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2 MARKUP OF H.R. 5030, A PRIVATE BILL FOR THE RELIEF OF CORINA
3 DE CHALUP TURCINOVIC;

4 H.R. 4080, TO AMEND THE IMMIGRATION AND NATIONALITY ACT TO
5 ESTABLISH A SEPARATE NON-IMMIGRANT CLASSIFICATION FOR FASHION
6 MODELS;

7 H.R. 1485, A PRIVATE BILL FOR THE RELIEF OF ESTHER KARINGE;

8 H.R. 3480, THE "LET OUR VETERANS REST IN PEACE ACT OF 2007";

9 H.R. 5938, THE "FORMER VICE PRESIDENT PROTECTION ACT OF
10 2008";

11 H.R. 5464, THE "A CHILD IS MISSING ALERT AND RECOVERY CENTER
12 ACT";

13 H.R. 2352, THE "SCHOOL SAFETY ENHANCEMENTS ACT OF 2007";

14 H.R. 1783, THE "ELDER JUSTICE ACT";

15 H.R. 5352, THE "ELDER ABUSE VICTIMS ACT OF 2008";

16 AND H.R. 5057, THE "DEBBIE SMITH REAUTHORIZATION ACT OF 2008"

17 Wednesday, May 14, 2008

18 House of Representatives,

19 Committee on the Judiciary,

20 Washington, D.C.

21 The committee met, pursuant to call, at 10:26 a.m., in Room
22 2141, Rayburn House Office Building, Hon. John Conyers
23 [chairman of the committee] presiding.

24 Present: Representatives Conyers, Nadler, Scott, Watt,
25 Lofgren, Jackson Lee, Waters, Sanchez, Cohen, Sutton,
26 Gutierrez, Sherman, Baldwin, Weiner, Schiff, Davis, Wasserman
27 Schultz, Ellison, Smith, Sensenbrenner, Coble, Chabot,
28 Lungren, Cannon, Keller, Issa, King, Feeney, Gohmert, and
29 Jordan.

30 Staff present: Perry Apelbaum, Majority Staff
31 Director/Chief Counsel; George Slover, Majority Legislative
32 Counsel/Parliamentarian; Sean McLaughlin, Minority Chief of
33 Staff/General Counsel; Allison Beach, Minority Deputy Chief
34 of Staff/Parliamentarian; and Anita L. Johnson, Clerk.

35 Chairman Conyers. [Presiding.] Good morning,
36 committee. We will come to order. We have one, two, three,
37 four, five, six, seven, eight, nine, ten, eleven measures to
38 take up today.

39 We will begin with H.R. 5030, and pursuant to notice, I
40 call it up. It is a private bill for the relief of Corina De
41 Chalup Turcinovic for purposes of markup. I ask the clerk to
42 report the bill, please.

43 The Clerk. H.R. 5030, a bill for the relief of Corina
44 De Chalup Turcinovic.

45 [The bill follows:]

46 ***** INSERT *****

47 Chairman Conyers. I ask unanimous that the consent be
48 considered as read, and turn to the distinguished chair of
49 the Immigration Subcommittee, Zoe Lofgren, for her
50 presentation.

51 Ms. Lofgren. Thank you, Mr. Chairman.

52 I would ask unanimous consent that my full statement be
53 included in the record.

54 Chairman Conyers. Without objection.

55 [The statement of Ms. Lofgren follows:]

56 ***** COMMITTEE INSERT *****

57 Ms. Lofgren. I will just summarize.

58 Ms. Turcinovic was born in France. When she was 25 in
59 1990, she came to the United States legally. Her fiance had
60 been in an accident and was rendered a quadriplegic as a
61 result of his accident. She took care of him for many years
62 as he was on a ventilator 24 hours a day. The INS allowed
63 her to stay for 10 years on an annual basis. They married in
64 1996 and her husband, Marin, became a lawful permanent
65 resident. He filed a petition for his wife, but because of
66 the backlog in that category, her visa did not come through.
67 So he was going to become a U.S. citizen, which would then
68 have allowed his wife to immediately become a legal permanent
69 resident.

70 In order to naturalize, you need to take fingerprints.
71 Since he was a quadriplegic, he couldn't leave to go to the
72 INS office to have his fingerprints taken. I would say a
73 comedy of errors, but it wasn't very funny. The Immigration
74 Service kept asking him to come to the office, and cancelling
75 the ask, promising to send someone, then not sending them,
76 and cancelling appointments. Finally, he died. He died
77 before he was able to complete his naturalization.

78 So his wife, who has lived here for many years, was
79 going to be deported. Except for the mistakes made by our
80 government, she would have been a legal permanent resident.
81 So this bill has been through the subcommittee. It was

82 adopted by voice vote. We have received the report from the
83 Department of Homeland Security indicating that they have no
84 objection to this. I recommend that we act favorably upon
85 it.

86 I thank the gentleman and yield back.

87 Chairman Conyers. I thank the chair of Immigration, and
88 turn to the ranking member of the committee, Lamar Smith.

89 Mr. Smith. Thank you, Mr. Chairman.

90 I support this private bill. I also agree with the
91 description that has just been offered by the chairman of the
92 Immigration Subcommittee. This is clearly in instance where
93 the federal government was at fault, and we certainly
94 shouldn't penalize an individual because of that. That is
95 why relief is warranted in this case.

96 I yield the balance of my time to the ranking member of
97 the Immigration Subcommittee, the gentleman from Iowa, Mr.
98 King.

99 Mr. King. Thank you, Mr. Smith. I appreciate you
100 yielding.

101 I also support this private bill for the relief of
102 Carina Turcinovic. I agree with the description that has
103 been laid out by the chair of the Subcommittee on
104 Immigration, Ms. Lofgren. This is a humanitarian issue, as
105 well as mistakes made by our federal government. I would
106 point out that Carina was the primary caregiver for her now-

107 deceased husband. She stepped into that knowingly and
108 willfully, stepped up to take care of him. Because of his
109 quadriplegia and the difficulty and the confusion between our
110 government scheduling is the reason that she is not today a
111 citizen of the United States.

112 This is the right thing for the people on this Judiciary
113 Committee to do, and the right thing for Congress to do, and
114 the right thing for the people of America to express our
115 gratitude and welcome here down the path to citizenship. I
116 urge its adoption and I yield back the balance of my time to
117 the gentleman from Texas.

118 Mr. Smith. Mr. Chairman, I yield back as well.

119 Chairman Conyers. Thank you very much.

120 If there is no further discussion, all members'
121 statements will be included in the record, without objection.

122 Without objection, the previous question is ordered and
123 further proceedings on this measure will be postponed until
124 we have a reporting quorum.

125 We see that Mr. Weiner has come into the room. We can
126 now take up the modeling bill. We have all waited with bated
127 breath for this one. I ask the clerk to call up H.R. 4080,
128 the bill to establish a separate non-immigrant classification
129 for fashion models.

130 The Clerk. Amendment in the nature of a substitute to
131 H.R. 4080, as reported by the Subcommittee on Immigration,

132 Citizenship, Refugees, Border Security and International Law.
133 "Strike all after the enacting clause and insert the
134 following--"

135 [The bill follows:]

136 ***** INSERT *****

137 Chairman Conyers. Without objection, the bill will be
138 considered as read. The chair will again recognize the
139 chairwoman of Immigration to make her presentation.

140 Ms. Lofgren. Thank you, Mr. Chairman.

141 The Immigration Act of 1990 reformed the employment-
142 based immigration system. That act created the P category
143 that is designed for individuals in the performing arts and
144 athletics who had previously been in the H(1)(b) visa
145 category. However, in drafting the 1990 act, fashion models
146 were inadvertently omitted from the P category.

147 Upon discovery of the omission of fashion models, the
148 omission was corrected in the Miscellaneous and Technical
149 Immigration and Nationality Amendments of 1991. However,
150 instead of putting the models in P as they were supposed to
151 be, they were added into the H(1)(b) category. Now, this was
152 odd, but it never really made a difference because there were
153 sufficient numbers of H(1)(b) visas.

154 However, now that the H(1)(b) visa provision is over-
155 subscribed, this has become a problem in the fashion
156 industry. From 2000 to 2005, new employment approvals for
157 H(1)(b) fashion models ranged from 614 to 790 a year. From
158 2005 through 2007, the numbers declined to 467, 438 and 349,
159 probably because of the result of the H(1)(b) cap in the
160 lottery system that has ensued.

161 The models never belonged in the H(1)(b) visa category

162 to begin with. They were put in there I think in error. The
163 current situation does hurt U.S. commercial interests. Taxes
164 that would be paid by foreign fashion models for work in the
165 U.S. are lost. The federal and state government firms that
166 manage fashion models in the United States lose commissions
167 of foreign firms. American fashion models who might be
168 included in ensemble shoots are displaced by local talent in
169 offshore locations.

170 Advertising agencies and other media firms in the U.S.
171 lose business to foreign counterparts. And American fashion
172 photographers lose business to foreign photographers and
173 workers who support fashion shoots. Makeup artists,
174 stylists, pop stylists, photographic printers, retouchers,
175 assistance—all lose employment opportunities because of this
176 situation.

177 This bill creates a new category, sub-category in the P
178 visa category that retains the current admissions standards
179 applied to fashion models, and also assures that visas will
180 remain available to fashion models of distinguished merit and
181 ability. This really does correct the misclassification that
182 occurred in the 1991 Technical Corrections Act, and it was
183 reported with an amendment to the full committee by voice
184 vote. The amendment limits the number of P visas for fashion
185 models under the bill to 1,000 and requires an employer to
186 consult with labor unions for fashion models if any should

187 later develop before seeking a P visa.

188 I am happy that Mr. Smith and Mr. Weiner worked very
189 diligently to reach an agreement and a compromise, so this is
190 I think a bipartisan effort. I would yield the balance of my
191 time, should he care to take it, to Mr. Weiner who is the
192 author of the bill.

193 Mr. Weiner. I thank the chair. I won't take long. You
194 summarized the issue well. I want to express my gratitude to
195 Mr. Smith and yourself for helping to work on this issue.

196 This is an extension of what we have done a couple of
197 times in this committee. We did it for athletes. We have
198 done it for artists, people who because of an oversight they
199 got lumped in with others who have more definable skill sets.
200 This is what we are starting to see happening in the modeling
201 industry because of this problem of having to compete with
202 H(1)(b) visa holders.

203 What we are finding is a lot of these photo shoots that
204 would normally take place for catalogues and for fashion
205 shows are now taking place overseas. With the advent of
206 photo technology and the like, they can very easily put in a
207 background of California, put in a background of New York,
208 put in a background of anywhere. All we are doing with this
209 restriction that we are changing today is just driving this
210 business overseas.

211 So I want to thank the committee for helping to solve

212 it. I want to thank Mr. Lungren, particularly, for helping
213 us work through some of these issues. I yield back.

214 Chairman Conyers. Thank you.

215 Could I ask, Mr. Weiner, what are the particular skills
216 sets of models?

217 [Laughter.]

218 Mr. Weiner. Mr. Chairman, it is not so much the skill
219 set. The H(1)(b) visas holders, as you know, have a
220 particular skill set that is in short supply here. This is a
221 separate category of people who don't have a skill set per
222 se—artists, musicians, people who want to come here—

223 Chairman Conyers. We didn't mean a shortage of that
224 skill set in the Congress.

225 [Laughter.]

226 Mr. Weiner. Well, they do say Washington is Hollywood
227 for ugly people.

228 [Laughter.]

229 Chairman Conyers. But you are not saying that.

230 Mr. Weiner. Certainly not, Mr. Chairman.

231 Chairman Conyers. Of course not. I thank the
232 gentleman.

233 I now recognize the gentleman from Texas, Lamar Smith,
234 the ranking member.

235 Mr. Smith. Thank you, Mr. Chairman.

236 I appreciate the willingness of Mr. Weiner to make good

237 use of this bill in the subcommittee and to address some of
238 our concerns. Because of these changes, I now hesitantly
239 support the passage of the bill. The H(1)(b) visas category
240 is available to temporary foreign workers in specialty
241 occupations, including fashion models. Who ever thought it
242 wise to combine computer programmers and fashion models in
243 one visa category has some explaining to do. Maybe they were
244 watching the TV show Beauty and the Geek.

245 In any event, because demand for high-tech workers has
246 exhausted the supply of H(1)(b) visas in recent years, the
247 fashion industry has had increasing difficulty obtaining
248 visas for foreign models. The industry argues that when
249 visas are unavailable to bring top models to the U.S. for
250 photo shoots and other events, the work is often sent to
251 other countries. The U.S. then loses out because the
252 economic benefit of the event is lost.

253 H.R. 4080 takes fashion models out of the H(1)(b)
254 category and places them in a new P category specifically for
255 fashion models. P visas are currently available for athletes
256 and entertainers. Some people might consider fashion
257 modeling in fact a form of entertainment. The bill as
258 introduced did not have a numerical cap. This was a concern
259 to me since a cap can prevent the fashion model category from
260 growing beyond historical norms and can limit any potential
261 negative effect on American models.

262 Mr. Weiner offered an amendment at subcommittee that
263 added an annual cap of 1,000 visas for fashion models. I
264 support this cap, which slightly exceeds the number of
265 fashion models who have come to the U.S. under the H(1)(b)
266 program in any 1 year. Currently, when an employer files a
267 petition for a P visa, the employer must include an advisory
268 opinion or letter of no objection from a labor union or other
269 professional peer group.

270 However, the bill as introduced did not include a
271 consultation requirement for fashion models. Such a
272 requirement can help ensure that foreign fashion models do
273 not undercut the job opportunities or wages of American
274 models. If in fact no union or peer group represents fashion
275 models, then the consultation requirement can be waived, as
276 is the case currently for P visas when there is no such
277 organization.

278 It is always possible that an organization representing
279 fashion models will be created in the future. Mr. Weiner
280 offered an amendment at subcommittee that applied the
281 consultation requirement to fashion models. While these
282 changes have improved H.R. 4080, Mr. Weiner should assure us
283 that his bill in no way casts doubt on the continued
284 attractiveness of American fashion models.

285 Mr. Chairman, I have to say I am not wild about the
286 bill, but I realize foreign fashion models will in fact be

287 wild about Mr. Weiner's passing it. This legislation does
288 have a significant down side. Picture this: Mr. Weiner is
289 celebrating the passage of this bill in some posh New York
290 City hotel. He is being feted by, toasted by, and surrounded
291 by throngs of cheering and wildly ecstatic fashion models.
292 No doubt he will host annual celebrations of the enactment of
293 this bill, perhaps at Gracie Mansion. It is enough to make
294 some of us cry, but not enough to make us vote no.

295 Mr. Chairman, I support this legislation and yield back
296 the balance of my time.

297 Chairman Conyers. And not a moment too soon.

298 [Laughter.]

299 The chair recognizes the ranking member of Immigration,
300 Steve King.

301 Mr. King. Thank you, Mr. Chairman.

302 I move to strike the last word.

303 Chairman Conyers. Absolutely.

304 Mr. King. Thank you, Mr. Chairman.

305 Our nation's immigration system simply defies logic. We
306 admit over one million immigrants a year legally, and yet we
307 choose only 5 percent on the basis of skills, the skills that
308 they can bring to the U.S. economy. We actually give out
309 tens of thousands of green cards a year on the basis of a
310 random lottery. I find it hard to imagine that we could
311 design a system any more divorced from America's national

312 interest if we tried.

313 So what does this have to do with H.R. 4080, the fashion
314 model bill? Well, we have a contentious debate about H(1)(b)
315 visa policy in this country. Bill Gates and American high-
316 tech companies say that these visas allow us to hire the best
317 and the brightest computer professionals. Those
318 professionals are the engineers and scientists from all
319 around the world that allow us to stay competitive in the
320 global economy.

321 However, if you ask American high-tech workers, they say
322 H(1)(b) visas go not to the best and the brightest, but
323 simply to the cheapest workers available, and that American
324 workers are being laid off or not hired and occasionally
325 replaced by H(1)(b) foreign workers.

326 The debate over whether to increase the H(1)(b) visa cap
327 and to add safeguards for American workers to the program is
328 critically important to the American economy. But what is
329 this committee doing? Well, we are debating fashion models.
330 But whether more H(1)(b) visas should be available for
331 computer engineers should be the question before this
332 committee.

333 We are not debating on whether we should be required to
334 recruit American workers for H(1)(b) programs. Instead, we
335 are debating on whether fashion models should be taken out of
336 the H(1)(b) program and given their own special visas, which

337 is what this bill does. It sets up a sub-category under P
338 visas. This bill should be called the Ugly American Act. It
339 is based on a faulty premise, the premise that there are not
340 enough attractive people in the United States.

341 [Laughter.]

342 This is a country of 300 million people. We don't have
343 enough home-grown talent to grace the covers of Vogue?

344 Thank you, Mr. Chairman.

345 I would point out that there has never been in the
346 history of this world, and 6 billion people on the planet,
347 and there has never been in the history of this world such a
348 diverse gene pool, never such a nation that had such a level
349 of prosperity, such a level of education, such a level of
350 culture. If there ever was a nation that can contribute an
351 adequate amount of fashion models to our economy, to the
352 runway, and to offer that out to the rest of the world, this
353 has to be the nation.

354 But instead, we have to have a special category, a P
355 category for 1,000 fashion models, and we don't even have the
356 discipline to take from it, out of the million-plus legal
357 immigrants that have today, we can't even meet PAYGO on
358 immigration. We can't meet a cap on immigration. We can't
359 even have a debate on a cap on immigration. But if we add
360 1,000 here, 1,000 there, as Yogi said, pretty soon you have
361 real immigration numbers.

362 And so, Mr. Chairman, at the appropriate time, I hope to
363 offer an amendment to this bill, but I would yield back the
364 balance of my time.

365 Chairman Conyers. Thank you.

366 May I recognize you now for your amendment, Mr. King?

367 Mr. King. Thank you, Mr. Chairman. I have an amendment
368 at the desk.

369 Chairman Conyers. The clerk will report the amendment.

370 The Clerk. Amendment offered by Mr. King of Iowa to the
371 amendment in the nature of a substitute—

372 Ms. Lofgren. Mr. Chairman, I reserve a point of order.

373 Chairman Conyers. Zoe Lofgren reserves a point of
374 order.

375 Please continue.

376 The Clerk. —to H.R. 4080. "In section 1(a) of the
377 amendment, insert after paragraph three the following—

378 [The amendment by Mr. King follows:]

379 ***** INSERT *****

380 Chairman Conyers. I ask unanimous consent that the
381 amendment be considered as read, and recognize the gentleman
382 from Iowa.

383 Mr. King. Thank you, Mr. Chairman.

384 This amendment is actually a very simple amendment. I
385 spoke to the substance of it in my remarks on the bill. That
386 is it just simply, and I will call it that it establishes a
387 PAYGO on immigration. We have our caps within our visa
388 categories. We need to stay within those overall numbers. I
389 am hopeful that this committee can have a legitimate debate
390 on what that lid ought to be and how we are going to hold it
391 underneath that.

392 We should apportion our legal immigration within the
393 existing numbers, not be expanding these. Because what I am
394 seeing happen is, every little organization out here, and
395 some of them are very big organizations, that sat at the
396 White House 3 or 4 years ago, and all joined hands and said,
397 we are the comprehensive immigration reform caucus, and we
398 are all going to go together to get what we want
399 collectively.

400 Now, that caucus has split apart, and they are coming
401 back to this Congress for their little slice of the pie each
402 time. This is one little slice of the overall pie, and you
403 will see more and more of these kind of bills coming that are
404 designed to increase legal immigration in this country

405 without having the discipline of holding it under those caps,
406 without having a debate. And we can wake up one day and find
407 out that our legal immigration is not 1 million to 1.3
408 million, but maybe 2 million to 2.3 million.

409 Chairman Conyers. Would the gentleman yield?

410 Mr. King. I would yield to the chairman.

411 Chairman Conyers. The question is, do you want a few
412 models to be able to come in or none?

413 Mr. King. Mr. Chairman, my response to that is that I
414 am not particularly concerned about how many models come in
415 as I am about how many overall legal immigrants we have. So
416 the central part of this amendment, what it does is it
417 reduces the H(2)(b) cap that is at 66,000 down to 65,000 to
418 make room for Mr. Weiner's amendment. It asks this panel,
419 then, to make a decision on its priorities, whether H(2)(b)s
420 are more important than runway models. That is the concise
421 presentation, and I yield back the balance of my time, and I
422 urge its adoption.

423 Ms. Lofgren. Mr. Chairman?

424 Chairman Conyers. I thank the gentleman.

425 Ms. Lofgren. I haven't been heard on my point of order.

426 Chairman Conyers. Let's see if Mr. King will yield to
427 Mr. Nadler.

428 Mr. King. I would yield to Mr. Nadler.

429 Mr. Nadler. Thank you.

430 As I gather it, your amendment is saying that we should
431 reduce H(2)(b)s by the same number as the models?

432 Mr. King. If that is the will of this committee that
433 that is a higher priority.

434 Mr. Nadler. Well, H(2)(b)s are admissions necessary for
435 business in this country. Correct?

436 Mr. King. Correct.

437 Mr. Nadler. So is it your position that businesses need
438 1,000 fewer people if we have models or something else? I
439 don't understand the logic of it.

440 Mr. King. Reclaiming my time, Mr. Nadler. My position
441 is that actually we do well with the models that we have in
442 this country, and to set that as a higher priority or even a
443 priority when we have real issues before this committee, I
444 would prefer we held these numbers consistent at H(2)(b) and
445 cap this off where we are legally. Then I would like to
446 inject merit into every one of our visas categories. I would
447 be willing to yield to the gentleman from New York for a
448 response to that.

449 Mr. Nadler. I just want to say that I don't know that
450 the people in this room are particularly suited to judge the
451 merits of particular models, but I hope H(2)(b)s are always
452 done on the merits.

453 Let me just ask one further question. This is a country
454 of 330 million people. Do you really think that we have to

455 parse the difference on 1,000 if we are saying that the
456 industry that uses models or the various industries that use
457 models are 1,000 short, and there is a problem, therefore we
458 have to take skilled workers away from other businesses
459 because 1,000 out of 330 million makes such a difference? I
460 don't understand this.

461 Mr. King. Reclaiming my time, 1,000 here, 1,000 there,
462 turns into a million here and a million there. I think the
463 debate needs to be on what should that overall cap be,
464 because once we open up this door, then how do we say no to
465 the next request and the next request. That would be my
466 position on this, although I would also say that I think I am
467 qualified to evaluate these models and I hope I am invited to
468 Mr. Weiner's celebration.

469 I yield back to the chairman.

470 Chairman Conyers. I am so glad the gentleman made the
471 statement to defend the members of the committee who think
472 they have that expertise as well.

473 Ms. Lofgren. Mr. Chairman? May I be heard on the point
474 of order?

475 Chairman Conyers. I would like to recognize Mr. Weiner
476 first.

477 Mr. Weiner. Thank you.

478 I just want to clarify a misunderstanding here. These
479 workers were put in the H(1)(b) category in error, because

480 the H(1)(b) category speaks to specific skills. It speaks to
481 a process that you put out advertisements to find someone who
482 has those skills. What happened was a bunch of folks got
483 looped into this general H(1)(b) category. We recently
484 passed, and perhaps the objection was raised—baseball
485 players, performers, musicians, who come in here. You can't
486 say, okay, we are going to have a concert where Coldplay is
487 going to be featured. You put an ad in the newspaper that
488 says anyone who looks, sounds and is Coldplay, please apply
489 for an H(1)(b) visa.

490 So the idea is to separate these out. Now, if you think
491 that there are too many H(1)(b)s, that is a legitimate point.
492 I disagree that it is a legitimate point. Again, what we are
493 trying to do is untangle these groups. It does require a
494 certain level of subjectivity. You have to think it through.
495 Sometimes, everyone doesn't fit into a distinct box.

496 But in the case of H(1)(b), it is hard to look at the
497 H(1)(b) process and say, oh yes, it was contemplated someone
498 was going to be coming in to do a concert at Carnegie Hall.
499 Well, you want a certain artists to do that. You wouldn't
500 say, for example, when you are having the U.S. Open, well, we
501 need a tennis player who hits a forehand with terrific top-
502 spin, with a winning percentage of .752. You say we want to
503 let Rafael Nadal come in and play tennis.

504 So the only question is whether or not this group should

505 be lumped in with H(1)(b)s. Now, if you want to have a
506 discussion, and it sounds like you do, about whether or not
507 we should have the H(1)(b) program, that is a fair discussion
508 to have. You and I are both on the Immigration Subcommittee.
509 We should have that discussion.

510 But I want to make it very clear these are distinct.
511 These are not picking winners and taking losers. If you want
512 to reduce the 1,000, it should not be in the context of this
513 bill because you are making what is actually a false argument
514 that somehow a computer programmer should be in the same
515 category as a tennis player.

516 Mr. King. Will the gentleman yield?

517 Mr. Weiner. Certainly.

518 Mr. King. I would just submit this question. Do you or
519 do you not, though, expand the overall number of legal visas
520 by adding this 1,000 category for models?

521 Mr. Weiner. Yes, you do.

522 Mr. King. So I would then restate my point, which is we
523 are expanding legal immigration one piece at a time, and I
524 think we should have to have the discipline to decide where
525 we would make the cut. I have made a proposal on how we
526 might.

527 Mr. Weiner. If I can just respond to the gentleman's
528 point, and then I would be glad to yield. That is fine,
529 except that you made in your argument, in your rationale for

530 it, that somehow we are taking a special part of the H(1)(b)
531 and creating a different category. It is not that way. This
532 is not a section H(1)(b) worker by even the most remote
533 definition of what was intended to be the H(1)(b) program.

534 Again, you want to have the discussion of whether there
535 are too many H(1)(b)s or too many others, that is fine, but I
536 think it is a false thing to say that these were what were
537 contemplated by Congress or anyone else when the H(1)(b)
538 program was considered.

539 I would be glad to yield to the chairman.

540 Ms. Lofgren. I thank the gentleman for yielding.

541 I just think it is important to correct some incorrect
542 rhetoric. The gentleman's amendment, which is not germane
543 since it would broaden the bill beyond the scope of the bill
544 and the substitute, and is therefore not germane, would take
545 the 1,000 visas from the H(2)(b) program, not the H(1)(b)
546 program. The H(2)(b) program is for individuals who perform
547 skilled, but not academically based activities. For example,
548 and there has been a lot of discussion in the Congress,
549 people who work in the crabbing industry and people who work
550 in various other non-technical industries.

551 The H(1)(b) program is for individuals with a bachelor's
552 degree and above who are performing a skill that an American
553 cannot be found for. The deduction would not be from the
554 H(1)(b) program under the amendment. It would be from the

555 H(2)(b) program. The models were put into the H(1)(b)
556 program by mistake in 1991. The amendment simply takes them
557 out as they were meant to be. But as I noted, the amendment
558 is not germane.

559 Chairman Conyers. The gentleman's time has expired.

560 Does the gentlelady insist on her point of order?

561 Ms. Lofgren. I do insist on the point of order, Mr.
562 Chairman, because the amendment does deal with a subject
563 matter outside the scope of the bill and the amendment in the
564 nature of a substitute. Both the bill and the substitute are
565 confined to the subject of fashion models. This amendment
566 deals with the broader subject matter, and is therefore not
567 germane to the bill. We consulted with the parliamentarian
568 when the subcommittee dealt with this amendment, and the
569 parliamentarian advised us this same amendment was not
570 germane at that time.

571 Chairman Conyers. Mr. King, do you have a response?

572 Mr. King. Thank you, Mr. Chairman. Yes, I wish to be
573 heard on the point of order.

574 Mr. Chairman, this amendment is germane to the bill that
575 is under consideration. While rule 16, clause 7, prohibits
576 amendments that are of a subject different from that under
577 consideration, my amendment deals with the same subject
578 matter as this bill. We have described this, and I
579 appreciate the gentlelady from California making that

580 clarification about H(2)(b)s. But clearly, my amendment is
581 within the subject matter contemplated by the underlying text
582 of this bill.

583 I would also submit, Mr. Chairman, that when the
584 parliamentary recommendation was offered in subcommittee,
585 that was written prior to having the benefit of my very
586 compelling argument, and I would ask that you consider that
587 before you rule on the germaneness of this amendment.

588 Chairman Conyers. Well, I am very impressed with the
589 style of your presentation. The parliamentarian of the
590 House, though, hasn't been able to hear you himself like I
591 have. Unfortunately, his view is that rule 16, clause 7,
592 would require the chair to rule this amendment to be not
593 germane to the bill, as you may have suspected.

594 The amendment deals with subject matter outside the
595 scope of this bill, and the amendment in the nature of a
596 substitute. Both the bill and the substitute are confined to
597 the subject of fashion models. This amendment,
598 unfortunately, deals with a broader subject matter and is
599 therefore not germane to the bill. The gentlelady's point of
600 order is recognized.

601 Mr. Lungren. Mr. Chairman?

602 Chairman Conyers. Who seeks recognition? Oh, yes, Mr.
603 Lungren?

604 Mr. Lungren. Mr. Chairman, I seek to strike the

605 requisite number of words.

606 Chairman Conyers. The gentleman is recognized.

607 Mr. Lungren. I just would like to make clear my
608 position, having heard this discussion. I support this bill
609 on its merits. I would not have supported the gentleman from
610 Iowa's amendment because, as he talked about it, it was
611 supposed to take 1,000 numbers out of H(1)(b). H(1)(b) is a
612 category that fills up within 6 hours to 12 hours in February
613 of each year. I think there is legitimate argument as to
614 whether or not the addition of H(1)(b) workers in the area of
615 high-tech actually has a positive effect on employment in the
616 United States.

617 My largest employer is Intel, with 7,000 employees.
618 Microsoft is a large employer on the West Coast. We have had
619 them open up manufacturing facilities in Vancouver, just
620 across the U.S. border, precisely because they can't get
621 H(1)(b) visas. They are now going to prospective H(1)(b)
622 applicants in the United States—Canada is saying you can come
623 to Canada and receive those applications. As a result,
624 American companies have transferred up to 1,000 total jobs
625 there. Not all of those employees are H(1)(b), but the
626 H(1)(b) employees create the center around which they hire
627 other employees.

628 So as a direct result of us not having sufficient
629 H(1)(b) visas granted in the United States, we have lost

630 jobs. We have lost jobs. So I just would like to state
631 that.

632 Number two, I have been involved in this issue for 30
633 years. I do not want to see us confuse the issue of illegal
634 immigration versus legal immigration. They are two separate
635 issues. This country benefits by the acceptance of legal
636 immigrants into this country. One of the reasons we have not
637 been able to address the question of the total number of
638 legal immigrants in this country is because the Congress has
639 failed to deal with illegal immigration. That is why we need
640 to control our borders. That is why we need to have
641 enforcement.

642 But please, let us not confuse the issue of legal
643 immigration versus illegal immigration. I just want to make
644 it clear that not all on this side of the aisle support the
645 idea that it is ruinous to this country to add legal
646 immigrants. In fact, I adamantly oppose that position. We
647 sometimes hurt ourselves by what we do. I have a specific
648 example in my district and around California and in the state
649 of Washington, where we now have jobs going to Canada because
650 we can't have enough H(1)(b) visas adopted in this country.

651 Maybe it makes people feel good that by God we made sure
652 that we didn't get any extra folks in here, but the fact of
653 the matter is we have lost jobs—1,000 jobs now right across
654 the border in Canada. Canada now advertising in the United

655 States, that after you have received your training in the
656 best colleges and universities in the world, in the United
657 States, come to Canada. And by the way, the American
658 companies will then bring other jobs to Canada because your
659 government won't act in a reasonable and responsible way.

660 Ms. Lofgren. Would the gentleman yield?

661 Mr. Lungren. I would be happy to yield.

662 Ms. Lofgren. I appreciate this discussion. It is an
663 important one, although, as you pointed out, it is not really
664 on-point given this little bill that fixes a smaller, but
665 still significant problem. I would just invite you to
666 examine the bill introduced yesterday by Mr. Cannon and
667 myself and numerous other cosponsors, a bipartisan bill that
668 does address master's and Ph.D. recipients in the stem
669 fields. That may be a solution, and the issue you have
670 raised is a pertinent one. I like to think that we could
671 address it in a bipartisan way.

672 Mr. Lungren. I hope we can do it in a bipartisan way,
673 but I hope we would do it in a comprehensive way. I hope we
674 would also do it in the context of making sure we enforce the
675 laws with respect to people immigrating.

676 The other thing I would just say to the gentleman from
677 New York, I do rise in support of this which will help
678 foreign models, even though my mother was a model here in the
679 United States years ago, and since I used her name when we

680 talked about artists, I thought I would use her name when we
681 were talking about models as well.

682 So with that, I would yield back the balance of my time.

683 Chairman Conyers. Unfortunately, none of it rubbed off
684 on the gentleman from California.

685 [Laughter.]

686 That is another subject.

687 The chair understands that Sheila Jackson Lee has an
688 amendment at the desk. Report her amendment, please.

689 The Clerk. Amendment offered by Ms. Jackson Lee of
690 Texas to the amendment in the nature of a substitute to H.R.
691 4080.

692 [The amendment Ms. Jackson Lee follows:]

693 ***** INSERT *****

694 Chairman Conyers. I ask unanimous consent that the
695 amendment be considered as read.

696 I recognize the distinguished gentlelady from Texas.

697 Ms. Jackson Lee. I thank the distinguished gentleman.

698 I first of all want to compliment my distinguished
699 colleague from New York for his insightfulness and very
700 important legislation, Mr. Weiner, the chairman, for bringing
701 the bill up. I want to acknowledge that I am pleased to
702 offer this amendment with Ms. Lofgren.

703 Chairman Conyers. Would the gentlelady yield?

704 Ms. Jackson Lee. I would be happy to yield.

705 Chairman Conyers. I just want her to know that both the
706 ranking member and myself have examined the amendment. So
707 has the chairwoman of Immigration, and we all concur with the
708 objective of your amendment.

709 Ms. Jackson Lee. I thank the distinguished chairman. I
710 ask unanimous consent that my statement explaining the
711 amendment be included in the record. I think that on the
712 issue of reciprocity that this amendment will enhance the
713 bill and create a fair and comprehensive immigration system
714 going forward.

715 I would be happy to yield.

716 Chairman Conyers. I thank the gentlelady.

717 Ms. Lofgren. I would thank the gentlelady for yielding.

718 There is unanimous agreement in the subcommittee that

719 this deletion should occur. It was something that we did not
720 notice. It is not appropriate to void this. We promised to
721 correct the problem here at the full committee.

722 With that, I yield back to the gentlelady.

723 Ms. Jackson Lee. Thank you.

724 My final sentence is, Mr. Chairman, this emphasizes that
725 Congress should not tamper with the reciprocity validity
726 periods, and no compelling reason has been put forward as to
727 indicate that we should. So I urge my colleagues to support
728 this amendment and join with the subcommittee, of which I am
729 a member.

730 I yield back.

731 Chairman Conyers. Thank you very much.

732 All in favor of the Jackson Lee amendment signify by
733 saying "aye."

734 All opposed say "no."

735 The ayes have it, and so ordered.

736 If there are no further amendments, a reporting quorum
737 being present, the question is on reporting the bill as
738 amended favorably to the House.

739 Those in favor say "aye."

740 Those opposed say "no."

741 The ayes have it in the opinion of the chair.

742 All right. The clerk will call the roll.

743 The Clerk. Mr. Conyers?

744 Chairman Conyers. Aye.

745 The Clerk. Mr. Conyers votes aye.

746 Mr. Berman?

747 [No response.]

748 Mr. Boucher?

749 [No response.]

750 Mr. Nadler?

751 Mr. Nadler. Aye.

752 The Clerk. Mr. Nadler votes aye.

753 Mr. Scott?

754 Mr. Scott. Aye.

755 The Clerk. Mr. Scott votes aye.

756 Mr. Watt?

757 Mr. Watt. Pass.

758 The Clerk. Mr. Watt passes.

759 Ms. Lofgren?

760 Ms. Lofgren. Aye.

761 The Clerk. Ms. Lofgren votes aye.

762 Ms. Jackson Lee?

763 Ms. Jackson Lee. Aye.

764 The Clerk. Ms. Jackson Lee votes aye.

765 Ms. Waters?

766 Ms. Waters. Aye.

767 The Clerk. Ms. Waters votes aye.

768 Mr. Delahunt?

769 [No response.]
770 Mr. Wexler?
771 [No response.]
772 Ms. Sanchez?
773 Ms. Sanchez. Aye.
774 The Clerk. Ms. Sanchez votes aye.
775 Mr. Cohen?
776 Mr. Cohen. Aye.
777 The Clerk. Mr. Cohen votes aye.
778 Mr. Johnson?
779 [No response.]
780 Ms. Sutton?
781 Ms. Sutton. Aye.
782 The Clerk. Ms. Sutton votes aye.
783 Mr. Gutierrez?
784 Mr. Gutierrez. Aye.
785 The Clerk. Mr. Gutierrez votes aye.
786 Mr. Sherman?
787 Mr. Sherman. Aye.
788 The Clerk. Mr. Sherman votes aye.
789 Ms. Baldwin?
790 [No response.]
791 Mr. Weiner?
792 Mr. Weiner. Aye.
793 The Clerk. Mr. Weiner votes aye.

794 Mr. Schiff?
795 Mr. Schiff. Aye.
796 The Clerk. Mr. Schiff votes aye.
797 Mr. Davis?
798 [No response.]
799 Ms. Wasserman Schultz?
800 Ms. Wasserman Schultz. Pass.
801 The Clerk. Ms. Wasserman Schultz passes.
802 Mr. Ellison?
803 [No response.]
804 Mr. Smith?
805 Mr. Smith. Aye.
806 The Clerk. Mr. Sensenbrenner?
807 Mr. Sensenbrenner. No.
808 The Clerk. Mr. Sensenbrenner votes no.
809 Mr. Coble?
810 [No response.]
811 Mr. Gallegly?
812 [No response.]
813 Mr. Goodlatte?
814 [No response.]
815 Mr. Chabot?
816 Mr. Chabot. No.
817 The Clerk. Mr. Chabot votes no.
818 Mr. Lungren?

819 Mr. Lungren. Aye.
820 The Clerk. Mr. Lungren votes aye.
821 Mr. Cannon?
822 [No response.]
823 Mr. Keller?
824 Mr. Keller. Aye.
825 The Clerk. Mr. Keller votes aye.
826 Ms. Issa?
827 Mr. Issa. Aye.
828 The Clerk. Mr. Issa votes aye.
829 Mr. Pence?
830 [No response.]
831 Mr. Forbes?
832 [No response.]
833 Mr. King?
834 Mr. King. No.
835 The Clerk. Mr. King votes no.
836 Mr. Feeney?
837 [No response.]
838 Mr. Franks?
839 [No response.]
840 Mr. Gohmert?
841 [No response.]
842 Mr. Jordan?
843 [No response.]

844 Chairman Conyers. Are there other members that would
845 like to cast a vote?

846 Yes, the gentlelady from Florida.

847 Ms. Wasserman Schultz. How am I recorded?

848 The Clerk. Ms. Wasserman Schultz passed.

849 Ms. Wasserman Schultz. Record me as aye.

850 Chairman Conyers. Yes.

851 Mr. Watt?

852 Mr. Watt. I vote aye.

853 Chairman Conyers. Thank you.

854 Mr. Coble?

855 Mr. Coble. Aye.

856 The Clerk. Mr. Chairman, 20 members voted aye, and 3
857 members voted nay.

858 Chairman Conyers. The bill is passed. Without
859 objection, it will be reported as a single amendment in the
860 nature of a substitute incorporating the amendment adopted.
861 The staff is of course authorized to make technical and
862 conforming changes. Members will have 2 days to submit
863 additional views.

864 We will now have a vote on the first bill for which
865 there was not a reporting quorum. That was H.R. 5030, a
866 private bill.

867 All those in favor of reporting the bill indicate by
868 saying "aye."

869 Those opposed indicate by saying "no."

870 The ayes have it. The bill is reported favorably.

871 Without objection, it will be reported and the members will

872 have 2 days to submit additional views.

873 The chair calls up H.R. 1485 for the relief of Esther

874 Karinge. I ask the clerk to report the bill.

875 The Clerk. H.R. 1485, a bill for the relief of Esther

876 Karinge. "Be it enacted by the Senate and House of

877 Representatives of the United States of America and Congress

878 assembled, section--"

879 [The bill follows:]

880 ***** INSERT *****

881 Chairman Conyers. I ask unanimous consent that the bill
882 be considered as read, and turn again to the chair of the
883 Immigration Subcommittee, Zoe Lofgren.

884 Ms. Lofgren. Thank you, Mr. Chairman. I ask unanimous
885 consent that my full statement be included in the record.

886 Chairman Conyers. Without objection.

887 [The statement of Ms. Lofgren follows:]

888 ***** COMMITTEE INSERT *****

889 Ms. Lofgren. Esther Karinge was born in Kenya in 1962.
890 She came to the United States in 1994 and applied for
891 political asylum. The case was reviewed for many years. She
892 finally lost her appeal on the asylum application in 2003.
893 However, in 1995 she gave birth to her son, Nicholas.
894 Nicholas was born in Massachusetts. He had and continues to
895 suffer from severe physical and mental disabilities,
896 including cerebral palsy, spastic quadriplegia, hearing loss
897 and developmental delays.

898 Upon learning of these birth defects, Nicholas's father
899 abandoned the family, leaving Esther as Nicholas's only
900 parent and caretaker. To make a long story short, the
901 physicians believe that Nicholas, an American citizen, would
902 likely die if returned to Kenya or separated from his mother.
903 The DHS has granted Esther annual discretionary stays of
904 removal because of the humanitarian aspects of this case.

905 On May 8, the subcommittee reported this bill by voice
906 vote. The Department of Homeland Security has issued a
907 report indicating that they have no objection. I hope that
908 we can unanimously send this to the floor for humanitarian
909 reasons.

910 I yield back.

911 Chairman Conyers. I thank the gentlelady and recognize
912 Lamar Smith.

913 Mr. Smith. Thank you, Mr. Chairman.

914 I do support this private bill, and I agree with the
915 reasons offered by the chairwoman of the Immigration
916 Subcommittee.

917 I yield the balance of my time to the ranking member of
918 that Immigration Subcommittee, the gentleman from Iowa, Mr.
919 King.

920 Mr. King. Thank you, Mr. Smith. I appreciate your
921 yielding.

922 I also support this private bill for Esther Karinge. I
923 agree with the statement that has been offered by the chair
924 of the Immigration Subcommittee. This is about Esther and
925 Esther taking care of her son who is dependent on her for
926 care, in fact completely dependent upon her care. It grants
927 Esther permanent residence, and it is a path to citizenship.
928 It is very much a compassionate bill that understands that
929 her son is an American citizen by virtue of being born here
930 in Massachusetts. If Esther is not here to take care of her
931 son, the taxpayers will be spending considerably more to do
932 so, as well as this bill fits with the clearly established
933 precedents on the narrow definitions that I support when it
934 comes to private bills.

935 So I urge its adoption, and I yield back to the
936 gentleman from Texas.

937 Chairman Conyers. The gentleman yields back his time.

938 We have a reporting quorum present.

939 If there are no further amendments, all those in favor
940 of reporting the bill favorably to the House, please say
941 "aye."

942 Those opposed say "no."

943 The ayes have it and the bill is reported favorably.

944 Members will have 2 days to submit additional views.

945 We now ask the clerk to report H.R. 3480.

946 The Clerk. H.R. 3480, a bill to direct the United
947 States Sentencing Commission to assure appropriate
948 enhancements of those involved in receiving stolen property
949 where that property consists of grave markers of veterans and
950 for other purposes. "Be it enacted—"

951 [The bill follows:]

952 ***** INSERT *****

953 Chairman Conyers. Without objection, the bill will be
954 considered as read. I recognize the chairman of the Crime
955 Committee, Bobby Scott of Virginia.

956 Mr. Scott. Thank you, Mr. Chairman.

957 Mr. Chairman, the Subcommittee on Crime, Terrorism and
958 Homeland Security, having had under consideration the bill
959 H.R. 3480, reports it favorably to the committee and moves
960 its favorable recommendation to the full House.

961 Mr. Chairman, incredibly, desecrating veterans' graves
962 has become a widespread national problem. In a number of
963 states, thieves have removed the metal parts of grave markers
964 and sold them for scrap metal. In response, some states have
965 answered this problem by replacing stolen markers with
966 aluminum markers instead of the brass and bronze markers they
967 once used. With the price of aluminum sharply on the rise,
968 it is expected that these will soon be stolen as well.

969 The Let Our Veterans Rest in Peace Act of 2007 will
970 bring attention to this issue and increase the penalties for
971 this crime so that thieves will no longer consider robbing
972 grave markers for scrap metal easy money. The bill,
973 sponsored by the gentleman from Pennsylvania, Mr. Carney,
974 directs the U.S. Sentencing Commission to amend the
975 sentencing guidelines to provide an increase in the sentence
976 for all offenses involving the desecration, theft or
977 trafficking in a grave marker monument, headstone, or object

978 intended to permanently mark a veteran's grave.

979 In closing, Mr. Chairman, I would like to point out that
980 I do have an amendment for the bill, but I support its
981 objectives and I urge my colleagues to support them as well.

982 I yield back.

983 Chairman Conyers. Thank you.

984 Lamar Smith?

985 Mr. Smith. Thank you, Mr. Chairman.

986 H.R. 3480, Let Our Veterans Rest in Peace Act, provides
987 increased penalties for the desecration of or theft from
988 veterans' graves. The men and women of America's armed
989 forces who have given the ultimate sacrifice to our country
990 deserve a proper final resting place. Sadly, the hallowed
991 memorials of our fallen soldiers are being defaced by vandals
992 and thieves.

993 Last year in my home state of Texas, the grave of Purple
994 Heart recipient Lance Corporal Jeremy Burris was desecrated
995 only 2 days after his burial. Flower arrangements, personal
996 notes and flags decorating the gravesite were torn down and
997 destroyed. All this destruction was simply to steal and sell
998 flower stands. This is but one example of the many veteran
999 grave vandalisms, some motivated by theft, other by spiteful
1000 protest, that have occurred throughout the country.

1001 Our nation's fallen heroes fought and died for their
1002 country, and their memories simply deserve better.

1003 Mr. Chairman, I yield the balance of my time to the
1004 gentleman from Texas, Mr. Gohmert, the ranking member of the
1005 Crime Subcommittee.

1006 Mr. Gohmert. Thank you, and thank you for yielding,
1007 Ranking Member Smith.

1008 Thank you, Chairmen Conyers and Scott for considering
1009 this legislation. It was almost a year ago on Memorial Day
1010 weekend in Washington State where the graves of 97 war
1011 veterans were desecrated. American flags honoring these men
1012 and women were burned or replaced with handmade swastika
1013 flags. Other veteran graves have been vandalized, as Mr.
1014 Smith indicated, some for the bronze plates that are
1015 traditionally placed on the gravesites of fallen servicemen
1016 and-women. With the price of bronze on the rise, thieves are
1017 stealing these markers to sell as scrap metal.

1018 Whether these acts are motivated by greed or protest or
1019 just destroying the grave of a person, let alone those who
1020 have died fighting for our country, it is a deplorable
1021 offense. The desecration of these graves not only
1022 disrespects the men and women that rest there, but it
1023 dishonors those serving in our armed forces today.

1024 This bill directed the U.S. Sentencing Commission to
1025 review and amend the sentencing guidelines providing for
1026 sentencing enhancement for any offense involving the
1027 desecration of theft of or trafficking in grave markers of

1028 veterans. It sends a message that these acts of vandalism
1029 are disgraceful and will not go unpunished. I know if I were
1030 still a judge, I would welcome the chance to hit somebody
1031 really hard for such a despicable act. So I appreciate the
1032 leadership in this committee getting this to where we can
1033 vote on it.

1034 Thank you very much.

1035 Chairman Conyers. I thank the gentleman.

1036 Chairman Scott has a manager's amendment at the desk. I
1037 would like it called up now, and to recognize him for it.

1038 The Clerk. Amendment in the nature of a substitute to
1039 H.R. 3480 offered by Mr. Scott of Virginia. "Strike all
1040 after the enacting clause and insert the following:—"

1041 [The amendment by Mr. Scott follows:]

1042 ***** INSERT *****

1043 Mr. Scott. Mr. Chairman, I move unanimous consent that
1044 the amendment be considered as read.

1045 Chairman Conyers. Without objection, so ordered. The
1046 gentleman is recognized in support of his amendment.

1047 Mr. Scott. Thank you, Mr. Chairman.

1048 My substitute amendment makes changes to the underlying
1049 bill for further clarification. As I earlier stated, the
1050 bill will bring attention to the disturbing trend of
1051 desecrating veterans' graves and robbing grave markers for
1052 scrap metal and easy money, which I support. The bill,
1053 sponsored by the gentleman from Pennsylvania, Mr. Carney,
1054 directs the U.S. Sentencing Commission to amend the
1055 sentencing guidelines to provide an increase in sentencing
1056 for all offenses involving the desecration, theft or
1057 trafficking in grave markers and so forth, intended to
1058 permanently mark a veteran's grave.

1059 Although I agree with the purpose and objective of the
1060 bill, my amendment would instruct the Sentencing Commission
1061 not to simply increase the sentencing, but to assess the
1062 punishments and to make appropriate changes. Presumably,
1063 those changes will be to increase, but I think it is more
1064 appropriate to ask them to do what is appropriate after they
1065 have done the study. With that regard, the changes, if any,
1066 will be appropriately severe and consistent with other
1067 federal sentencing guidelines and policy statements.

1068 Mr. Chairman, I yield back.

1069 Chairman Conyers. Thank you.

1070 Judge Gohmert?

1071 Mr. Gohmert. Thank you, Chairman Conyers.

1072 I thank my colleague, Chairman Scott, for offering the
1073 amendment. It amends the findings section to make
1074 grammatical and other technical corrections. It clarifies
1075 the wording of the sentencing directive to bring it into
1076 conformity with similar provisions adopted by Congress. So I
1077 would urge my colleagues to accept and support this
1078 amendment.

1079 I yield back.

1080 Chairman Conyers. I thank the gentleman.

1081 Are there any further amendments to the manager's
1082 amendment? If not, the question is on the substitute
1083 amendment.

1084 All those in favor say "aye."

1085 All those opposed say "no."

1086 The ayes have it.

1087 The question is now on reporting the bill as amended.

1088 All those in support say "aye."

1089 All those opposed say "no."

1090 The ayes have it and the bill is agreed to. Without
1091 objection, the bill will be reported as a single amendment in
1092 the nature of a substitute, incorporating the amendment

1093 adopted. Staff is authorized to make technical and
1094 conforming changes. Members will have 2 days for additional
1095 views.

1096 The chair calls up H.R. 5938, the Former Vice Presidents
1097 Protection Act, and ask the clerk to report the bill.

1098 The Clerk. H.R. 5938, a bill to amend Title XVIII
1099 United States Code to provide Secret Service protection to
1100 former vice presidents and for other purposes. "Be it
1101 enacted by the Senate and House of Representatives of the
1102 United States of America in Congress—"

1103 [The bill follows:]

1104 ***** INSERT *****

1105 Mr. Scott. Mr. Chairman, I ask unanimous consent that
1106 the bill be considered as read.

1107 Chairman Conyers. Without objection, the bill will be
1108 considered as read, and the chair recognizes the chairman of
1109 the Crime Committee, Bobby Scott.

1110 Mr. Scott. Thank you, Mr. Chairman.

1111 Mr. Chairman, the Subcommittee on Crime, Terrorism, and
1112 Homeland Security, having had under consideration the bill
1113 H.R. 5938, reports it favorably to the committee and moves
1114 its favorable recommendation to the full House.

1115 Mr. Chairman, I would like to thank you for your
1116 leadership. As author of the bill, I would also like to
1117 thank the ranking member of the full committee, the gentleman
1118 from Texas, Mr. Smith, and the ranking member of the
1119 Subcommittee on Crime, the gentleman from Texas, Judge
1120 Gohmert, for their bipartisan support of the bill as well.

1121 Title XVIII, U.S.C, provides former presidents and their
1122 spouses protection by the United States Secret Service after
1123 leaving office. However, federal law provides no such
1124 protection of former vice presidents and their families who,
1125 just as former presidents and their families, remain as
1126 likely targets for physical threat and even assassination.

1127 This bill authorizes the United States Secret Service to
1128 protect the former vice presidents of the United States,
1129 former vice president's spouse and children under the age of

1130 16, for not more than 6 months after the vice president
1131 leaves office. The bill would also authorize the secretary
1132 of homeland security to extend such protection should
1133 circumstances warrant the extension.

1134 Mr. Chairman, I support the objectives of the bill and
1135 urge its passage.

1136 I yield back the balance of my time.

1137 Chairman Conyers. Thank you.

1138 Judge Gohmert?

1139 Mr. Gohmert. Thank you, Chairman Conyers, and I thank
1140 Chairman Scott.

1141 I am pleased to be a cosponsor of this legislation.
1142 Federal law provides Secret Service protection for the
1143 president and vice president while in office, and I think
1144 this is a needed addition to allow former vice presidents to
1145 have this additional protection. Just a parenthetical note,
1146 I would hope that if any former vice president is concerned
1147 about their carbon footprint getting bigger with this
1148 additional help, that they could waive off the additional
1149 Secret Service help to help reduce that footprint. But for
1150 those who realize that it is a security threat, I think it is
1151 an added and a good addition to the law.

1152 So thank you, and I yield back.

1153 Chairman Conyers. Thank you very much, sir.

1154 Yes, the gentleman from Tennessee, Steve Cohen.

1155 Mr. Cohen. Thank you, Mr. Chairman.

1156 Is it appropriate to ask a question now?

1157 Chairman Conyers. Of course.

1158 Mr. Cohen. Thank you, sir.

1159 I would like to ask the sponsors, and I understand times
1160 are changing, but has there ever been an attempt on a vice
1161 president's life before, after he was vice president?

1162 Chairman Conyers. Does anyone choose to respond to the
1163 gentleman from Tennessee?

1164 Mr. Scott. Mr. Chairman, it is my information just
1165 provided to me that former vice presidents have been provided
1166 protection based on credible threats, but it is not known
1167 whether or not anything happened based on the threat. And
1168 that was done by executive order of the president.

1169 I would point out that the language of the bill which
1170 provides this protection for 6 months after the date the
1171 former vice president leaves office would mean that its
1172 application would be prospective only for 6 months after the
1173 next vice president leaves office.

1174 Mr. Cohen. Just for 6 months?

1175 Mr. Scott. Just for 6 months, and if warranted,
1176 extended.

1177 Mr. Cohen. Is the genesis of the bill the fact that we
1178 are concerned about Al Qaida or we are concerned about the
1179 current vice president?

1180 Mr. Scott. My feeling is that we just have heightened
1181 terrorism, and it is appropriate.

1182 Mr. Cohen. Thank you, sir.

1183 Chairman Conyers. The gentleman will feel more
1184 comfortable knowing that this is the first time Bobby Scott
1185 has supported the vice president in some time.

1186 [Laughter.]

1187 Do any other members seek recognition?

1188 Are there any amendments? If not, a reporting quorum
1189 being present, the question is on reporting the bill to the
1190 House.

1191 Those in favor say "aye."

1192 Those opposed say "no."

1193 The ayes have it and the bill will be reported to the
1194 House. All members will have 2 days to submit additional
1195 views.

1196 We can take one more bill. The clerk will call H.R.
1197 5464, A Child Is Missing Alert and Recovery Center Act.

1198 The Clerk. H.R. 5464, a bill to direct the attorney
1199 general to make an annual grant to the-

1200 [The bill follows:]

1201 ***** INSERT *****

1202 Chairman Conyers. I ask unanimous consent that the bill
1203 be considered as read, and recognize the chairman of the Crime
1204 Committee

1205 Mr. Scott. Thank you, Mr. Chairman.

1206 The Subcommittee on Crime, Terrorism, and Homeland
1207 Security, having had under consideration the bill H.R. 5464,
1208 reports it favorably to the committee and moves its favorable
1209 recommendation to the full House.

1210 H.R. 5464, A Child Is Missing Alert and Recovery Center
1211 Act, authorizes grants to A Child Is Missing Alert and
1212 Recovery Center, or ACIM. A child goes missing every 40
1213 seconds in the United States, and successful recovery of that
1214 child often requires quick police and community response.

1215 Mr. Chairman, this is slightly different than the Amber
1216 alert in that it targets its response to where the child may
1217 have been missing. I would ask unanimous consent to
1218 introduce my entire statement for the record.

1219 I yield back.

1220 Chairman Conyers. Thank you.

1221 [The statement of Mr. Scott follows:]

1222 ***** COMMITTEE INSERT *****

1223 Chairman Conyers. Judge Gohmert?

1224 Mr. Gohmert. Thank you, Chairman Conyers, Chairman
1225 Scott.

1226 It is not only a child going missing every 40 seconds,
1227 but over 21 children per day to missing. So this will be a
1228 wonderful addition, as we heard in our legislative hearing,
1229 to fill in the gap for those children that do not meet the
1230 requirements for Amber alerts, but have gone about recovering
1231 and helping find children before it is too late.

1232 So I have a statement that I would ask unanimous consent
1233 to admit for the record, and I yield back the balance of my
1234 time.

1235 Ms. Wasserman Schultz. Mr. Chairman?

1236 Chairman Conyers. The chair will accept it into the
1237 record.

1238 [The statement of Mr. Gohmert follows:]

1239 ***** COMMITTEE INSERT *****

1240 Chairman Conyers. I recognize the gentlelady from
1241 Florida, Debbie Wasserman Schultz.

1242 Ms. Wasserman Schultz. Thank you, Mr. Chairman.

1243 I just move to strike the last word.

1244 Briefly, A Child is Missing is an organization that is
1245 based in Fort Lauderdale, Florida, and Sherry Friedlander,
1246 who is the founder of this organization, has just done an
1247 incredible service to making sure that we can find the
1248 children as quickly as possible when they go missing. I am
1249 really pleased that this bill is moving forward, and we
1250 appreciate the opportunity to talk with you about it.

1251 Chairman Conyers. Thank you very much.

1252 The chair recognizes Lamar Smith.

1253 Mr. Smith. Mr. Chairman, very quickly, I have a
1254 unanimous consent request to have the statement of
1255 Congressman Chabot put into the record. He is an original
1256 cosponsor of this legislation, and unfortunately is tied up
1257 in another markup. I would like for his statement to be made
1258 part of the record.

1259 Chairman Conyers. Without objection, so ordered.

1260 [The statement of Mr. Chabot follows:]

1261 ***** COMMITTEE INSERT *****

1262 Chairman Conyers. Are there any amendments? If not, a
1263 reporting quorum being present, the bill will be put to a
1264 vote by the full committee.

1265 All those in favor say "aye."

1266 All those opposed say "no."

1267 The ayes have it and the bill is ordered to be reported
1268 favorably to the committee. Members will have 2 days to
1269 submit additional views.

1270 We have only one vote on the floor. We have three more
1271 previously agreed to bills. So the committee will stand in
1272 recess.

1273 [Recess.]

1274 Chairman Conyers. The committee will come to order.

1275 Pursuant to notice, I call up H.R. 2352, the School
1276 Safety Enhancements Act, for purposes of markup, and ask the
1277 clerk to report the bill.

1278 The Clerk. H.R. 2352, a bill to enhance the safety of
1279 elementary schools, secondary schools, and institutions of
1280 higher education.

1281 [The bill follows:]

1282 ***** INSERT *****

1283 Chairman Conyers. Without objection, the reading of the
1284 bill will be suspended.

1285 The chair recognizes Bobby Scott.

1286 Mr. Scott. Thank you, Mr. Chairman.

1287 The Subcommittee on Crime, Terrorism and Homeland
1288 Security, having had under consideration the bill H.R. 2352,
1289 reports it favorably to the committee and moves its favorable
1290 recommendation to the full House.

1291 H.R. 2352, the School Safety Enhancements Act of 2007,
1292 is a vital piece of legislation aimed at ensuring the safety
1293 of students at our nation's educational institutions.
1294 Incidents of violence in our schools continue. Over the last
1295 decade, we have seen horrific school shootings and violence
1296 in at least 27 states. There are more states with shootings
1297 and violence than those without.

1298 Ensuring the safety of our students and teachers at all
1299 levels of education must be paramount. H.R. 2352, sponsored
1300 by the gentleman from New Jersey, Mr. Rothman, will enhance
1301 school safety by increasing the amount of money available and
1302 making that money more accessible to poor communities. The
1303 bill raises the authorization level for the federal grants
1304 from \$30 million to \$50 million for fiscal years 2008 and
1305 2009.

1306 It would also amend the eligibility requirements so that
1307 schools with the most need have a better opportunity to

1308 receive the funding. Presently, grant recipients must match
1309 federal grants dollar for dollar with non-federal funds in
1310 order to qualify for a federal funds grant. This requirement
1311 has undermined the objective of the grant as poor states with
1312 the most need receive the least benefit because they are
1313 least able to afford the money to provide the matching funds.

1314 H.R. 2352 corrects the problem by decreasing the
1315 mandatory matching non-federal grant percentage from 50
1316 percent to 20 percent, and increasing the federal portion
1317 from 50 percent to 80 percent. The change in funding ratios
1318 brings the percentage more in line with the traditional split
1319 for school funds, and will bring much needed help to many
1320 schools.

1321 H.R. 2352 also amends the Higher Education Act to
1322 require participating institutions to conduct annual campus
1323 assessments and develop and implement a campus emergency
1324 response plan.

1325 In closing, Mr. Chairman, I want to thank the gentleman
1326 from Texas, the ranking member of the subcommittee, Judge
1327 Gohmert, for his support on the bill, and I encourage my
1328 colleagues to support it as well.

1329 I yield back the balance of my time.

1330 Chairman Conyers. The chair recognizes Lamar Smith.

1331 Mr. Smith. Thank you, Mr. Chairman.

1332 I also want to thank the chairman of the subcommittee,

1333 Mr. Scott, for bringing this legislation to the committee
1334 today.

1335 Each day, roughly 160,000 children miss school because
1336 they are afraid of bullies, violence or even shootings. Our
1337 children shouldn't be afraid to go to school. They deserve a
1338 safe place to learn and grow. H.R. 2352, the School Safety
1339 Enhancement Act, will help school authorities put effective
1340 tools in place to provide a safe learning environment.

1341 H.R. 2352 provides grants for surveillance equipment on
1342 school grounds and requires colleges and universities
1343 participating in certain federal programs to implement
1344 emergency response plans and annual safety assessments. I
1345 urge my colleagues to support this bill and to keep school
1346 grounds safe for our children.

1347 Mr. Chairman, I yield back.

1348 Chairman Conyers. And all other statements of members
1349 will be included in the record at this point without
1350 objection.

1351 Are there any amendments? There is an amendment. The
1352 chair recognizes the gentleman from Virginia for his
1353 amendment.

1354 The clerk will report the Scott amendment.

1355 The Clerk. Amendment to H.R. 2352 offered by Mr. Scott
1356 of Virginia. "Page 2, line 3, strike—"

1357 [The amendment by Mr. Scott follows:]

1358 ***** INSERT *****

1359 Chairman Conyers. I ask unanimous consent that the
1360 amendment be considered as read.

1361 The gentleman is recognized.

1362 Mr. Scott. Thank you, Mr. Chairman.

1363 Mr. Chairman, my amendment contains several
1364 miscellaneous changes to the underling bill. Most of them
1365 are technical. First, the bill inadvertently removes the
1366 development of security assessments, an already authorized
1367 use of grant money. The manager's amendment corrects this
1368 oversight.

1369 Second, the amendment removes a paragraph that would
1370 have authorized capital improvements to schools as an
1371 authorized use of the money. There was some disagreement
1372 about the paragraph both inside and outside the community,
1373 some of which involved the jurisdiction of other committees
1374 if that provision remained. As a result of the discussion,
1375 the sponsor of the bill chose to ask for this paragraph to be
1376 deleted so that the controversy and jurisdictional questions
1377 could be removed and the bill could move more smoothly to the
1378 House floor.

1379 Third, the manager's amendment clarifies that the
1380 federal portion of the grant money may not be more than 80
1381 percent, as opposed to requiring the federal portion to be
1382 exactly 80 percent. This language clarification complies
1383 with the common practice for grants.

1384 Fourth, the manager's amendment clarifies certain
1385 requirements in the grant application process. It changes
1386 the phrase "chief legal officer" to "chief law enforcement
1387 executive" and the word "demonstrating" to "certifying."
1388 These changes merely provide clarification for the community-
1389 oriented police service, or the COPS, who administer the
1390 grant.

1391 Fifth, certain dates have been obsolete by the passage
1392 of time, and the manager's amendment corrects these dates.
1393 For example, the bill as written would have required the
1394 attorney general and the secretary of education to develop
1395 and publish advisory school safety guidelines by June, 2008.
1396 This has been changed to not later than 1 year after the date
1397 of enactment.

1398 Finally, at the request of the sponsor, the manager's
1399 amendment includes a new section that requires the director
1400 of the COPS program to include a detailed itemization of how
1401 the funds will be used in its annual report to Congress.
1402 This requirement is acceptable to the COPS program.

1403 I urge passage of the amendment, and yield back the
1404 balance of my time.

1405 Chairman Conyers. Thank you, Chairman Scott.

1406 The chair recognizes Ranking Member Lamar Smith.

1407 Mr. Smith. Thank you, Mr. Chairman.

1408 I support this manager's amendment, and I also agree

1409 with the description that was offered by Chairman Scott, and
1410 I urge my colleagues to support the manager's amendment as
1411 well.

1412 Chairman Conyers. Is there any further discussion? The
1413 question is on the amendment.

1414 All those in favor will say "aye."

1415 All those opposed will say "no."

1416 The ayes have it and the amendment is agreed to.

1417 Are there other amendments? The chair recognizes Sheila
1418 Jackson Lee for an amendment.

1419 Ms. Jackson Lee. Mr. Chairman, I have three amendments
1420 at the desk that I would ask unanimous consent that they may
1421 be taken en bloc.

1422 Chairman Conyers. Without objection, so ordered.

1423 The clerk will report.

1424 The Clerk. Amendment to the amendment to H.R. 1783
1425 offered by Ms. Jackson Lee of Texas. At the end of Title I
1426 of the bill, insert the following new section: "Section 102,
1427 additional amendment. Paragraph 5 of section 2701(b) of the
1428 Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C.
1429 3797(a)(b), as amended by section 101 of this Act, is further
1430 amended by inserting: including hazardous conditions, after
1431 in situations.

1432 Amendment to H.R. 2352 offered by Ms. Jackson Lee of
1433 Texas. At the end of Title I of the bill, add the following

1434 new section: "Section 104, additional amendment to the grant
1435 program for school security. Section 2701(b) of the Omnibus
1436 Crime—"

1437 [The amendments by Ms. Jackson Lee follow:]

1438 ***** INSERT *****

1439 Ms. Jackson Lee. Mr. Chairman, I ask unanimous consent
1440 that the amendments could be considered as read.

1441 Chairman Conyers. Without objection, so ordered.

1442 The gentlelady is recognized in support of her three
1443 amendments.

1444 Ms. Jackson Lee. Mr. Chairman, this is a very important
1445 legislative initiative, and I thank my colleagues and I thank
1446 the chairman of the subcommittee, and the ranking member, and
1447 the chairman of the full committee and ranking member,
1448 dealing with schools and confronting the conditions of
1449 security and safety that our children are in.

1450 The first amendment that I have would extend the current
1451 requirement of establishing a hotline or tip-line to include
1452 the reporting of hazardous conditions, including the presence
1453 of hazardous chemicals. The second amendment would require
1454 schools to develop and implement safety measures to protect
1455 students and children in an event of a terrorist attack or
1456 other hazardous conditions or situations.

1457 Let me put into the record the very sad condition that
1458 occurred in my own community. The need for schools to
1459 respond to hazardous conditions or situations is necessary
1460 because often children are confronted with hazardous
1461 conditions and they simply are ignored. The children are
1462 dependent upon the school district and the school district
1463 does not act.

1464 This has been a big problem in the Houston Independent
1465 School District and it has occurred around the nation. For
1466 example, in Key Middle School, students were getting sick
1467 because they were in classrooms where mold was growing and
1468 conditions that were, if you will, intolerable. Only after
1469 the Centers for Disease Control came into the school district
1470 and indicated that the school had to be shut down, several
1471 days and almost a month into students and teachers and
1472 administrators being removed from the school by way of
1473 ambulance.

1474 The students saw the mold and were getting sick, but
1475 they did not know how to respond. The school district was
1476 called and they did not respond. These amendments would
1477 ensure that children who are aware of toxicity of these
1478 chemicals and organic substances, who view this as a real
1479 threat, can of course get a response. It would cause the Key
1480 Middle School to be closed quickly because of severe health
1481 risks posed to the students.

1482 My call for student awareness, training and prevention
1483 as pertains to a terrorist attack does not need much
1484 explanation—that is the second amendment—in light of the
1485 tragic events of 9/11. Children need to know what to do and
1486 how to respond to dangerous situations.

1487 My last amendment goes to the heart of the
1488 administrative practice. The original bill required that a

1489 task force create safety guidelines. My amendment requires
1490 that in developing the final advisory school safety
1491 guidelines, the interagency task force shall consult with
1492 stakeholders and interested parties, including parents,
1493 teachers and agencies.

1494 In conclusion, let me simply say the tragedy of what
1495 occurred in one of our schools and the tragedies that we have
1496 been from school shootings and otherwise, is that we do not
1497 get in front of the disaster by working with students,
1498 teachers, administrators and others who are the true
1499 stakeholders. This was a tragedy of the Key Middle School,
1500 where so many suffered and so many still suffer today. I
1501 hope these amendments will be adopted because I believe they
1502 help the bill and make it stronger.

1503 I would be happy to yield.

1504 Mr. Scott. Mr. Chairman, I would support all three
1505 amendments. The first just clarifies that hotlines may be
1506 used to report dangerous situations, as well as violence.
1507 The second says that the grant money used for planning
1508 measures should include terrorist attacks and hazardous
1509 situations. And the third would include parents and teachers
1510 in the consultation with the advisory committee when drafting
1511 safety guidelines.

1512 I think all three add to the bill, and I would hope they
1513 would be adopted.

1514 I yield back to the gentlelady.

1515 Ms. Jackson Lee. I thank the gentleman.

1516 I yield back to the chairman.

1517 I thank the gentleman very much for his support and ask
1518 my colleagues to support it. I yield back.

1519 Chairman Conyers. I thank the gentlelady, and recognize
1520 Ranking Member Lamar Smith.

1521 Mr. Smith. Thank you, Mr. Chairman.

1522 I support these amendments and ask unanimous consent
1523 that Mr. Gohmert's statements on these amendments and other
1524 bills be made a part of the record.

1525 [The statement of Mr. Gohmert follows:]

1526 ***** COMMITTEE INSERT *****

1527 Chairman Conyers. Anyone else seek recognition? Are
1528 there any further amendments?

1529 All those in favor of Sheila Jackson Lee's three
1530 amendments, indicate by saying "aye."

1531 All those opposed say "no."

1532 The ayes have it and the amendments are agreed to.

1533 Are there any further amendments? If not, a reporting
1534 quorum being present—

1535 Okay, we will hold that for a while. Nice.

1536 The chair, pursuant to notice, calls up H.R. 1783, the
1537 Elder Justice Act, and asks the clerk to report the bill.

1538 The Clerk. H.R. 1783, a bill to amend the Social
1539 Security Act to enhance the Social Security of the nation by
1540 ensuring adequate public-private infrastructure, and to
1541 resolve to prevent, detect, treat, intervene in, and—

1542 [The bill follows:]

1543 ***** INSERT *****

1544 Chairman Conyers. I ask unanimous consent the bill be
1545 considered as read, and recognize Crime Subcommittee Chairman
1546 Bobby Scott.

1547 Mr. Scott. Thank you, Mr. Chairman.

1548 Mr. Chairman, the Subcommittee on Crime, Terrorism and
1549 Homeland Security, having had under consideration the bill
1550 H.R. 1783, reports it favorably to the committee and moves
1551 its favorable recommendation to the full House.

1552 H.R. 1783, the Elder Justice Act, sponsored by the
1553 gentleman from Illinois, Mr. Emanuel, is a comprehensive plan
1554 for preventing and combating elder abuse, neglect and
1555 exploitation. Each year in the United States, we don't know
1556 what the exact number is, but estimates are between 500,000
1557 and 5,000,000 elders are abused, neglected, or exploited.
1558 Experts agree that most cases are never reported.

1559 Data collected on the problem is minimal, and there have
1560 been no comprehensive national approaches to solving many
1561 problems. These problems likely will increase in the next 30
1562 years as 76 million Baby Boomers approach retirement.
1563 Despite this disturbing trend, funding to combat elder abuse
1564 is minimal and diminishing. The Elder Justice Coalition
1565 reports that of all federal funds spent on abuse prevention,
1566 less than 2 percent is spent on elder abuse.

1567 Funding the state adult protective services varies from
1568 state to state and from year to year, and is inadequate to

1569 address the problem of elder abuse. The social services
1570 block grant from which states can choose to fund adult
1571 protective services has suffered more than \$1 billion funding
1572 cut in the last few years. Investigating elder abuse is not
1573 easy and some of the solutions must be in the nature of
1574 legislation.

1575 In 1986, the Virginia General Assembly passed a bill
1576 that addressed the problem of denial of access to elderly
1577 people who were suspected of being abuse victims. Virginia
1578 state law required a protective services employee to visit
1579 with any person who is reported to be the victim of abuse.
1580 Adult protective services would attempt to visit the person
1581 only to be denied entry to the home and access to the
1582 suspected victim, often by the abuser. The bill established
1583 a process allowing the adult protective service worker to
1584 petition the circuit court for an order allowing access or
1585 entry or both on a showing of good cause.

1586 Today, we seek to do our part in addressing the serious
1587 problem of elder abuse. The Elder Justice Act provides for a
1588 comprehensive multi-disciplinary approach to preventing and
1589 combating elder abuse, neglect and exploitation, while
1590 enabling states and local communities to run programs that
1591 can best serve their needs. It establishes the National
1592 Elder Justice Coordinating Council and the Advisory Board on
1593 Elder Abuse, Neglect and Exploitation. It starts the

1594 critically needed process of researching state practices and
1595 collecting national data on the problem.

1596 The act authorizes grant money in areas of elder abuse,
1597 beginning with prevention. It also provides critically
1598 needed money to state and local adult protective services and
1599 helps long-term care facilities recruit, train and retain
1600 competent employees. It provides grants to assist the
1601 investigation and prosecution of elder abuse at the state and
1602 local levels. It finally requires grant recipients to
1603 evaluate the effectiveness of their funding activities.

1604 Mr. Chairman, I thank the ranking member of the
1605 subcommittee, Judge Gohmert, for his support on the bill, and
1606 encourage my colleagues to support it as well.

1607 I yield back the balance of my time.

1608 Chairman Conyers. Thank you so much.

1609 Ranking Member Lamar Smith?

1610 Mr. Smith. Thank you, Mr. Chairman.

1611 I support this bill as well, and agree with the
1612 description that has just been offered by the chairman of the
1613 subcommittee.

1614 I will yield the balance of my time to the ranking
1615 member of the Crime Subcommittee, the gentleman from Texas,
1616 Mr. Gohmert.

1617 Mr. Gohmert. Thank you, Ranking Member Smith, and thank
1618 you, Chairmen Conyers and Scott.

1619 Americans over the age of 50 account for 12 percent of
1620 our nation's murder victims and 7 percent of other serious
1621 and violent crime victims. Ninety percent of all elder abuse
1622 and neglect cases are by known perpetrators, usually family
1623 members. Of our eldest seniors of 80-plus years, are abused
1624 and neglected at two-to three-times the proportion of all
1625 other senior citizens.

1626 Elder abuse is clearly a serious problem facing our
1627 older Americans. With the population of people aged 85 or
1628 older expected to double to 8.9 million by the year 2030, we
1629 can be sure the problem will only grow. H.R. 1783, the Elder
1630 Justice Act, makes efforts to curb these acts of abuse. The
1631 bill awards grants to states and local governments to aid
1632 them in the investigation and prosecution of elder abuse.

1633 This bill also directs the attorney general to study and
1634 report to the Elder Justice Coordinating Council, the
1635 Advisory Board of Elder Abuse, Neglect, Exploitation and
1636 Congress on state laws and practices relating to elder abuse,
1637 neglect and exploitation, and to develop and implement a
1638 long-term plan for elder justice programs and related
1639 activities.

1640 As I mentioned during the subcommittee hearing on this
1641 bill, I have serious concerns about whether imposing such
1642 burdensome requirements on the Department of Justice is the
1643 most effective approach to achieving the goals of the bill.

1644 For instance, the bill requires the department to promulgate
1645 model state laws despite the fact that the majority of states
1646 have already adopted elder justice statutes.

1647 The bill also directs the department to hire federal
1648 prosecutors and nurse investigators to prosecute federal
1649 elder abuse cases notwithstanding the fact that the federal
1650 government lacks the police power to impose penalties for
1651 most of these crimes.

1652 I am pleased to report that the sponsor of the bill, Mr.
1653 Emanuel, and my colleagues on the committee, worked with me
1654 to address these concerns and negotiate a bipartisan
1655 compromise to Title II of the bill. I thank them for working
1656 with me on this legislation and addressing my concerns.

1657 With that, I yield back the balance of my time.

1658 Chairman Conyers. I thank the gentleman.

1659 Is there any further discussion on the Scott amendment?

1660 If not—

1661 Ms. Baldwin. Mr. Chairman, I have an amendment at the
1662 desk.

1663 Chairman Conyers. We want to vote on this one first.

1664 Ms. Baldwin. It is a secondary amendment to the
1665 manager's amendment.

1666 Chairman Conyers. Oh, okay.

1667 Yes?

1668 Mr. Scott. We have before us the bill. I have an

1669 amendment at the desk.

1670 Chairman Conyers. Oh, the Scott amendment, yes.

1671 The chair will ask the clerk to report the Scott

1672 amendment.

1673 The Clerk. Amendment to H.R. 1783 offered by Mr. Scott

1674 of Virginia and Mr. Gohmert of Texas. Page 72 beginning on

1675 line 3-

1676 [The amendment by Mr. Scott and Mr. Gohmert follows:]

1677 ***** INSERT *****

1678 Mr. Scott. Mr. Chairman, I ask unanimous consent that
1679 the amendment be considered as read.

1680 Chairman Conyers. Without objection, so ordered. The
1681 gentleman is recognized.

1682 Mr. Scott. Thank you.

1683 Mr. Chairman, my amendment, cosponsored by the ranking
1684 member, Judge Gohmert, deletes sections that are no longer
1685 relevant or redundant. It reorganizes and merges two
1686 sections into one section, and makes several miscellaneous
1687 technical changes and updates authorization dates.

1688 First, the manager's amendment deletes section 206 of
1689 Title II of the bill because the section is no longer
1690 relevant. Second, the amendment adds a requirement that the
1691 comptroller general report to Congress with recommendations
1692 regarding any federal legislation, regulations or programs
1693 needed to improve elder justice in the United States.

1694 Third, it deletes a part of the bill that required the
1695 development of model state laws, since most have state laws
1696 now. The report only asks for best practices to be
1697 developed. Fourth, the underlying bill requires the
1698 Department of Justice to prepare two separate reports, and
1699 the amendment merges those into one required report.

1700 In light of the above changes and deletions, it has
1701 become appropriate from a drafting perspective to merge
1702 sections 201 and 202 into one new section. And finally, the

1703 manager's amendment expands state and local grants to state
1704 courts. Finally, certain dates are no longer applicable due
1705 to the passage of time, and the amendment includes current
1706 dates.

1707 I urge the passage of this amendment, and yield the
1708 balance of my time.

1709 Chairman Conyers. I thank the gentleman, and recognize
1710 Judge Gohmert.

1711 Mr. Gohmert. Thank you, Chairman Conyers.

1712 This amendment makes significant improvements to Title
1713 II of H.R. 1783, and addresses the concerns I raised at the
1714 Crime Subcommittee hearing on this bill. First, the
1715 amendment streamlines section 201 and 202 into one new
1716 section. Previously, these two sections imposed significant
1717 burdens on the department by requiring it to conduct a
1718 comprehensive study of state elder justice laws, promulgate
1719 model state laws, and implement a national strategy for elder
1720 justice. These requirements would be burdensome for the
1721 department.

1722 The revised section 201 maintains the requirement that
1723 the department complete the study. The National Institute of
1724 Justice within the department has been studying elder justice
1725 issues for several years and issued a preliminary report on
1726 the subject in 2006. It is fitting that the NIJ continue its
1727 work and undertake the study as directed by this new section

1728 201.

1729 However, the amendment eliminates the requirement for
1730 model state laws and implementation of a national strategy.
1731 As I mentioned earlier, the majority of states have already
1732 enacted elder justice statutes, including criminal penalties
1733 for elder abuse and neglect. While it is worthwhile that we
1734 study the effectiveness of these laws, promulgating model
1735 state laws would provide little benefit because most states
1736 would be reluctant to rewrite the laws they have in place.

1737 This amendment will strike section 206 of the bill,
1738 which required the department to hire federal prosecutors and
1739 nurse investigators, but it expands state and local grant
1740 eligibility to not just prosecutors, but to courts as well,
1741 and makes other technical improvements to Title II.

1742 I would again like to thank Mr. Emanuel and Chairman
1743 Scott for their willingness to address my concerns and draft
1744 this bipartisan amendment. Again, elder abuse is such a
1745 problem that is doing nothing but growing day by day in this
1746 country. I am pleased that we have been able to work
1747 together to get to this point where I think we really will be
1748 of assistance to the states in addressing these issues.

1749 Thank you, and I yield back.

1750 Chairman Conyers. I thank Judge Gohmert and Chairman
1751 Scott.

1752 Ms. Baldwin. Mr. Chairman?

1753 Chairman Conyers. Who seeks recognition? Yes, Tammy
1754 Baldwin.

1755 Ms. Baldwin. Mr. Chairman, I have an amendment to the
1756 manager's amendment at the desk.

1757 Chairman Conyers. The clerk will report the amendment.

1758 The Clerk. Amendment to the amendment to H.R. 1783
1759 offered by Ms. Baldwin.

1760 [The amendment by Ms. Baldwin follows:]

1761 ***** INSERT *****

1762 Ms. Baldwin. Mr. Chairman, I ask unanimous consent that
1763 the amendment be considered as read.

1764 Chairman Conyers. Without objection, so ordered. The
1765 gentlelady is recognized.

1766 Ms. Baldwin. Thank you, Mr. Chairman.

1767 Before I begin my statement on this amendment, I would
1768 like to quickly state my intention to offer a second
1769 amendment to the base bill on the same topic. Procedurally,
1770 we have to consider the amendment separately as one amends
1771 the manager's amendment, and the other amends the base bill,
1772 but conceptually these two amendments are very similar and
1773 can be best understood together. So for the sake of
1774 expediting our markup, I will discuss both amendments now so
1775 we can move forward more quickly.

1776 As I noted during our subcommittee hearing on the Elder
1777 Abuse Act, I am very concerned about telephone, mail and
1778 Internet fraud targeted at seniors. Although I recognize
1779 that protecting the physical and mental health and security
1780 of seniors is the central focus of the Elder Justice Act, as
1781 it should be, I am very hopeful that we will also ensure that
1782 the Department of Justice has the knowledge and resources
1783 necessary to successfully combat the financial exploitation
1784 of seniors through phone, mail and Internet fraud.

1785 My own experiences as the primary caregiver for my
1786 grandmother who raised me opened my eyes to some troubling

1787 exploitative tactics targeted to seniors. When my
1788 grandmother was about 90 years old, she asked if I would help
1789 her with her mail and balancing her checkbook and all that
1790 sort of thing. I was disturbed by the number of frequent
1791 solicitations she received from what appeared to me to be
1792 bogus or fly-by-night charities designed more to line the
1793 pockets of the solicitors than to serve the purported
1794 charitable missions.

1795 I was also disturbed by the amount of money my
1796 grandmother had been giving to these entities. She believed
1797 that those able to do so ought to be as generous as possible
1798 to those in need, but she had no way of determining the
1799 legitimacy of the entities that were contacting her so
1800 frequently.

1801 Millions of Americans become victims of similar
1802 financial exploitation each year. As my grandmother made
1803 clear to me, it is not just the isolated and the lonely who
1804 fall prey to these scams. Although it is difficult to
1805 estimate the prevalence of financial exploitation cases due
1806 to severe underreporting, several national studies have
1807 revealed troubling statistics.

1808 For example, in the year 2000, the U.S. Senate Special
1809 Committee on Aging reported that each year, consumers lose
1810 approximately \$40 billion to telemarketing fraud, and
1811 estimated that approximately 10 percent of the nation's

1812 14,000 telemarketing firms were fraudulent. In 2003 alone,
1813 postal inspectors investigated 3,100 mail fraud cases and
1814 analysts processed more than 80,000 complaints. These
1815 investigations have led to more than \$2 billion in court-
1816 ordered restitution to fraud victims.

1817 Particularly with the population of Americans over 60
1818 set to drastically increase in the next few decades, we know
1819 that financial threats to seniors are growing and changing
1820 because so many Baby Boomers have considerable computer
1821 skills. The FBI has confirmed that criminals are modifying
1822 their targeting techniques to include online scams like
1823 phishing and e-mail spamming.

1824 As we have discussed, H.R. 1783 rightly sets the wheels
1825 in motion on a number of initiatives within the Department of
1826 Justice to comprehensively prevent and combat elder abuse,
1827 neglect and exploitation. I have prepared amendments that
1828 add to these important initiatives in two relatively simple
1829 ways. My amendment adds laws relating to telemarketing, mail
1830 and Internet fraud to a list of state laws and practices the
1831 attorney general will examine and report to Congress on. By
1832 specifying the telemarketing, mail and Internet fraud be
1833 included in the study, we are ensuring that all the practices
1834 related to combating senior exploitation will be addressed.

1835 As I noted, I intend to offer a second amendment that
1836 instructs the attorney general to consult with the postmaster

1837 general and chief postal inspector in thinking about how to
1838 award elder justice grants to support those who work on
1839 ending elder abuse. Establishing early collaborations
1840 between leaders with the most knowledge about the issues
1841 impacting seniors will help facilitate a more comprehensive
1842 approach to the grant program.

1843 By noting our intent to include mail, telemarketing and
1844 Internet fraud within the broad focus of the Elder Justice
1845 Act, I think we move even closer to our collective goal of
1846 eliminating abuse, neglect and exploitation of our seniors.
1847 I urge my colleagues to support my amendment before us and
1848 the one that I will offer shortly.

1849 Thank you.

1850 Chairman Conyers. Thank you very much.

1851 The vote occurs on the Baldwin amendment to the
1852 manager's-

1853 Mr. Gohmert. Mr. Chairman?

1854 Chairman Conyers. Yes?

1855 Mr. Gohmert. Could I address this amendment?

1856 Chairman Conyers. Yes, please. Judge Gohmert?

1857 Mr. Gohmert. Thank you, Mr. Chairman.

1858 I would like to say that having spoken with my
1859 colleague, Ms. Baldwin, about her concerns, we found a common
1860 concern for elderly Americans who fall victim to identity
1861 theft, mail fraud or telemarketing fraud. As other members

1862 of the committee know, I am always reluctant to interfere in
1863 state law issues, but her amendment addresses issues that are
1864 clearly within interstate commerce and our jurisdiction
1865 involving crimes within interstate commerce.

1866 I thank her for offering this amendment. It does
1867 address issues that she and I shared within the realm of
1868 family and friends. When you see our elderly that weren't
1869 raised in an environment like we have in Congress where the
1870 old saying is no matter how cynical you get, it is never
1871 enough to catch up, they get these mailers, they get these
1872 phone calls and they think they are really supposed to pay.
1873 It is taking advantage of people who we should be helping
1874 protect through our jurisdiction over crimes in interstate
1875 commerce.

1876 So I thank Ms. Baldwin for offering this amendment and
1877 the one forthcoming. I think these are important issues to
1878 address, and address an area that has been overlooked too
1879 long. It makes a simple, yet important change to the bill to
1880 include these additional types of victimization in elderly
1881 justice. So I would urge my colleagues to support Ms.
1882 Baldwin's amendment, and I yield back the balance of my time.

1883 Mr. Watt. Would the gentleman yield before he yields
1884 back?

1885 Mr. Gohmert. You haven't taken my time, so sure, I
1886 would be glad to yield.

1887 Mr. Watt. I just want to join the gentleman in
1888 expressing my support for the amendment. The only concern I
1889 have is it may not go far enough. This is a very, very
1890 serious problem, and for those of us who have aging parents,
1891 we really see it a lot. All kinds of scams are out there
1892 designed to take advantage of elderly people. This could
1893 turn out to be perhaps the most important ingredient of this
1894 bill.

1895 I thank the gentleman.

1896 Mr. Gohmert. Reclaiming my time, if you have ideas on
1897 how we can even improve on Ms. Baldwin's amendment, I am
1898 certainly open to working with you on that. Thank you.

1899 With that, I yield back.

1900 Chairman Conyers. Thank you.

1901 The question occurs on the Baldwin amendment to the
1902 manager's amendment.

1903 All in favor say "aye."

1904 All those opposed say "no."

1905 The ayes have it and the amendment is agreed to.

1906 The vote now occurs on the manager's amendment of Mr.
1907 Scott.

1908 All in favor say "aye."

1909 All opposed say "no."

1910 The ayes have it and the manager's agreement as amended
1911 is agreed to.

1912 The chair recognizes the gentlelady from Wisconsin for
1913 her amendment to the base bill.

1914 The clerk will report.

1915 The Clerk. Amendment to H.R. 1783 offered by Ms.
1916 Baldwin of Wisconsin.

1917 [The amendment by Ms. Baldwin follows:]

1918 ***** INSERT *****

1919 Ms. Baldwin. Mr. Chairman, I ask unanimous consent that
1920 the amendment be considered as read.

1921 Chairman Conyers. Without objection, so ordered.

1922 The gentlelady is recognized.

1923 Ms. Baldwin. Mr. Chairman, as we have discussed, this
1924 amendment also relates to telemarketing, mail and Internet
1925 fraud targeted to seniors. I urge its adoption.

1926 Chairman Conyers. Judge Gohmert?

1927 Mr. Gohmert. Thank you, Chairman Conyers.

1928 I just want to express my support on this amendment as
1929 well.

1930 Chairman Conyers. I thank the gentleman.

1931 Is there further discussion?

1932 All those in support of the Baldwin amendment to the
1933 base bill indicate by saying "aye."

1934 All those opposed say "no."

1935 The ayes have it and so ordered.

1936 Are there any further amendments?

1937 Ms. Waters. Mr. Chairman?

1938 Chairman Conyers. Yes, the gentlelady from California,
1939 Maxine Waters.

1940 Ms. Waters. I have an amendment at the desk.

1941 Chairman Conyers. The clerk will report the amendment.

1942 The Clerk. Amendment to H.R. 1783 offered by Ms. Waters
1943 of California, Ms. Jackson Lee of Texas, and Mr. Schiff of

1944 California. At the end of Title II of the bill, insert the
1945 following new section. "Section—"

1946 [The amendment by Ms. Waters follows:]

1947 ***** INSERT *****

1948 Chairman Conyers. I ask unanimous consent that the
1949 amendment be considered as read, and recognize the
1950 gentlelady.

1951 Ms. Waters. Thank you very much, Mr. Chairman. I ask
1952 unanimous consent to strike the word "entities" on page two,
1953 line 17, and insert "nonprofit organizations."

1954 Chairman Conyers. Without objection, so ordered.

1955 Ms. Waters. First, Mr. Chairman, I would like to thank
1956 my colleagues, Congresswoman Sheila Jackson Lee and
1957 Congressman Adam Schiff for working with me on this
1958 amendment. This amendment would reauthorize and expand the
1959 Missing Alzheimer's Disease Patient Alert Program, which was
1960 previously authorized for fiscal years 1996 through 1998.
1961 This Department of Justice program helps local communities
1962 and law enforcement officials to quickly identify persons
1963 with Alzheimer's disease who wander or who are missing, and
1964 unite them with their families.

1965 An estimated 5 million Americans have Alzheimer's
1966 disease. One in eight Americans over 65, and nearly half of
1967 Americans over 85 suffer from this disorder. Sixty percent
1968 of Alzheimer's patients are likely to wander from their
1969 homes. Wanderers are vulnerable to dehydration, weather
1970 conditions, traffic hazards, and individuals who prey on
1971 those who are defenseless. Up to 50 percent of wandering
1972 Alzheimer's patients will become seriously injured or die if

1973 they are not found within 24 hours of their departure from
1974 home.

1975 Since its inception more than 10 years ago, the Missing
1976 Alzheimer's Patient Alert Program has funded a national
1977 registry of more than 172,000 individuals at risk of
1978 wandering, and has united over 12,000 wanderers with their
1979 families. This national registry has been run by the
1980 Alzheimer's association known as Safe Return. It is a highly
1981 successful program whereby 88 percent of the registrants who
1982 wander are found within the first 4 hours of being reported
1983 missing. A total of 1,288 wandering incidents were reported
1984 to Safe Return in 2007. The program has a 98-degree success
1985 rate in recovering enrollees who are reported missing.

1986 There are also technology-based options to address
1987 wandering that should be considered for funding under the
1988 Missing Alzheimer's Patient Alert Program. For example,
1989 personalized risk bands that emit a tracking signal can be
1990 used to locate wanderers. These wrist bands, when combined
1991 with specially trained search and rescue teams, can reduce
1992 search times from hours and days to minutes.

1993 Unfortunately, the Missing Alzheimer's Patients Alert
1994 Program has not been reauthorized or updated in over 10
1995 years. Congress originally authorized \$900,000 in
1996 appropriations for the program for the first 3 years. Since
1997 then, the program has continued to receive funding on a year-

1998 to-year basis, but it has been virtually flat-funded since
1999 its inception.

2000 In June of 2006, despite the fact that the program had
2001 not been reauthorized, I worked with my colleagues,
2002 Congressmen Jim Ramstad and Adam Schiff, as well as the
2003 appropriations subcommittee Chairman Frank Wolf, and we
2004 increased the funding when the bill was on the floor, to \$1
2005 million in fiscal year 2007. The program received the same
2006 amount in fiscal year 2008.

2007 On March 18 of this year, I sent a letter to the
2008 appropriators requesting an appropriation of \$2 million for
2009 the Missing Alzheimer's Patient Program in fiscal year 2009.
2010 My letter specifically recommended that the program be
2011 expanded to allow funding for technology-based options in
2012 addition to a national registry. This letter was supported
2013 by the Alzheimer's Association and the Alzheimer's Foundation
2014 of America. It was signed by a bipartisan group of 32
2015 members of Congress.

2016 Mr. Chairman, I recommend that we authorized the Missing
2017 Alzheimer's Patient Alert Program and expand it so as to
2018 allow the Department of Justice to award multiple competitive
2019 grants. A preference would be given to nonprofit
2020 organizations that have a direct link to patients and
2021 families of patients with Alzheimer's disease and related
2022 dementias. The amendment would authorize up to \$5 million

2023 per year in appropriations for fiscal years 2009 through
2024 2015. Our amendment requires the attorney general to consult
2025 with the secretary of health and human services in awarding
2026 the grants.

2027 Finally, our amendment specifies that the program will
2028 be operated under the Department of Justice's Bureau of
2029 Justice Assistance. Currently, the program is operated under
2030 the Office of Juvenile Justice, which is obviously not the
2031 most appropriate agency for a program serving the elderly.

2032 With the Baby Boom generation approaching the age of
2033 retirement, the number of Americans with Alzheimer's disease
2034 could triple by the year 2050. The need for organized
2035 efforts to locate wandering Alzheimer's patients could triple
2036 as well. Therefore, it is critical that we reauthorize and
2037 expand this small, but very effective program.

2038 I would urge my colleagues to support the amendment.

2039 Ms. Jackson Lee. Will the gentlelady yield?

2040 Ms. Waters. I yield to the gentlelady.

2041 Ms. Jackson Lee. Let me, if I might, Mr. Chairman—
2042 Chairman Conyers. I would like to recognize Judge
2043 Gohmert and come back to you on your own time.

2044 Ms. Jackson Lee. All right.

2045 Chairman Conyers. Judge Gohmert?

2046 Mr. Gohmert. Thank you, Chairman Conyers.

2047 This amendment reauthorizes, and I emphasize

2048 reauthorizes, the Department of Justice's Missing Alzheimer's
2049 Disease Patient Alert Program to award competitive grants to
2050 assist organizations in paying for the cost of planning and
2051 operating local programs to protect and locate vulnerable
2052 older Americans with Alzheimer's disease and related
2053 dementias.

2054 This program has not been reauthorized since 1998.
2055 However, Congress has continued to appropriate funding in
2056 each of the fiscal years 1999 through 2008. Currently, the
2057 program awards grant monies to the Alzheimer's Association of
2058 America. My colleague, Ms. Waters, mentioned that this is
2059 also an expansion. This amendment provides an expansion of
2060 eligibility of the program to other organizations who offer
2061 services to protect and locate missing elderly.

2062 Several programs offer electronic monitoring service.
2063 Project Lifesaver is used by local law enforcement agencies
2064 and first responders to locate missing elderly through a
2065 personalized wrist band that emits a tracking signal.
2066 Project Lifesaver is used by over 700 law enforcement
2067 agencies in 42 states in over 1,500 searches. There have
2068 been no reported serious injuries or deaths, and recovery
2069 times have averaged less than 30 minutes.

2070 An alert system known as Silver and senior alerts have
2071 been established in at least eight states. We have seen the
2072 alerting of law enforcement and the public through various

2073 media outlets about these vulnerable adults who are reported
2074 missing. These alert systems were created out of concern for
2075 the safety of seniors and other at-risk populations who are
2076 prone to wandering due to a physical or cognitive disability
2077 or medical condition such as Alzheimer's or dementia. Some
2078 missing adult alert programs, including those for Oklahoma
2079 and Virginia, were modeled after the state's Amber Alert
2080 system.

2081 Now, this amendment will ultimately allow authorities to
2082 very quickly and effectively determine the difference between
2083 an elderly at-risk individual wandering away, and an actual
2084 kidnapping which dramatically decreases the amount of
2085 federal, state and local funds and personnel required to make
2086 such a finding and determination.

2087 The federal government has jurisdiction in kidnapping
2088 cases. This ultimately saves money and personnel expense,
2089 and I urge my colleagues to support the amendment.

2090 Thank you. I yield back.

2091 Chairman Conyers. I thank all of you, and now recognize
2092 Sheila Jackson Lee, a cosponsor of the Waters amendment.

2093 Ms. Jackson Lee. Let me thank the chairman and the
2094 ranking member and subcommittee chairs and ranking member,
2095 Ms. Waters and Mr. Schiff. It was a pleasure to work with
2096 their staff, as my staff worked with them as well. This is
2097 an important reauthorization, but more importantly it is

2098 appropriate as it is a part of this committee because it does
2099 engage the loss of life of individuals who may not be found
2100 within a period of time.

2101 Each of us can recall a certain story that brings us to
2102 believe this bill is extremely important. I have that
2103 example in my own congressional district where I participated
2104 in a search for an elderly person there who had simply just
2105 walked away. He had an attentive family. His family,
2106 however, did not live at his home, but they had a very
2107 welcoming and warm situation. He had an attendant. However,
2108 he left in the middle of the night.

2109 If he had some of the resources that could be utilized
2110 through this legislation, such as a bracelet for example, we
2111 believe he could have been found in a shorter period of time.
2112 He was ultimately found in a ditch and died of exposure.

2113 This I believe is both an amendment that is long overdue
2114 in the reauthorization, but the importance of it is that it
2115 has the attorney general and the secretary of health working
2116 together for these competitive grants because it does include
2117 law enforcement and health officials. For that reason, I ask
2118 my colleagues to support this legislation. I look forward to
2119 this bill as it goes to the floor as we add additional
2120 aspects to it so that it becomes stronger.

2121 With that, I yield back.

2122 Chairman Conyers. I thank the gentlelady for her

2123 statement, and recognize Adam Schiff, the distinguished
2124 gentleman from California.

2125 Mr. Schiff. I thank the chairman. I will be very
2126 brief.

2127 I am delighted to join with my colleagues,
2128 Representatives Waters and Jackson Lee, to address a problem
2129 faced by many families caring for a loved one with
2130 Alzheimer's or related illness. Patients suffering from
2131 Alzheimer's are susceptible to wandering away from home and
2132 becoming lost or disoriented, which can be a life-threatening
2133 act. Even if they are found by law enforcement or good
2134 Samaritans, they may not be able to recall their full name or
2135 address or phone number of a family member.

2136 One program that has had great success in helping
2137 Alzheimer's patients is the Missing Alzheimer's Disease
2138 Patient Alert Program, originally authorized in 1994. It is
2139 a program that has been provided a grant of about \$1 million,
2140 though that amount has varied from year to year.

2141 The Safe Return Program is a nationwide system in which
2142 for a \$50 fee Alzheimer patients are registered or given a
2143 small bracelet or pendant which bears a unique identification
2144 number and an emergency toll-free number for the Safe Return
2145 hotline. This acts quickly to reunite the wandering patient
2146 with their family and caregivers. It is the only nationwide
2147 program of its kind, and since the program began more than

2148 150,000 people have been registered nationwide. It has
2149 helped return more than 10,000 people to their family and
2150 caregivers, and has a 99 percent success rate.

2151 This amendment would reauthorize that valuable program
2152 and others at a level of \$5 million a year. The additional
2153 funds are warranted, I believe, by the aging population which
2154 will increase the strain on the program and lead to a greater
2155 number of cases of wandering each year. I believe a larger
2156 authorization will allow the development of other programs as
2157 well to meet these same goals.

2158 So again, I want to thank my colleagues for their work
2159 on this issue. I am proud to join them, and urge support for
2160 the amendment and the underlying bill.

2161 Thank you, and I yield back, Mr. Chairman.

2162 Chairman Conyers. Thank you, Mr. Schiff.

2163 Is there any further discussion? If not, the vote will
2164 take place on the bill as amended.

2165 Oh, that is right. We will take a vote on the Maxine
2166 Waters-Jackson Lee amendment.

2167 All those in favor say "aye."

2168 All those opposed say "no."

2169 The ayes have it. The amendment is agreed to.

2170 And now we will have a vote on the bill and the
2171 manager's and the amendments.

2172 We don't have a reporting quorum, so we will postpone

2173 and move to the next bill.

2174 Pursuant to notice, I call up H.R. 5352, Elder Abuse
2175 Victims Act, and ask the clerk to report.

2176 The Clerk. H.R. 5352, a bill to protect seniors in the
2177 United States-

2178 [The bill follows:]

2179 ***** INSERT *****

2180 Chairman Conyers. Without objection, the bill will be
2181 considered as read.

2182 The chairman of the Crime Committee, Bobby Scott, is
2183 recognized again.

2184 Mr. Scott. Thank you, Mr. Chairman.

2185 Mr. Chairman, the Subcommittee on Crime, Terrorism and
2186 Homeland Security, having had under consideration the bill
2187 H.R. 5352, reports it favorably to the committee and moves
2188 its favorable recommendation to the full House.

2189 This has been sponsored by the gentleman from
2190 Pennsylvania, Mr. Sestak, and shares the goals of H.R. 1783
2191 that we just considered, but it focuses on the enforcement
2192 mechanisms to prosecute abuse and obtain justice for victims.
2193 Similar to the Elder Abuse Act, it requires the attorney
2194 general to study and report to Congress on state laws and
2195 practices. It authorizes grant money.

2196 The bill, which is actually included in the Elder
2197 Justice Act, is necessary in the event that the Senate
2198 chooses to address this problem with two separate bills, one
2199 addressing the portions that concern the Department of Health
2200 and Human Services, and the other the Department of Justice.

2201 Mr. Chairman, I think it would be appropriate in due
2202 course to adopt the amendments that we just adopted in the
2203 other bill so that the two bills would be conformed.

2204 Meanwhile, I thank the gentleman from Texas, the ranking

2205 member of the committee, for his support, and yield back the
2206 balance of my time.

2207 Chairman Conyers. Thank you.

2208 Judge Gohmert?

2209 Mr. Gohmert. Thank you, Chairman Conyers, and thank
2210 you, Chairman Scott.

2211 Because of the way in which the Senate may or may not
2212 address the elder abuse situation, this is I guess a belt-
2213 and-suspenders situation. So obviously I had concerns with
2214 the other bill that apply to this, and there will be
2215 bipartisan amendments addressing these concerns. I
2216 appreciate Chairman Scott working with us, along with the
2217 staff. Thank you.

2218 Chairman Conyers. Thank you very much.

2219 Are there any amendments?

2220 Ms. Waters. Mr. Chairman?

2221 Chairman Conyers. Yes, the gentlelady from California?

2222 Ms. Waters. I would like to clarify whether or not you
2223 indicated that you would adopt the previously adopted
2224 amendment on the Missing Alert program?

2225 Mr. Scott. If the gentlelady will yield? We haven't
2226 yet.

2227 Ms. Waters. Okay.

2228 Mr. Scott. My next motion would be to adopt the same
2229 amendments en bloc.

2230 Chairman Conyers. Is that a motion?

2231 Mr. Scott. Mr. Chairman, there are amendments at the
2232 desk that would conform this bill to the bill we just
2233 considered. My amendment and the two amendments by the
2234 gentlelady from Wisconsin, and the amendment from the
2235 gentlelady from California. I would ask that we adopt all of
2236 those amendments en bloc for a vote.

2237 Chairman Conyers. That is a motion. All right.

2238 Mr. Scott has made a motion that would ask that all
2239 these amendments and bills be connected. Is there any
2240 discussion on this, the clarification?

2241 All those in favor of the Scott motion signify by saying
2242 "aye."

2243 Those opposed say "no."

2244 The motion is agreed to.

2245 We will now consider the amendments considered en bloc.

2246 Those in favor say "aye."

2247 Those opposed say "no."

2248 The ayes have it.

2249 We are turn to reporting, and we do not have a quorum.

2250 We don't have a reporting quorum.

2251 We now turn to H.R. 4080. Pursuant to notice, I call
2252 this bill up to amend the Immigration-

2253 Mr. Scott. Mr. Chairman, didn't we do that once?

2254 Chairman Conyers. Oh, we did this.

2255 Pursuant to notice, I call up H.R. 5057, the Debbie
2256 Smith Reauthorization Act, and ask the clerk to report the
2257 bill.

2258 The Clerk. H.R. 5057, a bill to reauthorize the Debbie
2259 Smith DNA Backlog Grant Program.

2260 [The bill follows:]

2261 ***** INSERT *****

2262 Chairman Conyers. We ask unanimous consent that the
2263 bill be considered as read. I recognize Chairman Bobby
2264 Scott.

2265 Mr. Scott. Thank you, Mr. Chairman.

2266 Mr. Chairman, the Subcommittee on Crime, Terrorism and
2267 Homeland Security, having had under consideration the bill
2268 H.R. 5057, reports it favorably to the committee and moves
2269 its favorable recommendation to the House.

2270 Mr. Chairman, H.R. 5057, the Debbie Smith
2271 Reauthorization Act of 2008, authorizes the attorney general
2272 to provide grants to states to assist them in entering DNA
2273 evidence into databases. As the nation's police departments
2274 and prosecutors have come to recognize the value of DNA
2275 evidence in solving crimes, labs have collected DNA samples
2276 from increasing numbers of crime scenes and convicted
2277 offenders faster than they can examine and enter them into
2278 state and local databases.

2279 In fact, Congress has funded state and local law
2280 enforcement agencies to test nearly 104,000 DNA cases from
2281 2004 to 2007, and funded over 2.5 million convicted offender
2282 and arrestee samples. Yet the backlog remains almost level.
2283 Consequently, a large backlog of samples exists around the
2284 nation that could identify violent criminals at large.

2285 There is no better example to demonstrate how DNA
2286 technology can be for solving crimes than the story of Debbie

2287 Smith, the namesake who shared her story with the
2288 subcommittee during our hearing on April 10. In 1989, Debbie
2289 Smith was kidnapped in her Virginia home and viciously
2290 attacked in nearby woods by a stranger. With remarkable
2291 courage and determination, she reported her attack and the
2292 crime lab was able to preserve DNA evidence of her attacker.
2293 Eventually, he was convicted on a separate violent crime and
2294 was required to provide a DNA sample which matched the sample
2295 collected from his attack on Ms. Smith, and identifying him
2296 as her attacker.

2297 The goal of the Debbie Smith DNA backlog grant program
2298 is to assist states in entering their DNA evidence timely so
2299 that they can solve more crimes and solve them as soon as
2300 possible. The act was incorporated in the Justice For All
2301 Act of 2004, and expires at the end of 2009. This bill has
2302 strong bipartisan support and reauthorizes funding for the
2303 Debbie Smith Act, extending it through the fiscal year 2014.

2304 In closing, Mr. Chairman, I would like to thank the
2305 gentlelady from New York, Ms. Maloney, for her leadership in
2306 authoring the bill. I would like to thank you, Mr. Chairman,
2307 for your support, and the gentleman from Texas, the ranking
2308 member of the full committee, Mr. Smith, and the support of
2309 all 45 cosponsors of the bill, and Mr. Chairman, from Debbie
2310 Smith herself, who is with us today in the audience.

2311 Chairman Conyers. Thank you so much.

2312 The chair recognizes Ranking Member Lamar Smith.

2313 Mr. Smith. Thank you, Mr. Chairman.

2314 I am pleased to join you and Chairman Scott as well in
2315 being a cosponsor of this piece of legislation. The Debbie
2316 Smith DNA Backlog Elimination Grant Program provides grants
2317 to state and local governments to reduce the DNA backlog of
2318 samples collected and entered into the national DNA database.
2319 The program, originally authorized in 2000, expires at the
2320 end of fiscal year 2009.

2321 While the Debbie Smith Program has indeed been
2322 successful in reducing the backlog, there is still work to
2323 do. H.R. 5057, the Debbie Smith Reauthorization Act, was
2324 introduced by Congressman Carolyn Maloney. The bill
2325 reauthorizes the program through the year 2014 at a level of
2326 \$151 million per fiscal year.

2327 Before I yield to the gentleman from Texas, the ranking
2328 member of the Crime Subcommittee, like Chairman Scott I want
2329 to recognize Debbie Smith who is with us today, and I
2330 appreciate all she has done over the years to get us to this
2331 point.

2332 Mr. Chairman, I yield to the gentleman from Texas, Mr.
2333 Gohmert.

2334 Mr. Gohmert. Thank you, Ranking Member Smith, and thank
2335 you, Chairmen Conyers and Scott for considering this
2336 important legislation.

2337 DNA has proven to be an invaluable tool in identifying
2338 and convicting criminal suspects. I saw it personally as a
2339 prosecutor, and as a judge and chief justice, and I know how
2340 valuable it can be. Currently, there are just 44 states that
2341 require all convicted felons to provide DNA samples. They
2342 are entered into various law enforcement databases, and then
2343 matched with crime scene DNA.

2344 While the use of DNA evidence has proven to be
2345 successful, the increase in processing requests has created a
2346 huge backlog across the nation. In 2000, the Debbie Smith
2347 DNA Backlog Elimination Grant Program was created to address
2348 the problem. We are pleased that we have gotten to hear from
2349 such a courageous individual like Debbie Smith. I appreciate
2350 her efforts on behalf of those who could not appear and speak
2351 for themselves.

2352 The Debbie Smith Program will help reduce the DNA
2353 backlog of samples collected from crime scenes and the
2354 backlog for entry of those samples into a national DNA
2355 database. However, the program currently expires at the end
2356 of fiscal year 2009. These grants give state and local
2357 government funding to collect 2.5 million DNA samples from
2358 convicted offenders and arrestees for inclusion in the
2359 national DNA database. These backlog grants funded the
2360 testing of approximately 104,000 DNA cases between 2004 and
2361 2007.

2362 While we know the program has been successful, a 2003
2363 Department of Justice report indicated that a backlog of
2364 48,000 DNA samples existed. The current backlog is expected
2365 to be just as high. It is therefore imperative that we pass
2366 H.R. 5057, the Debbie Smith Reauthorization Act. The bill,
2367 which was introduced by Carolyn Maloney, reauthorizes the
2368 program through 2014.

2369 I urge my colleagues to support this bill, and yield
2370 back the remainder of my time.

2371 Chairman Conyers. Thank you, Judge Gohmert.

2372 Does Adam Schiff or Anthony Weiner seek recognition?

2373 Mr. Weiner. Adam Schiff may, but he is not here. I do,
2374 Mr. Chairman.

2375 Chairman Conyers. All right. The gentleman is
2376 recognized.

2377 Mr. Weiner. I have an amendment at the desk as Weiner
2378 one, please.

2379 Chairman Conyers. Are they combinable?

2380 Mr. Weiner. With some peril to the committee, they are.

2381 Chairman Conyers. That is all right.

2382 Mr. Weiner. I think one is more controversial than the
2383 other. This one should just be quick.

2384 Chairman Conyers. All right. The clerk will report
2385 the—

2386 Mr. Scott. Mr. Chairman, I have a substitute which may

2387 be more appropriate to recognize first.

2388 Mr. Weiner. I request unanimous consent to withdraw my
2389 amendment.

2390 Chairman Conyers. All right.

2391 Mr. Scott. It is an amendment substitute.

2392 Chairman Conyers. All right. Mr. Scott has a
2393 substitute that we will report now, Madam Clerk.

2394 The Clerk. Amendment in the nature of a substitute to
2395 H.R. 5057 offered by Mr. Scott of Virginia, Mr. Gohmert of
2396 Texas, and Mr. Chabot of Ohio. "Strike all after the
2397 enacting clause and insert the following. Section 1, short
2398 title—"

2399 [The amendment by Mr. Scott, Mr. Gohmert, and Mr. Chabot
2400 follows:]

2401 ***** INSERT *****

2402 Mr. Scott. I ask unanimous consent that the amendment
2403 be considered as read.

2404 Chairman Conyers. Without objection, so ordered. The
2405 gentleman is recognized.

2406 Mr. Scott. Thank you, Mr. Chairman.

2407 This substitute amendment is being offered jointly for
2408 myself, the ranking member of the subcommittee, Judge
2409 Gohmert, and the gentleman from Ohio, Mr. Chabot, and makes
2410 changes to the underlying bill for further clarification. I
2411 would like to thank Mr. Chabot and Mr. Gohmert for working
2412 together to come up with the improvements before the bill
2413 reached the full committee process.

2414 The amendment makes essentially two changes to the
2415 original bill. It provides for a study to determine exactly
2416 what resources are needed to clear the DNA sample backlog in
2417 the nation's labs. Second, it expands the use of the Debbie
2418 Smith grant money to identify missing persons.

2419 Mr. Chairman, as I indicated earlier, for over 5 years
2420 Congress has funded state and local law enforcement agencies
2421 to test over 100,000 DNA cases and funded over 2.5 million
2422 convicted offender and arrestee samples from 2004 to 2007.
2423 Yet the backlog in entering DNA evidence into the nation's
2424 databases remains essentially level.

2425 Consequently, a large backlog of samples exists around
2426 the nation that could identify violent criminals at large.

2427 During the hearing of the Subcommittee on Crime, Terrorism
2428 and Homeland Security held on April 10, witnesses who were
2429 experts in the field were asked how much more funding and
2430 what technology is needed to eliminate the backlog, but none
2431 were able to answer.

2432 Therefore, Mr. Chairman, the amendment would authorize
2433 \$2 million to the National Academy of Sciences to conduct a
2434 study that would determine exactly what technology and
2435 funding is needed to eliminate the backlog and prevent future
2436 backlogs. The study is to be completed by the end of fiscal
2437 year 2009, and to be presented to Congress and the attorney
2438 general. The determinations made through the study will
2439 enable Congress to make more informed decisions about future
2440 funding levels under the Debbie Smith Act.

2441 The other aspect of the amendment would expand the use
2442 of the Debbie Smith Act funding to include funding for the
2443 entering of DNA samples of missing persons. I believe my
2444 colleagues will explain that provision more in detail.

2445 I urge passage of the bipartisan amendment and yield
2446 back the balance of my time.

2447 Chairman Conyers. I thank the gentleman.

2448 Are there further amendments?

2449 Mr. Gohmert. Mr. Chairman, could I be heard on this
2450 one?

2451 Chairman Conyers. You certainly can, Judge Gohmert.

2452 Mr. Gohmert. Thank you, Chairman Conyers.

2453 As the ranking member noted, I joined Chairman Scott, as
2454 he had mentioned, and Mr. Chabot, in offering this amendment
2455 in the nature of a substitute. The substitute amendment
2456 makes a number of important technical changes and updates the
2457 bill to reauthorize the program to reduce the DNA analysis
2458 backlog.

2459 In addition to the points Chairman Scott made contained
2460 in this amendment, the substitute amendment includes a
2461 provision from Mr. Chabot to provide for analysis of DNA
2462 samples from missing and unidentified persons. This
2463 provision ensures that DNA samples from the remains, personal
2464 effects, or relatives of missing and unidentified persons
2465 will be analyzed under the Debbie Smith Program. This
2466 provision should aid law enforcement officials in deciphering
2467 clues from cold or otherwise difficult cases that might not
2468 be resolved any other way.

2469 The substitute amendment also authorizes funding for a
2470 comprehensive study to assess the DNA analysis backlog and
2471 what it will take to eliminate it. That study will also take
2472 the extra step of determining ways to prevent such a backlog
2473 from reoccurring in the future. This provision is very
2474 important as it directs the National Academy of Sciences and
2475 forensic science practitioners to answer the question of why
2476 a DNA backlog persists despite 5 years of federal assistance

2477 to the states to address the problem.

2478 I can assure you that when a case has to be consistently
2479 and continually put off over and over—for 30 days, 60 days a
2480 time to finally get the DNA analysis—it is a case of justice
2481 delayed is a case of justice denied. So I think this is an
2482 important amendment. It was also, I should add, spurred by
2483 Mr. Weiner's concerns and I appreciate those concerns because
2484 it is important that we reduce the backlog to ensure that
2485 proper justice is facilitated.

2486 I urge my colleagues to support this bipartisan
2487 amendment in the nature of a substitute. I appreciate Mr.
2488 Weiner's leadership on this issue, and yield back the balance
2489 of my time.

2490 Chairman Conyers. Yes, thank you so much, Judge
2491 Gohmert.

2492 Anthony Weiner?

2493 Mr. Weiner. Mr. Chairman, I have an amendment to the
2494 amendment at the desk.

2495 Chairman Conyers. The clerk will report the amendment.

2496 The Clerk. Amendment to the amendment in the nature of
2497 a substitute to H.R. 5057—

2498 [The amendment by Mr. Weiner, Mr. Nadler, and Mr. Schiff
2499 follows:]

2500 ***** INSERT *****

2501 Chairman Conyers. Without objection, the amendment will
2502 be considered as read.

2503 Mr. Scott. Mr. Chairman, I reserve a point of order.

2504 Chairman Conyers. Chairman Scott reserves a point of
2505 order.

2506 The gentleman is recognized.

2507 Mr. Weiner. Thank you, Mr. Chairman.

2508 First, I want to thank Chairman Scott and yourself, and
2509 Mr. Gohmert and Mr. Smith, for their cooperation. This is an
2510 amendment I am offering with Congressman Nadler and
2511 Congressman Schiff, and with the support of others on the
2512 committee, to take into account some of the testimony we
2513 heard about the barriers that existed beyond money to
2514 accelerate some of the efforts to clear out the backlog.

2515 It does four things, one of which was touched upon in
2516 the substitute, which was DNA identification of missing
2517 persons. It also expands funding for DNA training to law
2518 enforcement, for prosecutors and cops, judges, probation
2519 officers, and others, in identifying, collecting and
2520 preserving DNA evidence. Dealing with a crime scene that has
2521 DNA evidence present is a complicated matter that requires
2522 retraining and providing additional training to all elements
2523 of law enforcement.

2524 Secondly, it expands funding for the sexual abuse
2525 forensic exam program grants. This is for sexual abuse nurse

2526 examiners. Very often unfortunately women who are victims of
2527 sexual abuse are victimized a second time when they walk into
2528 the emergency room for care. They are victimized by the fact
2529 that, frankly, very often in the traditional triage that goes
2530 on in hospitals, sufficient care is not taken for women who
2531 have been victims of sexual abuse. Also, evidence that needs
2532 to be preserved that is present in a sexual abuse victim,
2533 that is a specialty that sexual abuse nurse examiners bring,
2534 so this would expand funding for that as well.

2535 Third, DNA research and technology, with \$50 million a
2536 year. Congressman Gohmert raised the point that the hearings
2537 that led to a discussion about why it is if you have more
2538 tests being done, you are not having improvements that should
2539 be found with elements of scale coming, and that is because
2540 we in government are not doing sufficient research and
2541 development on coming up with new technologies that would
2542 allow some of these exams to be done quicker and some of the
2543 backlogs to be reduced, and also to allow for R&D in the
2544 private sector to enhance the way these examinations are
2545 done.

2546 Finally, the element that Mr. Scott mentioned, of
2547 identification of missing persons for an additional \$2
2548 million a year.

2549 It also authorizes a \$55 million technology program and
2550 expands the overall Debbie Smith funding to \$200 million from

2551 the level that it is in the bill now. It is an
2552 acknowledgement of the point that Mr. Gohmert and Mr. Scott
2553 made that, to be honest with you, we don't have a good handle
2554 on what the backlog is presently. The report that was
2555 produced in 2003 as a result of legislation that I sponsored
2556 had some general numbers about the backlog.

2557 Since then, two things have happened. One, there has
2558 been obviously additional rape kits that have been taken, but
2559 also since 2003 many more states have offender databases that
2560 they have been feeding into. Now, admittedly it is cheaper
2561 to add those samples. It is more systematic, but it is
2562 happening and we do need to expand the funding.

2563 So those are the four elements, and I ask for a yes vote
2564 on the amendment to the amendment.

2565 Chairman Conyers. Does Mr. Scott seek recognition?

2566 Mr. Scott. Mr. Chairman, I withdraw my point of order.

2567 Mr. Gohmert. Mr. Chairman?

2568 Chairman Conyers. Judge Gohmert?

2569 Mr. Gohmert. Yes, I would ask unanimous consent to
2570 offer into the record the written statement by Mr. Chabot who
2571 could not be here.

2572 Chairman Conyers. Without objection, so ordered.

2573 [The statement of Mr. Chabot follows:]

2574 ***** INSERT *****

2575 Chairman Conyers. Is there any further discussion? The
2576 chair would like to move this along now that a recorded vote
2577 has been requested on the floor.

2578 The vote occurs on the Weiner amendment.

2579 All in favor say "aye."

2580 All opposed say "no."

2581 The ayes have it.

2582 Are there further amendments? Adam Schiff?

2583 Mr. Schiff. Mr. Chairman, I have an amendment at the
2584 desk.

2585 Chairman Conyers. The clerk will report the Schiff
2586 amendment number 12.

2587 Mr. Scott. Mr. Chairman, I reserve a point of order.

2588 Chairman Conyers. A reserve for a point of order is
2589 done by Chairman Scott.

2590 The clerk will report.

2591 The Clerk. Amendment to the amendment in the nature of
2592 a substitute to H.R. 5057 offered by Mr. Schiff of
2593 California.

2594 [The amendment by Mr. Schiff and Mr. Lungren follows:]

2595 ***** INSERT *****

2596 Mr. Schiff. Mr. Chairman, I request unanimous consent
2597 that the amendment be deemed as read.

2598 Chairman Conyers. Yes, without objection, so ordered.

2599 The gentleman is recognized in support of his amendment.

2600 Mr. Schiff. Mr. Chairman, I offer this amendment today
2601 with my colleague, Representative Dan Lungren of California.

2602 The nation's crime labs were largely unprepared for the
2603 onslaught of requests for DNA services that began in the
2604 early 1990s. Samples continue to pour into our nation's
2605 crime labs at a pace faster than they can be processed.

2606 One of the eligibility requirements for the Debbie Smith
2607 DNA backlog grants is that each entity must prove that they
2608 have implemented a comprehensive plan for expeditious DNA
2609 analysis of samples. In order to address backlog problems
2610 and respond to this requirement, many states have begun
2611 outsourcing some of the work to accredited private labs.

2612 However, the FBI requires that crime laboratories
2613 perform in-house technical reviews of 100 percent of database
2614 samples from contract labs. While this requirement certainly
2615 is important with regard to forensic casework samples, it has
2616 been found to be an onerous requirement with regard to
2617 convicted offender profiles. In fact, these requirements add
2618 substantial additional costs and further delay backlog
2619 reduction. Even Debbie Smith grant funds are expended on
2620 fulfilling these onerous requirements as one of the

2621 permissible uses of grant funding under the Debbie Smith
2622 Program is for data review of sample profiles generated by
2623 accredited fee-for-service private labs.

2624 I have a 2005 memo from the director of the National
2625 Institute of Justice to the deputy attorney general. This
2626 memo confirms that, "the burden of these requirements has
2627 increased the backlog of convicted offender samples, costs
2628 millions of dollars, and forced crime labs to remove staff
2629 from analyzing rape kits and other forensic samples."

2630 Furthermore, a detailed analysis of almost 170,000
2631 profiles found that not a single mismatch would have been
2632 prevented by these requirements, leading to their conclusion
2633 that the incredible public safety and financial costs are not
2634 justified by these quality assurance requirements.

2635 In the analysis, 113 profiles were found to have errors,
2636 but given the CODUS software matching abilities and the minor
2637 nature of the errors, CODUS would still have correctly
2638 matched all 113 profiles to a corresponding forensic sample
2639 profile.

2640 In addition, all CODUS hits are used only as
2641 investigative information. No one is arrested, charged,
2642 tried or convicted based on an unconfirmed CODUS hit. After
2643 a hit, all states require that offender samples be retrieved
2644 again re-tested. All public and private labs that do
2645 forensic analysis are subject to NDIS board review of their

2646 compliance with quality assurance samples.

2647 In addition, the DOJ Office of the Inspector General has
2648 conducted audits of public and contract labs to determine
2649 compliance with standards governing CODUS. Of the nine state
2650 lab audit reports NIJ was able to obtain from the OIG, no
2651 technical errors were found in any convicted offender
2652 samples.

2653 In order to address this issue, Mr. Lungren and my
2654 amendment would create a new national DNA index system
2655 advisory board, or NDIS advisory board, to ensure diverse
2656 representation of views, including state and local lab
2657 directors, the National Institute of Justice, the DOJ Office
2658 of Legal Policy, and the FBI.

2659 Furthermore, the board would be directed to develop and
2660 provide recommendations to the FBI director on new standards
2661 governing the use of the federal index that provides for the
2662 expedited uploading by state and local forensic labs of
2663 convicted offender profiles generated by private labs. These
2664 standards would have to be issued within 6 months. In
2665 addition, the amendment would direct the board to look into
2666 the feasibility of other measures that would greatly expedite
2667 analysis and uploading, as well as backlog reduction.

2668 These would include feasibility and desirability of
2669 entering into agreements with private forensic labs to enable
2670 direct access to CODUS for the purpose of uploading DNA

2671 samples of those from persons convicted of crimes and other
2672 analyses as well.

2673 I would urge support for this bipartisan amendment.

2674 Mr. Scott. Would the gentleman yield?

2675 Mr. Schiff. Yes.

2676 Mr. Scott. Would the gentleman accept by unanimous
2677 consent an amendment to include someone from the defense bar?

2678 Mr. Schiff. Yes, I would.

2679 Mr. Lungren? Yes, we would.

2680 Mr. Scott. Thank you.

2681 Chairman Conyers. Without objection, so ordered.

2682 The chair recognizes Dan Lungren.

2683 Mr. Lungren. Thank you very much, Mr. Chairman.

2684 I am happy to join my colleague, Mr. Schiff, in this
2685 sunshine amendment which would open up the process by which
2686 the DNA national database policies and procedures are
2687 formulated. I have great respect for the FBI lab, but
2688 allowing the crime lab employees at the FBI to establish the
2689 national policy for the criminal justice system is in many
2690 ways tantamount to allowing the tail to wag the dog.

2691 What has happened here is that decisions that have been
2692 made that are not required by law have resulted in frankly a
2693 bureaucratic slowing-up of the process that defeats the very
2694 purpose of what it is we seek to do by the underlying bill
2695 and by this bill that is before us. The underling law in

2696 this bill is before us.

2697 Currently, the scientific working group on DNA analysis
2698 methods and the NDIS board develop and administer the
2699 policies regarding the requirements which must be met before
2700 DNA profiles may be uploaded. There is no statutory
2701 requirement for either entity. The national database
2702 policies and procedures are established currently by a small
2703 working group of FBI crime lab employees.

2704 The standards created by these two entities are not
2705 subject to the normal federal processes that help ensure that
2706 appropriate governmental policies and procedures are
2707 followed. Furthermore, they are not subject to the Federal
2708 Advisory Committee Act that ensures the openness and
2709 accountability in government advisory boards.

2710 My concern, however, is not just with bureaucratic
2711 nicety. Unfortunately, as mentioned by the gentleman from
2712 California, the policies and procedures produced by this de
2713 facto process have had real-world consequences. Let me take
2714 this time to share just two areas of concern revealed to me
2715 by state and local law enforcement agencies.

2716 First of all, the de facto NDIS process has had a
2717 dramatic effect on rape victims. For example, if a rape kit
2718 produces a DNA profile, the police must exclude potential
2719 innocent donors of that sample before the DNA profile may be
2720 uploaded in the NDIS. The practical effect is that police

2721 investigators must ask a rape victim about all of the other
2722 possible sources for the semen recovered in a rape kit.

2723 Once the rape victims identifies other potential
2724 sources, the police must attempt to obtain a sample from that
2725 consensual partner or partners. Then that partner's sample
2726 must be tested. After the lab determines that the consensual
2727 partner's DNA is not in the rape kit, then the lab can
2728 finally upload the DNA profile obtained from the rape kit.

2729 That is not what we intended by the law. It is
2730 something which might make it easier for the federal
2731 authorities because they might in some ways discourage the
2732 states from going through all of this, so therefore they get
2733 a smaller workload, but that is not what we should be about
2734 here.

2735 This adds insult to what is already a serious injury to
2736 the victim of rape. She loses the ability to keep the
2737 terrible incident private and her consensual partner or
2738 partners will be notified and subjected to DNA testing. In
2739 the meantime, valuable time is wasted locating consensual
2740 partners and obtaining DNA samples.

2741 Chairman Conyers. Can we accept the rest of the
2742 gentleman's statement?

2743 Mr. Lungren. If the chairman would accept the rest of
2744 the statement under unanimous consent, I would appreciate it.

2745 Chairman Conyers. I am very pleased to do that.

2746 All those in favor of the Schiff-Lungren amendment
2747 indicate by saying "aye."

2748 Those opposed say "no."

2749 The ayes have it and it is agreed to.

2750 May I inquire of Mr. Schiff how many other amendments he
2751 might have?

2752 Mr. Schiff. Mr. Chairman, I have three or four more
2753 amendments.

2754 Chairman Conyers. Well, then this concludes the full
2755 committee markup today. We will schedule the rest of them
2756 and the rest of the bills at the next hearing.

2757 The committee stands adjourned.

2758 [Whereupon, at 1:17 p.m., the committee was adjourned.]