets Act of 1968 is amended by striking
7 "\$100,000" and inserting "\$250,000".

8 **SEC. 1502. RURAL DRUG ENFORCEMENT TASK FORCES.**

9 (a) ESTABLISHMENT.—Not later than 1 year after
10 the date of enactment of this Act, the Attorney General,
11 in consultation with the Governors, mayors, and chief ex-
12 ecutive officers of State and local law enforcement agen-
13 cies, shall establish a Rural Drug Enforcement Task
14 Force in each of the Federal judicial districts which en-
15 compass significant rural lands.

16 (b) TASK FORCE MEMBERSHIP.—The task forces es-
17 tablished under subsection (a) shall be chaired by the
18 United States Attorney for the respective Federal judicial
19 district. The task forces shall include representatives
20 from—

- 21 (1) State and local law enforcement agencies;
- 22 (2) the Drug Enforcement Administration;
- 23 (3) the Federal Bureau of Investigation;
- 24 (4) the Immigration and Naturalization Service;
- 25 and

1 (5) law enforcement officers from the United
2 States Park Police, United States Forest Service
3 and Bureau of Land Management, and such other
4 Federal law enforcement agencies as the Attorney
5 General may direct.

6 **SEC. 1503. CROSS-DESIGNATION OF FEDERAL OFFICERS.**

7 The Attorney General may cross-designate up to 100
8 law enforcement officers from each of the agencies speci-
9 fied under section 1502(b)(5) with jurisdiction to enforce
10 the provisions of the Controlled Substances Act on non-
11 Federal lands to the extent necessary to effect the pur-
12 poses of this title.

13 **SEC. 1504. RURAL DRUG ENFORCEMENT TRAINING.**

14 (a) **SPECIALIZED TRAINING FOR RURAL OFFI-**
15 **CERS.**—The Director of the Federal Law Enforcement
16 Training Center shall develop a specialized course of in-
17 struction devoted to training law enforcement officers
18 from rural agencies in the investigation of drug trafficking
19 and related crimes.

20 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There is
21 authorized to be appropriated \$1,000,000 for each of the
22 fiscal years 1992, 1993 and 1994 to carry out the pur-
23 poses of subsection (a) of this section.

1 **Subtitle B—Rural Drug Prevention**
2 **and Treatment**

3 **SEC. 1511. RURAL SUBSTANCE ABUSE TREATMENT AND**
4 **EDUCATION GRANTS.**

5 Part A of title V of the Public Health Service Act
6 (42 U.S.C. 290aa et seq.) is amended by adding at the
7 end the following new section:

8 **“SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.**

9 “(a) IN GENERAL.—The Director of the Office for
10 Treatment Improvement (hereafter referred to in this sec-
11 tion as the ‘Director’) shall establish a program to provide
12 grants to hospitals, community health centers, migrant
13 health centers, health entities of Indian tribes and tribal
14 organizations (as defined in section 1913(b)(5)), and other
15 appropriate entities that serve nonmetropolitan areas to
16 assist such entities in developing and implementing
17 projects that provide, or expand the availability of, sub-
18 stance abuse treatment services.

19 “(b) REQUIREMENTS.—To receive a grant under this
20 section a hospital, community health center, or treatment
21 facility shall—

22 “(1) serve a nonmetropolitan area or have a
23 substance abuse treatment program that is designed
24 to serve a nonmetropolitan area;

1 “(2) operate, or have a plan to operate, an ap-
2 proved substance abuse treatment program:

3 “(3) agree to coordinate the project assisted
4 under this section with substance abuse treatment
5 activities within the State and local agencies respon-
6 sible for substance abuse treatment; and

7 “(4) prepare and submit an application in ac-
8 cordance with subsection (c).

9 “(c) APPLICATION.—

10 “(1) IN GENERAL.—To be eligible to receive a
11 grant under this section an entity shall submit an
12 application to the Director at such time, in such
13 manner, and containing such information as the Di-
14 rector shall require.

15 “(2) COORDINATED APPLICATIONS.—State
16 agencies that are responsible for substance abuse
17 treatment may submit coordinated grant applica-
18 tions on behalf of entities that are eligible for grants
19 pursuant to subsection (b).

20 “(d) PREVENTION PROGRAMS.—

21 “(1) IN GENERAL.—Each entity receiving a
22 grant under this section may use a portion of such
23 grant funds to further community-based substance
24 abuse prevention activities.

1 “(2) REGULATIONS.—The Director, in consul-
2 tation with the Director of the Office of Substance
3 Abuse Prevention, shall promulgate regulations re-
4 garding the activities described in paragraph (1).

5 “(e) SPECIAL CONSIDERATION.—In awarding grants
6 under this section the Director shall give priority to—

7 “(1) projects sponsored by rural hospitals that
8 are qualified to receive rural health care transition
9 grants as provided for in section 4005(e) of the Om-
10 nibus Budget Reconciliation Act of 1987;

11 “(2) projects serving nonmetropolitan areas
12 that establish links and coordinate activities between
13 hospitals, community health centers, community
14 mental health centers, and substance abuse treat-
15 ment centers; and

16 “(3) projects that are designed to serve areas
17 that have no available existing treatment facilities.

18 “(f) DURATION.—Grants awarded under subsection
19 (a) shall be for a period not to exceed 3 years, except that
20 the Director may establish a procedure for renewal of
21 grants under subsection (a).

22 “(g) GEOGRAPHIC DISTRIBUTION.—To the extent
23 practicable, the Director shall provide grants to fund at
24 least one project in each State.

1 “(h) AUTHORIZATION OF APPROPRIATIONS.—For the
2 purpose of carrying out this section there are authorized
3 to be appropriated \$25,000,000 for each of the fiscal years
4 1992 and 1993.”.

5 **SEC. 1512. CLEARINGHOUSE PROGRAM.**

6 Section 509 of the Public Health Service Act (42
7 U.S.C. 290aa-7) is amended—

8 (1) in paragraph (3), by striking “and” at the
9 end thereof;

10 (2) in paragraph (4), by striking the period and
11 inserting a semicolon; and

12 (3) by adding at the end thereof the following
13 new paragraphs—

14 “(5) to gather information pertaining to rural
15 drug abuse treatment and education projects funded
16 by the Alcohol, Drug Abuse, and Mental Health Ad-
17 ministration, as well as other such projects operating
18 throughout the United States; and

19 “(6) to disseminate such information to rural
20 hospitals, community health centers, community
21 mental health centers, treatment facilities, communi-
22 ty organizations, and other interested individuals.”.

1 **Subtitle C—Drug Free Truck Stops**
2 **and Safety Rest Areas**

3 **SEC. 1521. DRUG FREE TRUCK STOPS AND SAFETY REST**
4 **AREAS.**

5 (a) **SHORT TITLE.**—This section may be cited as the
6 “Drug Free Truck Stop Act”.

7 (b) **AMENDMENT TO CONTROLLED SUBSTANCES**
8 **ACT.**—

9 (1) **IN GENERAL.**—Part D of the Controlled
10 Substances Act (21 U.S.C. 801 et seq.) is amended
11 by inserting after section 408 the following new sec-
12 tion:

13 “**TRANSPORTATION SAFETY OFFENSES**

14 “**SEC. 409.** (a) Any person who violates section
15 401(a)(1) or section 416 by distributing or possessing
16 with intent to distribute a controlled substance in or on,
17 or within 1,000 feet of, a truck stop or safety rest area
18 is (except as provided in subsection (b)) subject to—

19 “(1) twice the maximum punishment authorized
20 by section 401(b); and

21 “(2) at least twice any term of supervised re-
22 lease authorized by section 401(b) for a first offense.
23 Except to the extent a greater minimum sentence is other-
24 wise provided by section 401(b), a term of imprisonment
25 under this subsection shall be not less than one year. The

1 mandatory minimum sentencing provisions of this para-
2 graph shall not apply to offenses involving 5 grams or less
3 of marihuana.

4 “(b) Any person who violates section 401(a)(1) or
5 section 416 by distributing or possessing with intent to
6 distribute a controlled substance in or on, or within 1,000
7 feet of, a truck stop or a safety rest area after a prior
8 conviction or convictions under subsection (a) have become
9 final is punishable—

10 “(1) by the greater of (A) a term of imprison-
11 ment of not less than 3 years and not more than life
12 imprisonment or (B) 3 times the maximum punish-
13 ment authorized by section 401(b); and

14 “(2) by at least 3 times any term of supervised
15 release authorized by section 401(b) for a first of-
16 fense.

17 “(c) In the case of any sentence imposed under sub-
18 section (b), imposition or execution of such sentence shall
19 not be suspended and probation shall not be granted. An
20 individual convicted under subsection (b) shall not be eligi-
21 ble for parole under chapter 311 of title 18 of the United
22 States Code until the individual has served the minimum
23 sentence required by such subsection.

24 “(d) For purposes of this section—

1 “(1) the term ‘safety rest area’ means a road-
2 side facility with parking facilities for the rest or
3 other needs of motorists; and

4 “(2) the term ‘truck stop’ means any facility
5 (including any parking lot appurtenant thereto) that
6 has the capacity to provide fuel or service, or both,
7 to any commercial motor vehicle as defined under
8 section 12019(6) of the Commercial Motor Vehicle
9 Safety Act of 1986, operating in commerce as de-
10 fined in section 12019(3) of such Act and that is lo-
11 cated within 2,500 feet of the National System of
12 Interstate and Defense Highways or the Federal-Aid
13 Primary System.”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) CROSS REFERENCE.—Section 401(b)
16 of such Act (21 U.S.C. 841(b)) is amended by
17 inserting “409,” immediately before “418,”
18 each place it appears.

19 (B) TABLE OF CONTENTS.—The table of
20 contents of the Comprehensive Drug Abuse
21 Prevention and Control Act of 1970 is amended
22 by striking the item relating to section 409, the
23 following new item:

 “Sec. 409. *Transportation safety offenses.*”.

24 (c) SENTENCING GUIDELINES.—

1 (1) PROMULGATION OF GUIDELINES.—Pursu-
2 ant to its authority under section 994 of title 28,
3 United States Code, and section 21 of the Sentenc-
4 ing Act of 1987 (28 U.S.C. 994 note), the United
5 States Sentencing Commission shall promulgate
6 guidelines, or shall amend existing guidelines, to
7 provide that a defendant convicted of violating sec-
8 tion 409 of the Controlled Substances Act, as added
9 by subsection (c), shall be assigned an offense level
10 under chapter 2 of the sentencing guidelines that
11 is—

12 (A) two levels greater than the level that
13 would have been assigned for the underlying
14 controlled substance offense; and

15 (B) in no event less than level 26.

16 (2) IMPLEMENTATION BY SENTENCING COMMIS-
17 SION.—If the sentencing guidelines are amended
18 after the date of enactment of this Act, the Sentenc-
19 ing Commission shall implement the instruction set
20 forth in paragraph (1) so as to achieve a comparable
21 result.

22 (3) LIMITATION.—The guidelines described in
23 paragraph (1), as promulgated or amended under
24 this subsection, shall provide that an offense that
25 could be subject to multiple enhancements pursuant

*to this subsection is subject to
not more than one such enhancement*

1 **Subtitle C—Department of Justice**
2 **Community Substance Abuse**
3 **Prevention**

4 **SEC. 1131. SHORT TITLE.**

5 This section may be cited as the “Department of Jus-
6 tice Community Substance Abuse Prevention Act of
7 1991”.

8 **SEC. 1132. COMMUNITY PARTNERSHIPS.**

9 Part E of title I of the Omnibus Crime Control and
10 Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is
11 amended by adding at the end thereof the following:

12 “Subpart 4—Community Coalitions on Substance Abuse

13 “GRANTS TO COMBAT SUBSTANCE ABUSE

14 “SEC. 531. (a) DEFINITION.—As used in this section,
15 the term ‘eligible coalition’ means an association, consist-
16 ing of at least seven organizations, agencies, and individ-
17 uals that are concerned about preventing substance abuse,
18 that shall include—

19 “(1) public and private organizations and agen-
20 cies that represent law enforcement, schools, health
21 and social service agencies, and community-based or-
22 ganizations; and

23 “(2) representatives of 3 of the following
24 groups: the clergy, academia, business, parents,

1 youth, the media, civic and fraternal groups, or
2 other nongovernmental interested parties.

3 "(b) GRANT PROGRAM.—The Attorney General, act-
4 ing through the Director of the Bureau of Justice Assist-
5 ance, and the appropriate State agency, shall make grants
6 to eligible coalitions in order to—

7 "(1) plan and implement comprehensive long-
8 term strategies for substance abuse prevention;

9 "(2) develop a detailed assessment of existing
10 substance abuse prevention programs and activities
11 to determine community resources and to identify
12 major gaps and barriers in such programs and ac-
13 tivities;

14 "(3) identify and solicit funding sources to en-
15 able such programs and activities to become self-sus-
16 taining;

17 "(4) develop a consensus regarding the prior-
18 ities of a community concerning substance abuse;

19 "(5) develop a plan to implement such prior-
20 ities; and

21 "(6) coordinate substance abuse services and
22 activities, including prevention activities in the
23 schools or communities and substance abuse treat-
24 ment programs.

1 “(c) COMMUNITY PARTICIPATION.—In developing
2 and implementing a substance abuse prevention program,
3 a coalition receiving funds under subsection (b) shall—

4 “(1) emphasize and encourage substantial vol-
5 untary participation in the community, especially
6 among individuals involved with youth such as teach-
7 ers, coaches, parents, and clergy; and

8 “(2) emphasize and encourage the involvement
9 of businesses, civic groups, and other community or-
10 ganizations and members.

11 “(d) APPLICATION.—An eligible coalition shall sub-
12 mit an application to the Attorney General and the appro-
13 priate State agency in order to receive a grant under this
14 section. Such application shall—

15 “(1) describe and, to the extent possible, docu-
16 ment the nature and extent of the substance abuse
17 problem, emphasizing who is at risk and specifying
18 which groups of individuals should be targeted for
19 prevention and intervention;

20 “(2) describe the activities needing financial as-
21 sistance;

22 “(3) identify participating agencies, organiza-
23 tions, and individuals;

24 “(4) identify the agency, organization, or indi-
25 vidual that has responsibility for leading the coali-

1 tion, and provide assurances that such agency, orga-
2 nization or individual has previous substance abuse
3 prevention experience;

4 “(5) describe a mechanism to evaluate the suc-
5 cess of the coalition in developing and carrying out
6 the substance abuse prevention plan referred to in
7 subsection (b)(5) and to report on such plan to the
8 Attorney General on an annual basis; and

9 “(6) contain such additional information and
10 assurances as the Attorney General and the appro-
11 priate State agency may prescribe.

12 “(e) PRIORITY.—In awarding grants under this sec-
13 tion, the Attorney General and the appropriate State
14 agency shall give priority to a community that—

15 “(1) provides evidence of significant substance
16 abuse;

17 “(2) proposes a comprehensive and multifaceted
18 approach to eliminating substance abuse;

19 “(3) encourages the involvement of businesses
20 and community leaders in substance abuse preven-
21 tion activities;

22 “(4) demonstrates a commitment and a high
23 priority for preventing substance abuse; and

1 “(5) demonstrates support from the community
2 and State and local agencies for efforts to eliminate
3 substance abuse.

4 “(f) REVIEW.—Each coalition receiving money pursu-
5 ant to the provisions of this section shall submit an annual
6 report to the Attorney General, and the appropriate State
7 agency, evaluating the effectiveness of the plan described
8 in subsection (b)(5) and containing such additional infor-
9 mation as the Attorney General, or the appropriate State
10 agency, may prescribe. The Attorney General, in conjunc-
11 tion with the Director of the Bureau of Justice Assistance,
12 and the appropriate State agency, shall submit an annual
13 review to the Committee on the Judiciary of the Senate
14 and the Committee on the Judiciary of the House of Rep-
15 resentatives. Such review shall—

16 “(1) evaluate the grant program established in
17 this section to determine its effectiveness;

18 “(2) implement necessary changes to the pro-
19 gram that can be done by the Attorney General; and

20 “(3) recommend any statutory changes that are
21 necessary.

22 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to carry out the provi-
24 sions of this section, \$15,000,000 for fiscal year 1992,

1 \$20,000,000 for fiscal year 1993, and \$25,000,000 for fis-
2 cal year 1994.”.

3 (c) AMENDMENT TO TABLE OF SECTIONS.—The
4 table of sections of title I of the Omnibus Crime Control
5 and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.)
6 is amended by adding at the end thereof the following:

“SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

“Sec. 531. Grants to combat substance abuse.”.

7 **Subtitle D—Bindover System for**
8 **Certain Violent Juveniles**

9 **SEC. 1141. BINDOVER SYSTEM.**

10 Section 501(b) of title I of the Omnibus Crime Con-
11 trol and Safe Streets Act of 1968 (42 U.S.C. 3751), as
12 amended by section 1002, is amended—

13 (1) in paragraph (21) by striking “and” at the
14 end;

15 (2) in paragraph (22) by striking the period at
16 the end and inserting “; and”; and

17 (3) inserting after paragraph (22) the following:

18 “(23) programs which address the need for ef-
19 fective bindover systems for the prosecution of vio-
20 lent 16- and 17-year olds in courts with jurisdiction
21 over adults for the crimes of—

22 “(A) murder in the first degree;

23 “(B) murder in the second degree;

24 “(C) attempted murder;

1 shall be sentenced according to the terms of section 1111
2 of title 18, United States Code, including by sentence of
3 death or by imprisonment for life.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of chapter 51 of title 18, United States
6 Code, is amended by adding at the end the following:

“1119. Killing persons aiding Federal investigations.”.

7 **SEC. 604. DEATH PENALTY FOR MURDER OF FEDERAL WIT-**
8 **NESSES.**

9 Section 1512(a)(2)(A) of title 18, United States
10 Code, is amended to read as follows:

11 “(A) in the case of murder as defined in section
12 1111 of this title, the death penalty or imprisonment
13 for life, and in the case of any other killing, the pun-
14 ishment provided in section 1112 of this title;”.

15 **TITLE VII—YOUTH VIOLENCE**

16 **SEC. 701. STRENGTHENING FEDERAL PENALTIES FOR EM-**
17 **PLOYING CHILDREN TO DISTRIBUTE DRUGS.**

18 Section 419 of the Controlled Substances Act (21
19 U.S.C. 860) is amended as follows:

20 (1) at the end of subsection (b) by adding the
21 following:

22 “(c) Notwithstanding any other provision of law, any
23 person at least 18 years of age who knowingly and
24 intentionally—

1 “(1) employs, hires, uses, persuades, induces,
2 entices, or coerces, a person under 18 years of age
3 to violate any provision of this section; or

4 “(2) employs, hires, uses, persuades, induces,
5 entices, or coerces, a person under 18 years of age
6 to assist in avoiding detection or apprehension for
7 any offense of this section by any Federal, State, or
8 local law enforcement official.

9 is punishable by a term of imprisonment, or fine, or both,
10 up to triple that authorized by section 841(b) of this
11 title.”;

12 (2) in subsection (c) by—

13 (A) striking “(c)” and inserting in lieu
14 thereof “(d)”;

15 (B) inserting “or (c)” after “imposed
16 under subsection (b)”;

17 (C) inserting “or (c)” after “convicted
18 under subsection (b)”;

19 (3) in subsection (d) by striking “(d)” and in-
20 serting in lieu thereof “(e)”.

21 **SEC. 702. INCREASED PENALTY FOR TRAVEL ACT VIOLA-**
22 **TIONS.**

23 Section 1952(a) of title 18, United States Code, is
24 amended by striking “and thereafter performs or attempts
25 to perform any of the acts specified in subparagraphs (1),

1 **SEC. 1104. GRANTS FOR MULTI-JURISDICTIONAL DRUG**
2 **TASK FORCES.**

3 Section 504(f) of the Omnibus Crime Control and
4 Safe Streets Act of 1968 (42 U.S.C. 3754(f)), is amended
5 to delete the first word and insert the following: "Except
6 for grants awarded to State and local governments for the
7 purpose of participating in multi-jurisdictional drug task
8 forces, no".

9 **SEC. 1105. FEDERAL SHARE.**

10 Section 504(a) of title I of the Omnibus Crime Con-
11 trol and Safe Streets Act of 1968 (42 U.S.C. 3754(a))
12 is amended by striking "not,--" and all that follows
13 through "per centum;" the last place it appears, and in-
14 serting the following: "not for any fiscal year be expended
15 for more than 75 percent".

16 **SEC. 1106. AUTHORIZATION OF APPROPRIATIONS.**

17 Section 1001(a) of the Omnibus Crime Control and
18 Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended
19 by striking paragraph (7) as redesignated by section 1153
20 of this Act and inserting the following:

21 "(7) There are authorized to be appropriated such
22 sums as may be necessary for fiscal year 1991 and
23 \$200,000,000 for each of the fiscal years 1992, 1993, and
24 1994 to carry out chapter B of subpart 2 of part E of
25 this title."

1 to this subsection is subject to not more than one
2 such enhancement.

3 **TITLE XVI—DRUG CONTROL**
4 **Subtitle A—Drug Emergency Areas**

5 **SEC. 1601. DRUG EMERGENCY AREAS.**

6 Section 1005 of the National Narcotics Leadership
7 Act of 1988 (21 U.S.C. 1504) is amended by adding at
8 the end the following:

9 “(e) DECLARATION OF DRUG EMERGENCY AREAS.—

10 “(1) PRESIDENTIAL DECLARATION.—(A) In the
11 event that a major drug-related emergency exists
12 throughout a State or a part of a State or where the
13 threat of a drug-related emergency exists to part of
14 a State bordering part of a foreign country where a
15 drug-related emergency is known to exist, the Presi-
16 dent may, in consultation with the Director and
17 other appropriate officials, declare such State or
18 part of a State to be a drug emergency area and
19 may take any and all necessary actions authorized
20 by this subsection or otherwise authorized by law.

21 “(B) For the purposes of this subsection, the
22 term ‘major drug-related emergency’ means any oc-
23 casion or instance in which drug smuggling, drug
24 trafficking, drug abuse, or drug-related violence
25 reaches such levels, as determined by the President.

1 that Federal assistance is needed to supplement
2 State and local efforts and capabilities to save lives.
3 and to protect property and public health and safety.

4 “(2) PROCEDURE FOR DECLARATION.—(A) All
5 requests for a declaration by the President designat-
6 ing an area to be a drug emergency area shall be
7 made, in writing, by the Governor or chief executive
8 officer of any affected State or local government, re-
9 spectively, and shall be forwarded to the President
10 through the Director in such form as the Director
11 may by regulation require. One or more cities, coun-
12 ties, or States may submit a joint request for desig-
13 nation as a drug emergency area under this subsec-
14 tion.

15 “(B) Any request made under subparagraph
16 (A) of this paragraph shall be based on a written
17 finding that the major drug-related emergency is of
18 such severity and magnitude, that Federal assistance
19 is necessary to assure an effective response to save
20 lives, and to protect property and public health and
21 safety.

22 “(C) The President shall not limit declarations
23 made under this subsection to highly-populated cen-
24 ters of drug trafficking, drug smuggling, drug use or
25 drug-related violence, but shall also consider applica-

1 tions from governments of less populated areas
2 where the magnitude and severity of such activities
3 is beyond the capability of the State or local govern-
4 ment to respond.

5 “(D) As part of a request for a declaration by
6 the President under this subsection, and as a pre-
7 requisite to Federal drug emergency assistance
8 under this subsection, the Governor(s) or chief exec-
9 utive officer(s) shall—

10 “(i) take appropriate action under State or
11 local law and furnish such information on the
12 nature and amount of State and local resources
13 which have been or will be committed to allevi-
14 ating the major drug-related emergency;

15 “(ii) certify that State and local govern-
16 ment obligations and expenditures will comply
17 with all applicable cost-sharing requirements of
18 this subsection; and

19 “(iii) submit a detailed plan outlining that
20 government’s short- and long-term plans to re-
21 spond to the major drug-related emergency,
22 specifying the types and levels of Federal assist-
23 ance requested, and including explicit goals
24 (where possible quantitative goals) and timeta-
25 bles and shall specify how Federal assistance

1 provided under this subsection is intended to
2 achieve such goals.

3 “(E) The Director shall review any request sub-
4 mitted pursuant to this subsection and forward the
5 application, along with a recommendation to the
6 President on whether to approve or disapprove the
7 application, within 30 days after receiving such ap-
8 plication. Based on the application and the recom-
9 mendation of the Director, the President may de-
10 clare an area to be a drug emergency area under
11 this subsection.

12 “(3) FEDERAL MONETARY ASSISTANCE.—(A)
13 The President is authorized to make grants to State
14 or local governments of up to, in the aggregate for
15 any single major drug-related emergency,
16 \$50,000,000.

17 “(B) The Federal share of assistance under this
18 section shall not be greater than 75 percent of the
19 costs necessary to implement the short- and long-
20 term plan outlined in paragraph (2)(D)(iii).

21 “(C) Federal assistance under this subsection
22 shall not be provided to a drug disaster area for
23 more than 1 year. In any case where Federal assist-
24 ance is provided under this Act, the Governor(s) or
25 chief executive officer(s) may apply to the President.

1 through the Director, for an extension of assistance
2 beyond 1 year. The President, based on the recom-
3 mendation of the Director, may extend the provision
4 of Federal assistance for not more than an addition-
5 al 180 days.

6 “(D) Any State or local government receiving
7 Federal assistance under this subsection shall bal-
8 ance the allocation of such assistance evenly between
9 drug supply reduction and drug demand reduction
10 efforts, unless State or local conditions dictate other-
11 wise.

12 “(4) NONMONETARY ASSISTANCE.—In addition
13 to the assistance provided under paragraph (3), the
14 President may—

15 “(A) direct any Federal agency, with or
16 without reimbursement, to utilize its authorities
17 and the resources granted to it under Federal
18 law (including personnel, equipment, supplies,
19 facilities, and managerial, technical, and adviso-
20 ry services) in support of State and local assist-
21 ance efforts; and

22 “(B) provide technical and advisory assist-
23 ance, including communications support and
24 law enforcement-related intelligence informa-
25 tion.

1 “(5) ISSUANCE OF IMPLEMENTING REGULA-
2 TIONS.—Not later than 90 days after the date of the
3 enactment of this subsection, the Director shall issue
4 regulations to implement this subsection, including
5 such regulations as may be necessary relating to ap-
6 plications for Federal assistance and the provision of
7 Federal monetary and nonmonetary assistance.

8 “(6) AUDIT BY COMPTROLLER GENERAL.—As-
9 sistance under this subsection shall be subject to an-
10 nual audit by the Comptroller General.

11 “(7) AUTHORIZATION OF APPROPRIATIONS.—
12 There are authorized to be appropriated for each of
13 fiscal years 1992, 1993, and 1994, \$300,000,000 to
14 carry out this subsection.”.

15 **Subtitle B—Precursor Chemicals**

16 **SEC. 1611. SHORT TITLE.**

17 This subtitle may be cited as “The Chemical Control
18 and Environmental Responsibility Act of 1991”.

19 **SEC. 1612. DEFINITION AMENDMENTS.**

20 (a) Section 102 of the Controlled Substances Act (21
21 U.S.C. 802) is amended—

22 (1) in paragraph (33) by striking “any listed
23 precursor chemical or listed essential chemical” and
24 by inserting in lieu thereof “any list I chemical or
25 any list II chemical”;

all the jurisdictions within it. Funds not so reserved for the use of local governments may be used by the State.

If a State does not use or is not eligible for some or all of the funds available to it, then the Director shall distribute those funds to localities within the respective State, giving priority to local governments with the greatest need.

Section 2005 directs State and local governments which receive Federal funds for drug testing to submit an annual report to the Director.

Section 702

This section authorizes the appropriation of \$100 million annually through 1994 for the purpose of State and local drug testing of persons who have been arrested but not yet tried.

TITLE VIII—DRUG EMERGENCY AREAS ACT OF 1991

PURPOSE

Title VIII will allow the President to declare States and localities which have been temporarily overwhelmed by drug trafficking to be "Drug-Related Emergency Areas" (DREA's) and make them eligible for Federal assistance.

BACKGROUND

States and localities that have been particularly hard hit by drugs and drug-related crime cannot effectively deal with the effects on their own. They rightfully look to the Federal government for leadership and financial assistance in their enforcement efforts. This title helps to provide that assistance by giving the President increased authority to declare an area a drug emergency area and provide the Federal resources needed to respond to that emergency.

SECTION-BY-SECTION ANALYSIS

Section 801

This section gives this title the short title of the "Drug Emergency Areas Act of 1991."

Section 802

This section amends subsection (c) of the National Narcotics Leadership Act of 1988 to include provisions for the declaration of Drug Emergency Areas ("DREAs").

Subsection (1) of subsection (c) authorizes the President to declare that a State or part of a State is experiencing a major drug-related emergency and thereby to invoke the provisions of the Act. It also defines a major drug-related emergency as one which exceeds the law-enforcement capacity of State and local resources and threatens lives, property or public health and safety.

Subsection (2) of subsection (c) provides for State and local governments to request that the areas under their jurisdiction be declared DREA's. Such a request must be based on a written finding that the emergency is so severe that Federal assistance is neces-

sary to protect drug emergency and yet still of section directs plications from

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sary to protect lives, property and public health and safety. Since drug emergencies in rural areas may be of a smaller magnitude and yet still outstrip the resources of local governments, this subsection directs the President not to exclude from consideration applications from areas which are not highly populated areas.

Under this Subsection, State and local governments must furnish to the President information about the amount of State and local resources which have been or are being committed to alleviating a particular drug-related emergency. To qualify for funds, State and local governments must take certain actions: they must describe the State and local resources which have been or will be devoted to the emergency, they must agree to the cost sharing requirements of the Act, and they must submit short- and long-term plans which specify the amount of Federal assistance requested and specify goals to be reached as a result of such assistance.

Subsection (3) authorizes the President the power to grant up to \$50 million per drug-related emergency to State or local governments. The Federal government may not expend more than three times as many funds as State and local governments spend to address the same drug-related emergency. No drug-related emergency may exist for more than one year, except that this period may be extended up to 180 additional days at the President's discretion. States must, when it is appropriate to do so, evenly divide the federal monies which they receive between supply interdiction and demand reduction efforts.

Subsection (4) authorizes the President to devote the resources of Federal agencies to local drug-related emergencies in addition to whatever other Federal assistance is otherwise allowable under the provisions of this act.

Subsection (5) requires the Director to issue appropriate regulations pursuant to this Act within 90 days of its enactment.

Subsection (6) subjects the provision of assistance under this subsection to audit by the Comptroller General.

Subsection (7) authorizes the appropriation of \$300 million each year for Fiscal Years 1992, 1993 and 1994 to carry out this Act.

TITLE IX—COERCED CONFESSIONS

PURPOSE

This title reinstates the law in effect prior to the Supreme Court's decision in *Arizona v. Fulminante*, No. 89-839, slip op. (S. Ct. Mar. 26, 1991), as it relates to the effect of the admission at trial of a coerced confession. Under this title, the admission of a coerced confession in a state or federal trial shall never be considered harmless error and will require automatic reversal of a conviction, and possible retrial without the use of the confession.

BACKGROUND

In a consistent line of cases beginning decades ago, the Supreme Court maintained the longstanding proposition that the admission of a coerced confession shall never be a harmless error. *See, e.g., Rose v. Clark*, 478 U.S. 570 (1986); *Chapman v. California*, 386 U.S.

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1 “(d) An aircraft that is used in violation of this sec-
2 tion is liable in rem for a fine imposed under this section.

3 “(e) An aircraft that is used in violation of this sec-
4 tion may be seized and forfeited. The laws relating to se-
5 zure and forfeiture for violation of the customs laws, in-
6 cluding available defenses such as innocent owner provi-
7 sions, apply to aircraft seized or forfeited under this sec-
8 tion.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of chapter 109 of title 18, United States
11 Code, is amended by adding at the end the following new
12 item:

“2237. Order to land.”.

13 **SEC. 1632. AMENDMENT TO THE MANSFIELD AMENDMENT**
14 **TO PERMIT MARITIME LAW ENFORCEMENT**
15 **OPERATIONS IN ARCHIPELAGIC WATERS.**

16 Section 481(c)(4) of Public Law 87-195 (22 U.S.C.
17 2291)(c)(4)) is amended by inserting “, and archipelagic
18 waters” after “territorial sea”.

19 **SEC. 1633. ENHANCEMENT OF PENALTIES FOR DRUG TRAF-**
20 **FICKING IN PRISONS.**

21 Section 1791 of title 18, United States Code, is
22 amended—

23 (1) in subsection (c), by inserting before “Any”
24 the following new sentence: “Any punishment im-
25 posed under subsection (b) for a violation of this

1 section involving a controlled substance shall be con-
2 secutive to any other sentence imposed by any court
3 for an offense involving such a controlled sub-
4 stance.”;

5 (2) in subsection (d)(1)(A), by inserting after
6 “a firearm or destructive device” the following: “or
7 a controlled substance in schedule I or II, other than
8 marijuana or a controlled substance referred to in
9 subparagraph (C) of this subsection”;

10 (3) in subsection (d)(1)(B), by inserting before
11 “ammunition,” the following: “marijuana or a con-
12 trolled substance in schedule III, other than a con-
13 trolled substance referred to in subparagraph (C) of
14 this subsection.”;

15 (4) in subsection (d)(1)(C), by inserting “meth-
16 amphetamine, its salts, isomers, and salts of its iso-
17 mers,” after “a narcotic drug,”;

18 (5) in subsection (d)(1)(D), by inserting “(A),
19 (B), or” before “(C)”;

20 (6) in subsection (b), by striking “(c)” each
21 place it appears and inserting in lieu thereof “(d)”.

1 **SEC. 1634. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION**
2 **OF SMALL DRUG QUANTITIES.**

3 Section 497(a)(2)(A) of the Tariff Act of 1930 (19
4 U.S.C. 1497(a)(2)(A)) is amended by adding "or \$500,
5 whichever is greater" after "value of the article".

6 **SEC. 1635. CLARIFICATION OF NARCOTIC OR OTHER DAN-**
7 **GEROUS DRUGS UNDER THE RICO STATUTE.**

8 Section 1961(1) of title 18, United States Code, is
9 amended by striking "narcotic or other dangerous drugs"
10 each place it appears and inserting in lieu thereof "a con-
11 trolled substance or listed chemical, as defined in section
12 102 of the Controlled Substances Act".

13 **SEC. 1636. CONFORMING AMENDMENTS TO RECIDIVIST**
14 **PENALTY PROVISIONS OF THE CONTROLLED**
15 **SUBSTANCES ACT AND THE CONTROLLED**
16 **SUBSTANCES IMPORT AND EXPORT ACT.**

17 (1) Sections 401(b)(1) (B), (C), and (D) of the Con-
18 trolled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and
19 (D)) and sections 1010(b) (1), (2), and (3) of the Con-
20 trolled Substances Import and Export Act (21 U.S.C.
21 960(b) (1), (2), and (3)) are each amended in the sentence
22 or sentences beginning "If any person commits" by strik-
23 ing "one or more prior convictions" through "have become
24 final" and inserting in lieu thereof "a prior conviction for
25 a felony drug offense has become final";

1 (2) Section 1012(b) of the Controlled Substances Im-
2 port and Export Act (21 U.S.C. 962(b)) is amended by
3 striking "one or more prior convictions of him for a felony
4 under any provision of this title or title II or other law
5 of a State, the United States, or a foreign country relating
6 to narcotic drugs, marihuana, or depressant or stimulant
7 drugs, have become final" and inserting in lieu thereof
8 "one or more prior convictions of such person for a felony
9 for a felony drug offense have become final".

10 (3) Section 401(b)(1)(A) of the Controlled Sub-
11 stances Act (21 U.S.C. 841(b)(1)(A)) is amended by strik-
12 ing the sentence beginning "For purposes of this subpara-
13 graph, the term 'felony drug offense' means";

14 (4) Section 102 of the Controlled Substances Act (21
15 U.S.C. 802) is amended by adding at the end the following
16 new paragraph:

17 "(43) The term 'felony drug offense' means an of-
18 fense that is punishable by imprisonment for more than
19 one year under any law of the United States or of a State
20 or foreign country that prohibits or restricts conduct relat-
21 ing to narcotic drugs, marihuana, or depressant or stimu-
22 lant substances."



1 **SEC. 1637. PENALTIES FOR DRUG DEALING IN PUBLIC**
2 **HOUSING AUTHORITY FACILITIES.**

3 Section 419 of the Controlled Substances Act (21
4 U.S.C. 860) is amended—

5 (1) in subsection (a) by striking “playground,
6 or within” and inserting “playground, or housing fa-
7 cility owned by a public housing authority, or with-
8 in”; and

9 (2) in subsection (b) by striking “playground,
10 or within” and inserting “playground, or housing fa-
11 cility owned by a public housing authority, or with-
12 in”.

13 **SEC. 1638. ANABOLIC STEROIDS PENALTIES.**

14 Section 404 of the Controlled Substances Act (21
15 U.S.C. 844) is amended by inserting after subsection (a)
16 the following:

17 “(b)(1) Whoever, being a physical trainer or adviser
18 to an individual, endeavors to persuade or induce that in-
19 dividual to possess or use anabolic steroids in violation of
20 subsection (a), shall be fined under title 18, United States
21 Code, or imprisoned not more than 2 years, or both. If
22 such individual has not attained the age of 18 years, the
23 maximum imprisonment shall be 5 years.

24 “(2) As used in this subsection, the term ‘physical
25 trainer or adviser’ means any professional or amateur
26 coach, manager, trainer, instructor, or other such person,

1 who provides any athletic or physical instruction, training,
2 advice, assistance, or other such service to any person.”.

3 **SEC. 1639. PROGRAM TO PROVIDE PUBLIC AWARENESS OF**
4 **THE PROVISION OF PUBLIC LAW 101-516**
5 **WHICH CONDITIONS PORTIONS OF A STATE'S**
6 **FEDERAL HIGHWAY FUNDING ON THAT**
7 **STATE'S ENACTMENT OF LEGISLATION RE-**
8 **QUIRING THE REVOCATION OF THE DRIVER'S**
9 **LICENSES OF CONVICTED DRUG ABUSERS.**

10 The Attorney General, in consultation with the Secre-
11 tary of Transportation, shall implement a program of na-
12 tional awareness of Public Law 101-516, section 333.
13 This program shall notify the Governors and State Repre-
14 sentatives of the requirements of Public Law 101-516,
15 section 333.

16 **SEC. 1640. ADVERTISING.**

17 Section 403 of the Controlled Substances Act (21
18 U.S.C. 843) is amended—

19 (1) by inserting after subsection (b) the follow-
20 ing:

21 “(c) It shall be unlawful for any person to print, pub-
22 lish, place, or otherwise cause to appear in any newspaper,
23 magazine, handbill, or other publications, any written ad-
24 vertisement knowing that it has the purpose of seeking
25 or offering illegally to receive, buy, or distribute a Sched-

*Solomon
Guerrero*

1 ule I controlled substance. As used in this section the term
2 'advertisement' includes, in addition to its ordinary mean-
3 ing, such advertisements as those for a catalog of Schedule
4 I controlled substances and any similar written advertise-
5 ment that has the purpose of seeking or offering illegally
6 to receive, buy, or distribute a Schedule I controlled sub-
7 stance. The term 'advertisement' does not include material
8 which merely advocates the use of a similar material,
9 which advocates a position or practice, and does not at-
10 tempt to propose or facilitate an actual transaction in a
11 Schedule I controlled substance."; and

12 (2) by redesignating subsections (c) and (d) as
13 subsections (d) and (e), respectively.

14 **SEC. 1641. INCREASED PENALTIES FOR DRUG-DEALING IN**
15 **"DRUG-FREE" ZONES.**

16 Section 419 of the Controlled Substances Act (21
17 U.S.C. 860) is amended—

18 (1) in subsection (a), by striking "one year"
19 and inserting "3 years"; and

20 (2) in subsection (b), by striking "three years"
21 each place it appears and inserting "5 years".

22 **SEC. 1642. NATIONAL DRUG CONTROL STRATEGY.**

23 (a) IN GENERAL.—Section 1005(a) of the National
24 Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is
25 amended by adding at the end the following:

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1 “(5) Beginning with the first submission of a Nation-
2 al Drug Control Strategy to Congress after the date of
3 the enactment of the Violent Crime Control and Law En-
4 forcement Act of 1991, the goals, objectives, and priorities
5 of such Strategy shall include a goal for expanding the
6 availability of treatment for drug addiction.”.

7 (b) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that among the long-term goals of the National
9 Drug Control Strategy should be the availability of drug
10 treatment to all who are in need of such treatment.

11 **SEC. 1643. NOTIFICATION OF LAW ENFORCEMENT OFFI-**
12 **CERS OF DISCOVERIES OF CONTROLLED SUB-**
13 **STANCES OR LARGE SUMS OF CASH IN EX-**
14 **CESS OF \$10,000 IN WEAPON SCREENING.**

15 Section 315 of the Federal Aviation Act of 1958 (49
16 U.S.C. App. 1356) is amended by redesignating subsection
17 (c) as subsection (d) and by adding after subsection (b)
18 the following new subsection:

19 “(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR
20 CASH IN EXCESS OF \$10,000.—Not later than 90 days
21 after the date of the enactment of this section, the Admin-
22 istrator shall issue regulations requiring employees and
23 agents referred to in subsection (a) to report to appropri-
24 ate Federal and State law enforcement officers any inci-
25 dent in which the employee or agent, in the course of con-

1 ducting screening procedures pursuant to subsection (a),
2 discovers a controlled substance the possession of which
3 may be a violation of Federal or State law, or any sizable
4 sums of cash in excess of \$10,000 the possession of which
5 may be a violation of Federal or State law.

6 **SEC. 1644. MANDATORY PENALTIES FOR ILLEGAL DRUG**
7 **USE IN FEDERAL PRISONS.**

8 (a) **DECLARATION OF POLICY.**—It is the policy of the
9 Federal Government that the use or distribution of illegal
10 drugs in the Nation's Federal prisons will not be tolerated
11 and that such crimes shall be prosecuted to the fullest ex-
12 tent of the law.

13 (b) **AMENDMENT.**—Section 401(b) of the Controlled
14 Substances Act (21 U.S.C. 841(b)) is amended by adding
15 the following new paragraph at the end thereof:

16 “(7)(A) In a case under section 404 involving
17 simple possession of a controlled substance within a
18 Federal prison or other Federal detention facility,
19 such person shall be sentenced to a term of impris-
20 onment of not less than 1 year without release, to
21 be served consecutively to any other sentence im-
22 posed for the simple possession itself.

23 “(B) In a case under this section involving the
24 smuggling of a controlled substance into a Federal
25 prison or other Federal detention facility or the dis-

1 tribution or intended distribution of a controlled
2 substance within a Federal prison or other Federal
3 detention facility. such person shall be sentenced to
4 a term of imprisonment of not less than 10 years
5 without release, to be served consecutively to any
6 other sentence imposed for the possession with in-
7 tent to distribute or the distribution itself.

8 “(C) Notwithstanding any other law, the court
9 shall not place on probation or suspend the sentence
10 of a person sentenced under this paragraph. No per-
11 son sentenced under this paragraph shall be eligible
12 for parole during the term of imprisonment imposed
13 under this paragraph.”.

14 **TITLE XVII—DRUNK DRIVING** 15 **PROVISIONS**

16 **SEC. 1701. SHORT TITLE.**

17 This title may be cited as the “Drunk Driving Child
18 Protection Act of 1991”.

19 **SEC. 1702. STATE LAWS APPLIED IN AREAS OF FEDERAL JU-** 20 **RISDICTION.**

21 Section 13(b) of title 18, United States Code, is
22 amended by—

23 (1) striking “For purposes” and inserting “(1)

24 Subject to paragraph (2) and for purposes”; and

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Not Conference Report*

102D CONGRESS
2D SESSION

H. R. 5717

To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1992

Mr. SCHUMER introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and the Judiciary

A BILL

To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Chemical Control
5 Amendments Act of 1992".